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PATRICIA McDONALD SC  
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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 23 MAY, 2019

AT 2.00PM

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

MS WRIGHT: Could Mr Singh be now taken to volume 8, page 127. Mr Singh, this is an email from Zoe Hamidi to you about the PSC tender submission.---Yes.

And she's asking you a question about whether to submit a signed version of the contract?---Yes.

10

And she says she's completing the tender submission. Now, did you, you've written back to her, "Hi, Zoe." You'd dealt with Ms Hamidi before? ---Over emails, yes, or the emails she sent me.

And were you catching up with Ali Hamidi at this time socially?---I can't recall.

2017?---What's the date, October 2017, I may have been playing casual football with Ali during that time.

20

And going to his house?---I don't recall going to his house, no.

Catching up for meals?---I don't think so, no.

And were you members of a WhatsApp group with Mr Hamidi during 2017?---Yes.

With other friends?---Yes.

30

And you would arrange social occasions through that group?---Yeah, social occasions were arranged through that group, yeah.

And was Mr Soliman part of that group?---Yes.

It sounds quite familiar, "Hi, Zoe." You thought Zoe was working for AZH, did you?---At that time, yes.

But you never spoke to her at all about RMS work?---Not about RMS work, no.

40

Is that the truth?---Yes.

If Mr Singh could be shown page 145. Mr Chehoud here has written to you and Mr Soliman on 26 October about the tender. Why is he writing to Mr Soliman as well?---Sorry, I'm just going to need to read this. So why did he sent it to Samer?

Well, you're the manager of the request for tender.---Yeah.

So what's it got to do with Mr Soliman at this point?---Well, he was the one that engaged with Nathan to begin with in regards to putting the tender docs together, so yeah.

Was it Mr Soliman really running this tender?---He assigned, so it was supposed to be Nathan to begin with from WSP, but then WSP decided to apply for the PSE Panel tender, so as a result Nathan had to be removed. And I did ask Samer who was going to be external to take over Nathan's spot. He said he was going to think about it. Later on he told me that I'm now going to be managing this tender, so from that point on it was, yeah, I was - - -

Had Mr Chehoud been involved in setting the eligibility requirements for inclusion on a tender panel?---Do you mean the tender documents and - - -

Yes.---Yeah, he put all that together.

And did he ultimately apply for this panel?---WSP applied. I don't know if it was Nathan from WSP, though.

And did that concern you at all?---Well, I forgot, someone from WSP did call me early on and said that they were interested in applying for this tender and I told them that Nathan from WSP had put the tender docs together and I don't think that we can accept your submission. And then I believe, from what I remember this got, this was raised with Samer and there was a conference call between, I think I was in the meeting room, Samer and someone from WSP, and WSP just, they were just providing assurances to Samer that they were going to manage that conflict of interest internally, and I think they provided a document which is I think in Samer's email that's what he may have been referring to, the plan regarding as to how they were managing that conflict, yeah.

And what's the nature of the conflict in your view?---Well, WSP was putting the tender docs together and now they're interested in applying for that same tender, so they had already had, they could have that inside knowledge of what we were requesting for, I guess.

THE COMMISSIONER: Did the tender close on 20 October?---I don't recall when the tender closed.

All right. Sorry, Ms Wright.

MS WRIGHT: Would that same conflict not apply to you being involved in the tender when your friend wanted work?---I thought about it. At the time I didn't think I had a conflict because I didn't have any interest in the success of AZH, so at the time I didn't think of it.

THE COMMISSIONER: You were told by Mr Soliman after WSP applied that you were going to manage the tender, is that your evidence?---Yes. Yes.

But before that you had an involvement.---Just that initial meeting with WSP to, when Samer outlined what this whole panel was going to be about.

You attended that meeting?---That initial meeting, yes.

10 And then what?---And then I may have been on a few email trails like the one that I got shown before about the requirements. Then I participated in the Heavy Vehicle Maintenance Panel tender which was, which Nathan was present and was capturing all the information. And then, yeah, so that was, from my recollection that's about it, yeah.

So your evidence is, other than attending that initial meeting, then being involved in the Heavy Vehicle Maintenance Panel - - -?---Panel tender, yeah.

20 - - - tender, you had no involvement, further involvement in this panel until Mr Chehoud had to excuse himself?---Apart from raising those concerns about the demonstrated experiences, you know, the whole two reports required and the confidentiality. So my name was on the documents because you needed someone from RMS. So for the Heavy Vehicle Maintenance Panel, it was Alex Dubois's name on the tender documents, so for these tender documents it was going to be my name but I - - -

30 But you were designated as the manager.---Yeah, but then I thought Nathan would be present in there, like as he was in the Heavy Vehicle Maintenance Panel, he was also going to be present in this PSC Panel as well and doing the same work he was performing in the Heavy Vehicle Maintenance Panel. But then because of this WSP applying, he had to be removed and then, yeah, got, that task got handed over to me.

So when you were designated on 28 September as the RFT manager for the panel, did that mean that you weren't going to do anything? Were you going to sit on the panel?---Evaluate, and evaluate.

40 Were you supposed to be doing that?---Yeah, well, sit on the panel and evaluate submissions, yeah.

And you were going to do that from day one?---Day one, yes.

So from day one you were going to be a member of the panel, evaluate the applications.---Yeah. Yeah.

And also be the RFT manager.---Yeah, so if anyone needs to call and ask questions, they would call me, yeah.

But you anticipated that Mr Chehoud would do, you described it as capturing the information.---Yeah, so he captured the scoring.

What, wrote it down?---Yeah, it was like an Excel spreadsheet and he captured the scoring and converted it to the weightings applied for each criteria.

10 And when he couldn't do that work, you then did that work.---I had to do it. And then also he, whenever we had any questions in the Heavy Vehicle Maintenance Panel, he'd, he would answer them. Like, because there was questions, I think there was information missing from some submissions, so there was questions whether they could reach out to the tenderers to, to get that information, the missing information, and Nathan's advice is you can't do that once, because that's considered, that's considered as providing a tenderer a competitive advantage because they're providing additional information for their submissions. So probity questions, I guess, he would answer, so, yeah.

20 And so then did you become the probity adviser to the PSC Panel?---It felt that way, yeah.

MS WRIGHT: Sorry, you became probity adviser?---Not, like there was no title assigned to me but it felt - - -

THE COMMISSIONER: He said he felt that way.---Yeah.

MS WRIGHT: I see. There was no probity auditor or probity adviser - - -?  
30 ---No, no.  
- - - attached to either panel, was there?---No. Oh, I'm sorry, I can't answer for the heavy vehicle maintenance.

You were on that committee?---I was on that but there was no probity. I thought my, I thought Nathan was the probity adviser.

You thought that was his role?---That, I thought that was his role, yes.

40 What did you base that on?---Just, just from what I witnessed in the, the, the tender, the evaluation, like questions, he would be answering the questions, any probity-related questions so, yeah.

Now, at page 146, volume 8 Mr Soliman has set up a meeting with Nathan Chehoud, you and Theepan Thevasathan and that's for 30 October, 2017. At that stage were those three people on the Tender Evaluation Committee to your knowledge?---At that stage on 30 October or when this email was  
- - -

Well, whenever this was sent for a meeting on 30 October.---Yeah, my understanding it was going to be Nathan, myself and Theepan.

And this placeholder or diary organising message, this was sent shortly before a proposed meeting on 30 October?---Sorry, I missed that. The sneeze kind of - - -

So this message was sent shortly before the proposed meeting on 30 October?---I'm just trying to find the date of when this was sent.

10

Well, it doesn't have the date.---Okay. I don't know when this was sent then. So if it was sent - - -

I'm asking if you remember. You don't remember?---I don't remember when this was sent, this invite.

Well, he sets out a schedule for the panel and he says tenders close on 27 October. Tender evaluation on the 30<sup>th</sup> and the 31<sup>st</sup>. Panel established on 6 November. And he asked you to ensure your calendars are clear on the Monday and Tuesday as you will be spending all day on the review with Nathan.---Yeah.

20

So that seems to be spending all day for the tender evaluation.---Yes.

And so at this stage it's the three of you on the Tender Evaluation Committee.---Yes.

And then turning to page 147 includes an email you sent to Ms Claire Lemarechal on 31 October, 2017 including a draft tender evaluation plan and report.---Yeah.

30

So that's only one day after the meeting on the 30<sup>th</sup>.---Yeah.

What happened on 30 October?---So, so Nathan couldn't be on the panel so Samer I believe got Barry Everson to, he's in my team, to take that position and then on the day I believe Theepan had to, something came up with Theepan and he, he wasn't able to no longer take part in the evaluation, so I believe Samer got in touch with Claire to see if she was available that day to attend the evaluation.

40

And did the evaluation take place on 31 October?---It only took place for a day.

It might have been the 30<sup>th</sup>?---Yeah, it would have just been the 30<sup>th</sup>.

And you drafted up a tender evaluation report?---That's correct, yeah.

And that's at page 148. And you have set out the recommendation of the committee which is that four of the tenders be accepted. Page 149.---Yes.

Including AZH?---Yeah.

10 How was that decision arrived at?---So what we did was, we, we all reviewed the tender submissions, everyone scored, did their own scoring, so each person reviewed a submission and scored it against a criteria, and then what happened afterwards, I would collect all the scorings and then convert it against the weighting of each criteria.

THE COMMISSIONER: And, sorry, the scorings were done by the panel members by themselves?---Yes, yes. So they review and, yes, and put their scores. So I collected the scorings and then I converted it to against the weighting criteria and then after that we, obviously you have the list of the submissions and their scorings and from, so Samer then advised that 70 per cent is the cut-off.

20 MS WRIGHT: What part of this process was Samer present at?---He was there from the beginning.

Okay. So this all occurred in one room?---Yeah.

And the three committee members are there?---Yes.

And Samer's also there?---Yes.

30 And was that inappropriate, that he be there?---It was. He shouldn't have been there.

Did anyone raise it?---No, because I mean he's my manager so I was, I guess I was scared to kick him out.

And what about the other two?

THE COMMISSIONER: Did you think at the time it was inappropriate? ---Yeah, I did, I did.

40 MS WRIGHT: The other two committee members said nothing?---No, they didn't say anything to me, no.

Now, you said something about Samer said it had to be 70 per cent. What did that mean?---Oh, he said 70 per cent looks like the right cut-off point. So from what I remember the conversion, after the conversions you had everything rounded off to a percentage out of a hundred, so anything 70 per cent and above was acceptable.

And any tenderers who came in under 70 per cent would be rejected?  
---Yeah, have to be discarded, yeah.

Was that part of the criteria for the tender that was set previously or was that a new thing that was introduced on that day?---That, that was introduced on that day, yeah.

Did that have any basis or was it an arbitrary thing?---It felt arbitrary, it did feel arbitrary, yeah.

10

And did Mr Soliman ever direct you or suggest to you that AZH's tender should be accepted?---No, he never directed that, no.

Did he suggest it?---That, no, he didn't suggest that either, no.

At page 153 you've signed the report and you also signed a conflict of interest form in relation to this tender - - -?---Yes.

- - - declaring that you had no conflict of interest.---Yes.

20

And perhaps if that could be brought up, it's in volume 9C at page 201. This is not tendered material, Commissioner, but I'd asked if it be marked for identification at this stage. It's Mr Singh's conflict of interest form.

THE COMMISSIONER: Excuse me for a minute.

MS WRIGHT: You see, Mr Singh, it sets out precisely what a conflict of interest means, including that this influence may not involve financial gain but may include gains from relationships based on common interest, family and other personal or professional associations. For example, a person is influenced or would be perceived to be influenced in carrying out their duty to RMS as a consequence of their relationship with a tenderer or related party of a tenderer.---Yes. Yeah.

30

And so you knew exactly that you were in a conflict of interest being on this committee in respect of a company in which your friend was submitting a tender.---At the time, look, I didn't, I didn't think I had any, like, interest, like I said, in the success of his company, but when I did the probity and ethics training, I understood perceived conflict of interest better, so, yeah, I accept what you're saying.

40

Why wouldn't you want the success of your friend's company?---It's just, it's just not my character to do something like that.

Are you talking about you didn't think you had a financial interest in his success?---Not a, no financial interest or any interest, you know. Yeah.

THE COMMISSIONER: But are you saying you realise now - - -?---I, yes -  
- -

- - - that there was a perceived conflict of interest - - -?---Yes.

- - - and that should have been declared?---Yes.

But you're saying at the time you didn't realise or understand that?---I  
didn't understand it. I didn't understand it properly, yeah.

10

MS WRIGHT: You informed the successful tenderers that their tenders had  
been accepted.---Yes.

And then you also signed the deed for professional services which AZH  
signed, and that is at volume 8, page 160.

THE COMMISSIONER: Could I just pause for a minute.

MS WRIGHT: Yes. Yes.

20

THE COMMISSIONER: Page 201 of volume 9C, which is a conflict of  
interest form for the panel for the Heavy Vehicle Programs professional  
services contractors, signed by Jai Singh, will be MFI 4.

**#MFI-004 – VOLUME 9C, PAGE 201 – CONFLICT OF INTEREST  
FORM FOR THE PANEL HEAVY VEHICLE PROGRAMS  
PROFESSIONAL SERVICES CONTRACTORS SIGNED BY J  
SINGH**

30

MS WRIGHT: Volume 8, page 160, Mr Singh. The agreement between  
RMS and AZH which resulted from AZH's successful tender to that panel  
was signed by you, Ali and Zoe Hamidi and Mr Soliman.---Yes.

All friends from Optus.---Well, me, Samer and Ali are friends from Optus.

But didn't Zoe also work at Optus?---She worked at Optus but she wasn't, I  
didn't consider her a friend.

40

Well, it's more than just working at Optus. You were all friends.---But, yes,  
we all signed.

And you were all good friends.---Well, I consider Ali a good friend. I  
considered Samer a good friend, yes.

And in what circumstances - - -

THE COMMISSIONER: And Zoe was married to your good friend.  
---Yeah.

MS WRIGHT: What circumstances did you sign this?---I was directed to  
by Samer. He needed a witness to sign as well, so he asked me to do it. I  
believe it was for all the panel deeds, all four of them.

10 THE COMMISSIONER: Can I just ask so I understand all the terminology,  
this was a non-priced tender.---That's correct.

So to get onto the panel, you only had to satisfy the 70 per cent of the  
various criterion - - -?---Criterias, yeah.

- - - technical methodology and past experience.---Yes.

And, sorry, when it says a non-price tender, what does that mean?---There's  
no price involved, like no costs to evaluate.

20 So they don't have to indicate, "We'll do this work for X amount"?---For X  
amount, yeah, yeah.

And does that mean that once you're on the panel, you've got to go through  
that process, if you do want to allocate work to a panel member, of issuing a  
request for quote?---RFQ.

An RFQ, sorry.---Yes, yeah.

And that's where the price question comes into play?---Yes, that's right.

30 Thank you.

MS WRIGHT: Now, around this time you also issued a request for quote to  
AZH for a scoping study for the PAT 10C model III scales. Do you recall  
that?---Yes.

And you were the manager of that request for quote?---Yes, I believe so.

40 And who was that issued to, that request for quote, only AZH?---Yeah, I  
think I was directed to only issue it to AZH.

Only to AZH. Who gave you that direction?---Samer Soliman.

And did you think that was appropriate, to only issue it to AZH?---I was just  
following his directions. Yeah, I mean if it was me I would issue it to  
multiple suppliers but - - -

And those multiple suppliers would be those others who were appointed to  
the PSC Panel?---On, on the panel, that's correct.

THE COMMISSIONER: So you were – I'm sorry.

MS WRIGHT: You go ahead.

THE COMMISSIONER: No, no, you go ahead, Ms Wright. I'll be quiet.

MS WRIGHT: Isn't that preferred treatment, Mr Singh?---Again I was just following my manager's directions, yeah.

10

THE COMMISSIONER: So you've got a panel. It wasn't price, price wasn't a question in getting on the panel.---Yeah.

And here you now have a request for quote - - -?---Yeah.

- - - and it's only sent to one member. It just defeats the whole purpose of a panel, doesn't it?---Yeah. Just regarding that purchase order, you wouldn't happen to have a copy of that purchase order?

20

MS WRIGHT: Well, I can show you the request for quote at this point, which is at volume 4, page 16, and your email to AZH is at page 15. Perhaps if we start with page 15. See that's the email and then the request for quote is at page 16, and at page 23 you're named as the manager, you've explained you were the manager.---Yeah. Sorry, I was just trying to, sorry, I was looking for something specific.

30

THE COMMISSIONER: On a particular page in there?---On the contract number, I was seeing if there was a contract number on this and I just wanted to see if it was the panel contract number, but I don't see any contract number so - - -

Would the contract number be in the request?---It would be on the purchase order request.

All right. It wouldn't be in the request for quotation?---In the ones, yeah, sometimes, this is an old template, in the new template it actually asks for you to insert the contract number. So that's why I was hoping if I could see the purchase order itself.

40

MS WRIGHT: But in any event, you recall only sending it to one - - -

THE COMMISSIONER: Panel member.---Yeah.

MS WRIGHT: - - - panel member, and that was AZH.---Yeah. But I just wanted to confirm whether he used, it was whether it was the panel contract or whether it may have been a separate contract, I just wanted to, I don't know.

THE COMMISSIONER: Sorry, just for my understanding, if a request for quote is going to a panel member, you include on the purchase order the - - - ?---So there will be an overarching panel contract, but underneath that panel contract every piece of work, it's called a work order, so you would have that work order number.

Or the alternative is, this was just - - -?---An old, the old method where you just directly engage with the, with the, with the vendor. This is before - - -

10 Regardless of whether they're on the panel or not?---Yeah, well, yeah. So I just wanted just to make sense of what was happening here, yeah.

So this is around the time of the appointment of the PSC Panel.---Okay, yeah.

This is the type of contract which involves professional services.---Yeah, yeah.

20 So why wouldn't it be pursuant to a panel arrangement?---That's what I was trying to figure out.

Well, whether it was or it wasn't, you are sending only a request for quote to AZH.---Yeah, I got directed to just send it to AZH.

30 Yes. And wouldn't it have been incumbent on you to raise with your manager that we're going through this tender for a PSC Panel, why would I only be issuing this request for quote to one company?---Yeah, I'm not sure if I did raise it with Samer or not. It seems like something I would raise but I can't recall raising it, but yeah.

MS WRIGHT: And the quote is at 28B of volume 4, and that's for an amount just short of \$50,000. Would that amount normally require more than one quote?---Only if it's above 50,000, then you need multiple quotes.

Not 30,000?---From my understanding, it was 50,000. That's what I got told by Samer Soliman.

40 Did you check a procurement manual at all?---I did some, did do some looking around and I did see it was 50,000 including GST. Yeah.

Now, what did you know about the PAT 10C model III scale trial?---This was a dynamic scale. PAT is the manufacturer. It's just a dynamic scale so trucks can just drive over it without having to stop, and mass, the weight of the vehicle, will be captured.

Was there any proposal to hold a trial at this time?---Not that I'm aware of.

And are you aware that there was no trial to be conducted?---I wasn't, I wasn't informed of any trial that I can remember.

So why were you issuing an RFQ if you weren't informed that there would be a trial?---Again, under my, I get directions off my manager.

You were given no information about where or when this project would take place, or why?---No, he didn't tell me anything like that.

10 Who drafted the RFQ?---The RFQ, Samer drafted a template of the RFQ and he advised me that from now on if we're going to engage with any vendors, we've got to use this template. So, yeah.

THE COMMISSIONER: Sorry, but a template is usually the headings and - - -?---Just the headings and the content. So the content was usually the same, it's just changing the titles of the equipment that was being trialled. Yeah.

20 So if we could go back to volume 4, page 16, this is the request for quotation - - -?---Yes.

- - - for the PAT 10C series III.---Yeah.

Was this the template, did this incorporate the template that Mr Soliman drafted?---Put together, yes.

And what did you say - - -?---Was usually consistent?

30 Yes.---If we scroll through, so the description of the works. Next page, general scope.

Sorry, sorry.---Oh, sorry.

So the description of the work where it says, "Involves creation of a scoping study report. Includes temporary construction, data construction, scoping study report," that usually appeared - - -?---In, yeah, in, well, the RFQs I did, I think I only did two maybe for this. Yeah, so for the two RFQs I did, this is how it was laid out.

40 And, what, was the only difference that there would be a reference, for example, to PAT 10C III?---PAT 10C, yeah.

And I think on page 23, sorry, you were nominated as the RFQ manager. ---Yeah.

What obligations or responsibilities came with being nominated as the RFQ manager?---Just the point of contact. So my email and my phone is there,

so if they, if they need to communicate, and the lodgement method was my email so they'd, you know, send it to my email. Yeah.

What obligations or responsibilities came with being nominated as the RFQ manager?---Just the point of contact. So my email and my phone is there so if they need to communicate and the lodgement method was my email so they, you know, sent it to my email, yeah.

10 What about further running of the trial and, you know, answering questions from them or working out whether it was being undertaken?---No, that would be Samer at that point.

But how would they know it was Samer? Because this is just issued by you, isn't it?---Yeah, to AZH.

Yes.---So if any questions did come my way I would ask Samer myself just to get clarification on the answers and I would respond back to, yeah, whoever I've issued the RFQ to.

20 In other circumstances when an RFQ was issued and you were the designated manager, did you continue to have some kind of control or being provided with information about the services being provided? Was that the accepted norm that if you were the manager you would continue with being the contact person, working out whether the work had been done?---So for, so for these ones, I only had these two RFQs from what I recall, but if we talk about other RFQs, for example the maintenance of the weigh scales, I'd be the RFQ manager, so any questions would come through to me and I would have to answer them. If I'm unsure of the question I would get in touch with someone who I know would know the answer. And then - - -

30 So it was anticipated that the RFQ manager would continue an oversight role?---And once it's awarded then, yeah, it would be the RFQ manager that would raise the, would notify, you know, the, the, the vendor that it's been awarded to them.

And what about the subsequent work? Does the RFQ manager continue to have a role in oversight?---They don't have to. I mean, someone else could raise the RFQ and then there could be a project manager that would just ensure that it's managed end-to-end and it's delivered and, yeah.

40 MS WRIGHT: Now, do you know whether the PAT 10C model III or series III trial took place?---I knew of one PAT 10C trial and that's the one I was talking about where there was software issues.

Not this one. At the time you issued this RFQ - - -?---I wasn't aware.

- - - you weren't aware of any trial?---Yeah.

And you issued - - -?---Was there – sorry.

- - - an RFQ just to one company.---Was there a purchase order raised for this one?

Well, I'm not asking you that, Mr Singh.---Because it could be that the work never went ahead.

10 Now, did you around this time also convene another Tender Panel Evaluation Committee?---For the heavy vehicle maintenance?

That was for the heavy vehicle maintenance panel?---Yes.

And you recall that Novation submitted a tender for category B of that panel?---Yes.

And what was the purpose of category B?---It was just, category B was related to mass enforcement equipment so - - -

20 THE COMMISSIONER: For the mass enforcement?---Mass enforcement, yeah. So it could be weigh-in-motions portable weigh scales. That was my understanding.

MS WRIGHT: And if you could be shown, Mr Singh could be shown the request for tender at volume 11, Commissioner, at page 240. So this is the request for tender. Who managed this tender?---I think it was Alex Dubois.

30 And page 247 sets out the terms of each category. Category B is said to be procurement and maintenance of existing weigh-in-motion systems, procurement and maintenance of PAT brand and HAENNI brand portable weighing scales and serviceable spare parts. Procurement and maintenance of weighbridges and of brake testing equipment. Who set the criteria?---I'm not sure.

And so it's referred to a particular brand of the portable weigh scales or two brands of them?---Yes.

40 And did you understand those to be the existing brands used by RMS?  
---Yes, and inspectors would use PAT or HAENNI scales.

And the assessment criteria are set out at page 268.---Yes.

In fact they were additional criteria, three criteria, demonstrated experience, responsiveness and adaptability and flexibility. What was your understanding at this time of Novation's role in relation to portable weigh scales?---My understanding was that they were the authorised distributor for IRD.

So you understood that Novation would supply the hardware?---Yes.

And not do any repairs or maintenance?---Yeah, I told, I was told that they weren't doing any repairs or maintenance.

And what did you understand to be RMS arrangement for supply of portable weigh scales before Novation started doing work for RMS in 2015?---The process for procurement?

- 10 No. What did you understand the arrangement to be for the supply to RMS of portable weigh scales at the time or before RMS, sorry, Novation started doing work in 2015 for RMS?---My understanding that it was ELWC that was doing, were the distributor for IRD.

And IRD is the manufacturer in Canada?---Yes.

And did you understand ELWC to be both the maintainer of the scales and the verifier of the scales?---I knew they were maintaining and verifying the scales based on what I overheard in the office.

20

And also supplying to the extent it needed to?---Yes.

And was there a change in ELWC's position with RMS, of which you were aware?---From what I overheard there was issues with the quality of service that ELWC was provided, providing.

You understood there was a change in ELWC's position in terms of its supplying scales to RMS?---Position, as in?

- 30 Did you understand that ELWC stopped supplying?---I got forwarded an email from Samer about the, terminating the business relationship.

Yes.---That was forwarded from Samer to I think the team.

And that had occurred by the time of this tender for the Heavy Vehicle Maintenance Panel in October 2017?---I think that happened prior.

That's what I'm saying, by the time.---About a year of maybe more.

- 40 Yes, about a year before this.---Okay.

And who did you understand was doing the maintenance at the time of this tender process of portable weigh scales?---During this, the maintenance during this time, it may have been WeighPack and Electrical.

And how would WeighPack get spare parts if it needed them for repairing or maintaining portable weigh scales?---My understanding was that they

needed spare parts they would notify Samer, and Samer would request me to raise a purchase order to Novation to, yep, get the spare parts.

So any maintainer would get them through Novation essentially?---Yes.

And you did, what did you say your role in that was, Mr Singh?---Just to raise the purchase order.

10 And you did that in favour of Novation?---Under direction of my manager.

A number of times.---Yeah.

THE COMMISSIONER: Sorry, can you just go through that again? The maintainer would notify Mr Soliman they needed spare parts?---Spare parts, yeah.

And then - - -?---Samer would ask me to raise a purchase order to Novation. Yeah.

20 To pay for said - - -?---To pay for the spare parts and have them delivered to WeighPack and Electrical.

MS WRIGHT: Now, Novation tendered for this category B of the panel? ---Yes.

And did you think it unusual at all that it was tendering for a panel in which it could only do the supply aspect?---That didn't occur to me at the time. I mean, I was only pulled in five minutes before that evaluation panel began. I didn't even know I was going to be on it.

30 Who pulled you in?---So I remember it was Nathan, Craig and Alex that were going to be on the panel, and I was just sitting there in the office and they thought it would be good for me to just see how an evaluation worked, so they pulled me in.

Who's they?---Oh, sorry, it was either Nathan, Alex or Craig. I forgot who, which one of those requested for me to attend the evaluation.

40 Well, it's unlikely to have been Nathan, is it? He wasn't working for RMS. ---Yeah, so probably either Alex or Craig.

And what did he say to you?---Oh, they just invited me to come along and take part in the evaluation.

Now, if Mr Singh could be shown page 284 of volume 11. Is this a Tender Evaluation Committee report?---This looks like a memo. The report would be different.

Page 287 of this document contains a recommendation by the Tender Evaluation Committee that approval be given to include all 13 tenderers on the panel for maintenance and heavy vehicle enforcement programs.---Yeah.

And you've signed that.---Yes.

Is that not the Tender Evaluation Committee report?---I think we skipped a few pages. Is it possible we just, because it said memo at the front, so - - -

10 Well, perhaps it's semantics, but this in a sense is the Tender Evaluation Committee's recommendation report.---Sorry, I just wanted to ask if we can go to the next page.

THE COMMISSIONER: Sorry, when you say next page?---Just the - - -

MS WRIGHT: 285?---Because I thought I was asked to do an ABN look-up and I don't see the results of the ABN look-up in here.

20 THE COMMISSIONER: At point 10.---Oh, is it next page?

On page 286.---Sorry. The results of the ABN - - -

It says, "A company and ABN search has been undertaken as part of the tender."---Yeah.

Is that what you're talking about?---Yeah, this looks like a summary of the report.

30 Copies of the research results contained in appendix D.---That's right. And is there an appendix D?

But, sorry, what's the importance of it?---Oh, because I've been asked if this is the report and I'm not sure if it is.

40 Well, look at page 284, "One purpose. The purpose of this memo is to report on the tender evaluation."---Yeah, to report on the tender evaluation, but I thought there was a different report, a separate report for the actual evaluation that had the ABN look-ups and the scoring as well, [REDACTED]

MS WRIGHT: Mr Singh, you might be getting ahead. I'll take you to volume 7. Page 187. This contains the category B tenderer scores against the assessment criteria.---Yes.

And you may have been shown that document and that may be what you're referring to.---Yes.

And page 192 is an appendix.---Oh, there's nothing there.

Supposed to have results of an ABN.---Yeah, yeah.

But if we could just go back to where we were, which was volume 11.

THE COMMISSIONER: 284?

MS WRIGHT: 284. Did you draft any part of this memo?---No, I don't believe so.

10

And at page 285 you're on the committee with Mr Dubois, Mr Steyn and Mr Chehoud.---Yeah.

And Mr Dubois and Steyn both reported to Mr Soliman?---That's correct.

And the weightings on that page, how were they – sorry, we're at page 285 – the weightings for the criteria, how were they determined?---I'm not sure.

And who set the criteria?---I'm not sure of that.

20

Page 286, at section 8.3 all 13 tenderers have the capacity to complete works within the contract period based on similar works successfully completed for the RMS.---Yeah.

Did that apply to Novation?---I guess so. I didn't complete that part of it, that, I don't know who provided that feedback but - - -

30

You signed it.---I did sign it, but it was pointed out in the evaluation committee that Novation just supplied parts or scales, they didn't do servicing, and I think that was noted in the report.

It says, "All 13 tenderers," that necessarily includes Novation, does it not? ---It, it does, but I thought it was noted in the report itself that Novation only supplied and didn't do servicing.

Do you agree that the statement is wrong insofar as it applies to Novation? It did not have the capacity to complete maintenance.---Yeah, didn't have the capacity to complete maintenance. It's wrong in that sense, but yeah.

40

Well, it's just plain wrong, isn't it?---Okay, yeah. But again, I didn't put this together, I just - - -

You signed the report, Mr Singh.---I did sign it, I did sign it.

Now, you at section 11 individually declared there was no actual or potential conflict of interest, but I think we've been here before, you didn't think it was an issue that Mr Soliman had a friendship with Mr Thammiah. ---Yes. For me, are you referring to myself or - - -

Well, you also had a duty to disclose this type of issue to your superiors, didn't you, if you thought someone had a conflict of interest?---I didn't realise that, but okay.

You didn't realise you should disclose - - -?---Other people's conflict of interests?

10 Yes, Mr Singh, other people's conflicts of interest.---Okay, okay.

You didn't realise that?---Not at the time, no.

You didn't disclose your own conflict of interest in respect of AZH?  
---Yeah, and, yeah, as I said my reasons previously, I didn't think I had one.

And then if we could go back, I'm sorry, to volume 7 at page 187. Now, the reference to PAT and HAENNI portable scales contains an asterisk next to it, and they may be what you were referring to before - - -?---Yes.

20 - - - that there was a note in the report that Novation was only the authorised supplier and not the maintainer. Novation has scored zero for responsiveness in carrying out the specified work. You see that?---Yeah.

And was that based on the fact that it had not done this work previously?  
---No, that was based on the application. There was nothing that really outlined or demonstrated the responsiveness in carrying out the work.

30 THE COMMISSIONER: What does that actually, what are you looking at when you say responsiveness in carrying out the work?---So basically you were asking from, as I understood it, you read the submissions and you're looking out for these three criterias. Responsiveness was demonstrating past experience in, you know, responding to whatever work we're talking about here.

40 But how does that differ from the first one, demonstrated experience in carrying out the specified work?---Experience. I guess that's, the, demonstrating what you've done, but responsiveness is your response times to requests, for example, and then just providing examples of how you responded quickly to a request. That's how I understood it. Like I said, I didn't put these requirements or criterias together, but that's how I understood it when we were in the evaluation.

So do we take it from this Novation demonstrated it in the past and had done the specified work but did it in a rather delayed or slow manner?---This is, this is purely on their submission, so you've got to score it purely on their submission, not on your, what, how, whatever opinions or past experiences you may have had with any of these suppliers. It's purely on what you read in the submission.

So does that indicate they mustn't, in their submission they may have not given an indication of how long it took them to do the work?---Yeah. Yeah.

10 MS WRIGHT: Did it appear at all strange to you that a contractor scoring zero would be selected for inclusion on a panel?---Well, yeah, there's a few contractors there that have scored zero. I was, from the discussions Nathan and Alex and Craig had was that all the suppliers were essential to the works our team were doing, so the decision was made to accept all the submissions.

THE COMMISSIONER: Sorry, it was essential to the work that the team was doing?---The team, the team conducts. So if it's electrical works or structural works, yeah.

20 MS WRIGHT: Did you say Novation was considered essential to the work your team was doing?---All I recall saying was that Novation was an authorised supplier for IRD and I think it was Alex that explained it a bit further, that we use IRD scales, so if we need parts, we need to engage with Novation.

Because Novation had an exclusive arrangement with IRD?---That's right.

And did Mr Dubois explain to you that, or did Mr Dubois say to you that it was essential to include Novation on the panel? Is that what your evidence is?---Yeah, so that's what, that's what the outcome was, yeah.

30 But you're saying that he told you, are you?---Oh, he didn't tell me but explained to Nathan because Nathan kind of questioned why – you know, because there's a few suppliers that scored poorly – why you would need to accept, oh, why you'd want to accept them and, yeah, so Alex explained that. So Novation, because of them being an exclusive distributor for IRD, they will be required for if we need any spare parts or, yeah, and, yeah.

Was that during the evaluation process?---That was, yes.

Was Mr Soliman involved in the evaluation process at all?---No, he wasn't in the room.

40 Did he ever suggest to you that Novation should be selected?---No. Like I said, I only got pulled in five minutes before and Samer wasn't in the office that day I don't believe, yeah.

You recall that specifically, do you, that he wasn't in the office?---As from what I recall, I don't recall seeing him in the office, at that time anyway, when I got asked, invited to, to attend this evaluation.

So did you feel that you had to recommend Novation because you were told that it was essential by reason of its position as the exclusive distributor of these scales in New South Wales?---To be honest in that panel committee I just agreed with the recommendations from Alex and Craig, I didn't have too much of a say because I'm not experienced in the electrical or the structural work so - - -

You did have a say though as a member of the panel.---That Novation was the exclusive.

10

Yes.---Yeah, I guess I did, yeah, agree with the overall statement that all these suppliers are required, so I guess Novation's included, yeah.

But you didn't apply any real independent thought to it. Is that what you're saying, you followed - - -?---Yeah, I didn't apply, no, I didn't apply any independent thought.

20 THE COMMISSIONER: On that page, sorry, 187, the middle section in colour and towards the far left-hand column you've got weight in motion, weighbridges, PAT and HAENNI portable scales, Maha and NEPEAN brake testing.---Yeah.

Are they listed as the particular pieces of equipment that your team deals with?---Yeah.

And then separately the no or yeses, what does that indicate?---Yes, they perform that task, or no, they don't. So for weighbridges do they calibrate and maintain, so you've got AccuWeigh's got a Y.

30 Yes.---And WeighPack and Electrical's got a Y and NEPEAN's got a Y for everything. So basically in their response, when they responded to the tender they would specify what particular devices they can I guess procure, maintain or, yeah, yes, yeah.

MS WRIGHT: Did you consider that this panel, category B panel would be used if there was a need to buy completely new equipment?---No, I didn't consider that at the time, no.

40 Did you consider that it wasn't a panel for that purpose?---Well, the title was Heavy Vehicle Maintenance, so I always thought it was maintenance-related. That was my understanding.

I took you to the description of the panel earlier and it said procurement and - - -?---And it did say procurement, yes.

And it named the particular brands of portable weigh scales.---Yeah, yeah.

Do you consider that it was a panel designed to be used if there was a need to buy new portable weigh scales?---I didn't realise that at the time, no.

And after the panel was appointed, did Novation get more contracts for spare parts?---I recall that Samer did ask me to raise a couple of purchase orders for spare parts.

10 And you'd been raising purchase orders throughout 2017 in favour of Novation for spare parts?---Yes, under the direction of my manager.

And did you, do you know, Mr Singh, what the approximate value of those contracts was?---Not off the top of my head, sorry, no.

At the time were you sent the invoices by Novation?---I was sent the invoices, yes.

And they were frequently sent to you, weren't they?---Yeah, I did receive them frequently, yes.

20 And did that cause you any concern?---Not really because, so I get AccuWeigh and WeighPack and Electrical when they were maintaining and I used to get frequent invoices from them as well, so it didn't concern me.

As frequent?---They used to be, I'm just trying to think, yeah, they were, they're pretty frequent because what they do is when they calibrate a bunch of scales they'll send me an invoice for the set of six scales. So there used to be, yeah, frequent invoices.

30 THE COMMISSIONER: For the calibration?---For the calibration and maintenance of the scales.

Just on that, there was a distinction between calibration and verification in the category B description of work for this tender. I'm just interested, what's the difference between calibration and verification?---I always thought it was the same thing. So calibration is just confirming that the, for example, portable weigh scale is as accurate as it should be. And that's what I thought verification was, verifying that, you know, it's accurate.

40 It talks about an annual verification.---So, yeah, portable weigh scales need to be serviced and calibrated every 12 months. Yeah.

So the verification might be the mandatory annual checking, while there might be a need for ad hoc calibration if it's detected a scale's inaccurate, or - - -?---It's, yeah, or, so every, every 12 months it has to have a calibration, but if let's say within that 12 months there's, a repair's required, so once it's repaired it will have to have another calibration to ensure that it's working as per it should be, yeah.

And you spoke about you'd received some invoices in the past from AccuWeigh, was it?---AccuWeigh and then WeighPack Electrical before that.

And was that for the calibration work they were doing?---Calibration work and also any repair works they had to perform, yeah, they would send invoices as well.

10 And do you say that you received invoices from Novation for calibration or repair work?---No, no, for spare parts.

Spare parts. Only for spare parts.---Yes. Yeah.

MS WRIGHT: So, Mr Singh, what was the process for ordering spare parts? You said before that the maintainer would contact Soliman.---Yes, that was my understanding.

And say we need parts.---We need spare parts, yeah.

20 And then would he contact Novation?---He, either he'd ask me to get a quote from Novation or he might contact Novation himself and then, yeah, he'd request for me to raise a purchase order.

And you'd get a quote from Novation.---That's right.

And you would then request a purchase order.---Yeah, under Samer's direction.

30 And that would authorise the expenditure.---Yes, for that value.

And then you would receive an invoice from Novation.---I would get an invoice from Novation, that's correct.

40 And did you have any process for reconciling the order made by the maintainer with the items invoiced by the supplier Novation?---During, so when WeighPack was performing the maintenance, I didn't have any visibility of that. Once AccuWeigh took over in November 2017, I was, Samer appointed me as the lead point of contact for the maintenance of the scales, so I recall he would give requests for me to raise a purchase order for spare parts to Novation and that was all delivered at once and I confirmed with AccuWeigh that they were delivered and they were as per the, I think, I believe I issued an RFQ for it and I confirmed that it matched the quantities that I requested.

Was that just one invoice from Novation on that occasion?---That was, yeah, one invoice. That's when I got given, when I got asked to be lead on the maintenance of the scales, so I made sure I had visibility of everything that was happening.

THE COMMISSIONER: And did you just implement that system yourself?---I, yeah, I, well, yeah. Yeah, I did. I implemented a few processes once I became lead on approving invoices, making sure that the scales were calibrated, having the calibration certificate, and then over time I kept improving it, so making sure there was repairs, for repairs, there was a process for repairs. So AccuWeigh would send me a report regarding the damages and also a corresponding quote, and then also, yeah, verifying that the repairs were done, and then I, before I left RMS I had additional  
10 processes implemented verifying that the scales were then delivered back to the inspectors' offices as well. So - - -

Before you were appointed the lead on approving these invoices – and that was, sorry, that was post-AccuWeigh's - - -?---So I think it was November 2017.

Who performed that duty before you were appointed?---My understanding was Samer. So I used to get the invoices and I would always, I would check with Samer to see whether those invoices were okay to approve. The  
20 WeighPack and Electrical invoices, he said they were always okay to approve for the calibration, but with the Novation ones either I would receive it and I would check with Samer if it's good to approve, or Samer would give me a heads-up and tell me that there's an invoice coming through and it's okay to approve.

An invoice from Novation for the cost of spare parts?---For spare parts, yes.

MS WRIGHT: Now, following the establishment of the Heavy Vehicle Maintenance Panel, were you also the manager of a request for quote  
30 relating to the purchase of 125 portable weigh scales?---Yes, that was in early 2018.

Early 2018.---Yes.

So the panel was appointed in October 2017.---Yeah.

And the process for the procurement of the 125 scales commenced at the start of 2018?---Yeah, it was I think February or maybe January, sorry. January/February I think it was.  
40

Did some funding come through at that time?---Yeah, so Samer told me that \$2 million was allocated for the replacement of portable weigh scales.

And Mr Soliman asked you to manage the RFQ for that?---That's correct.

And were you on a Tender Evaluation Committee for that?---That's correct.

And was Mr Jones also on that committee?---Yeah.

And if Mr Singh could be shown volume 10 at page 37. You'll see this is an email chain from Mr Jones to you, and at page 38, the start of the email's just on page 37, it shows that it's from Mr Jones to you, he says that he's just found time to read the RFQ and asks if there's a separate tender for charging units and leads.---Yeah.

And you've replied to him on page 37 that "RFQ requirement is for the scales to fit in the current charging port."---Yeah.

10

What did you base that statement on?---That was on, so I checked with Samer and that's the response he gave me to reply to David.

And Mr Jones refers to a previous, well, he refers to 24 10A III scales purchased last April. So were you aware of that previous purchase of those scales?---Yeah, I was aware of that.

Were you involved in that purchase?---No, I wasn't.

20

And then at page 42, you organise a meeting with three other attendees including Mr Jones. Are they the members of the Valuation Committee? ---Valuation Panel, yes.

And did you select those people?---No. I didn't select. Samer selected Barry and Claire and I think I, oh he, I think he also selected David Jones because I think he got some requirements from David Jones, requirements to put into this RFQ.

30

Mr Soliman for requirements from David Jones?---Yeah. He got in touch with David Jones to, for some requirements. I think it was handle length requirements, requirements like that to insert into the RFQ.

And was this message here at page 42 informing those three individuals that they were part of the Evaluation Committee?---I, they, think they were informed prior to that. I'm not sure now. Oh, well, sorry, it says been nominated to be part of the assessment panel, so maybe they haven't been, yeah.

40

Now, turning to page 43, this is the request for quote document and you're named as the manager on the front page. Mr Soliman selected you for that role?---Yes.

Did you have qualifications to manage this type of process?---The only experience I had for that would be the two panel tenders I was involved in.

Did you prepare this document?---Yes, I did prepare the document. The requirements were provided to me by Samer.

I see. So that's on page 45 in schedule 1, the requirement to set out, and it actually nominates the number of scales at 125. How was that quantity of scales derived?---So, I asked Samer how much do scales cost and he said the average cost for scales was between 13 to \$15,000. So basically it was dividing \$2 million and we chose the, the high end, so \$15,000, so dividing \$2 million by \$15,000 and I think we got a number like 133 so we just reduced it to 125. So any additional funding we had left over, we could use to procure more scales.

10 Do you know where he got that figure of 13 to \$15,000 from?---I don't know.

Did that seem a reasonable figure to you?---I don't know much about scales and their cost, so I just trusted his, his answer.

And the requirements included the size, it's referred to as dimension but the size of the actual scales.---Yep.

20 And what do you think, were you told why it would include dimension requirements?---Yep. So he told me that the scope of this RFQ is to only procure the scales. So it meant that it had to fit into the existing storage racks in the inspectors vehicles. So some time ago he actually had me get in touch with the different regions just to get the dimensions from their storage racks. So those dimensions are the minimum, I think those were the minimum dimensions of the storage racks for one of the regions. So it had to at least fit in there.

30 THE COMMISSIONER: And sorry, when were you asked to do that?  
---Oh, this was years, years ago. Let's, I don't know, maybe 2015.

Mr Soliman asked you to - - -?---Yeah, asked me to, to get dimensions, yeah.

MS WRIGHT: Did that appear unusual at all to you, Mr Singh?---At the time it didn't. He, he said that was the scope, that was when he got the 2 million, that was the scope that was given to him by senior management.

40 And so it would involve, would it, replacing the existing scales with exactly the same style of scale in terms of its size?---Or scales that would fit, scales that would fit in the storage racks, yeah.

Now, the next document is at page 47A of volume 10. This is an email commencing between you and Mr Thammiah and at the bottom of the email chain on that page is an email from you, it doesn't show the recipients but it attaches the request for quote.---Yeah.

Who was the request for quote sent to?---It was sent to, it was Novation, NEPEAN Transport, AccuWeigh and CIC, sorry, I think it's Electrical.

And were they the members of the category B panel?---There was a fifth member, WeighPack and Electrical, however there was a legal dispute between WeighPack and AccuWeigh and the outcome was that WeighPack couldn't work with us for a period of 12 months, so I wasn't able to issue them this RFQ.

But it was issued to AccuWeigh?---Yes.

10 And you extended the date, in the middle email on that page you extended the date for the RFQ to 9 February.---Yeah.

And you amended the RFQ in respect of the charger requirements.---Yes.

So that was the requirement, which requirement was that, was that the - - -?  
---That was the concern that David Jones raised regarding the chargers.

20 Okay. And what was the concern?---So a new, so the current chargers are only compatible with the existing scales, so any new scales would require an associated charger along with it, so yeah, that was the requirement.

Now, Novation's quote is at page 47C. Its tender response containing its quote is at 47C, and you saw that.---Yes.

And it set out how it met all the requirements. And on page 47F its price, it came in precisely at the top range of what Mr Soliman said the price of scales would be at \$15,000?---Yes, yeah.

30 Did the other tenders come in lower than that?---Yeah, much lower.

Now, volume 11, page 1, if that could be placed on the screen. This is an email from you to Mr Soliman of 1 February, 2018, so this is after the RFQ has been issued.---Okay.

And at page 2 you've attached a business case template to your email.  
---Yeah.

40 Did you draft this document?---No. I think this document was drafted before that first tender and I think I was just sent, and Samer put together this document because you can, I can see November 2016 down in the bottom and I think he was asking, requesting for me just to send it to him, send him a copy because he probably couldn't find - - -

I see. So you drafted this back in November 2016, had you?---No, I didn't draft this.

I'm sorry. What did you say about the timing?---I believe this was, this business case was sent to, I forgot the, there's a team at RMS that reviews

business cases, prior to the first tender. Yeah, that was, that's my belief, and I think he was just asking, because I remember that team got back to him and they just needed some clarifications and he forwarded me the business case just to make I think it was some adjustments. I don't recall what the adjustments was, but then I had to make the adjustments and send it to the business team who manages these business cases because Samer wasn't in the office at the time. Yeah.

10 You've sent it to him on 1 February, 2018.---Yes.

Did you work on it at that time?---I don't recall working on it at that time.

Are you familiar with the content of it?---If I recall, there was costings.

I'll just take you to page 4.---So, yeah, there was cost – I think there was another page as well because there was capital costs but then there was, oh, maybe it's all in this page. There's maintenance as well.

20 It refers to a \$7 million cost estimate and sets out 475 scales at \$14,500 would be 7 million. Do you know where the 475 number came from?  
---I understand we've got 550 scales and I got told that we had to replace all 550 by Samer, so I'm guessing the 475, I don't know why he didn't go 550 but, I don't know why he wanted 475 but, yeah.

So you don't know?---No.

And you pointed out that the document stated that November 2016, but was it amended around this time?---In November 2016?

30 In February 2019.---I don't think so. I think Samer probably just, I think this is, what I think may have happened was Samer just asked me to send him that business case template because I did make some adjustments, and he probably - - -

THE COMMISSIONER: Sorry, when did you make the adjustments.---I, I, I thought it was in 2017. And he was probably just asking for the latest (not transcribable). Yeah, I don't know if I made any changes to it at that, on February 2018.

40 MS WRIGHT: The information at the bottom of page 5, there are approximately 350 enforcement operations inspectors who weigh scales, and not replacing these failing weigh scales means that no scales would eventually be available to weigh scales. And over the page, at page 6, setting out the benefits - - -?---Okay, I think I may know what's going on now. So the 475, I think 125, no, that can't be right. Sorry, no, my maths was wrong, sorry.

The reference in section 9 to the risk of doing nothing, that this is a major risk politically and of course for road safety, et cetera.---Yes.

Who drafted that, to your knowledge?---That was Samer Soliman.

Now, you received tenders, you've said, from four companies.---I received from three. CIC responded back saying they weren't interested in applying.

10 And the other three, AccuWeigh, NEPEAN and Novation submitted tenders?---Yes.

And did those tenders meet the scale dimension requirements?---Only one did.

And that was Novation's?---That's correct.

And there was a cost differential between the prices quoted by Novation as compared to AccuWeigh and NEPEAN?---That's correct.

20 And did you raise an issue internally about this?---So after the first evaluation the recommendation was Novation because they could always, they, their scales could fit into the racks, so they met that requirement. And I remember I did have a chat with, so Samer was on leave during this time, so Craig Steyn was the acting manager, so I did have a chat with him. I just mentioned that, you know, the outcome of this tender and I told him that the tender we are recommending is almost double the price of the, the other tenderers and I just thought, oh, you know, seek advice from him on, you know, because sending something like that to senior management, I was expecting questions to come back down, you know, seeking clarification as  
30 to why we're going with the most expensive tender.

When you did that had you already engaged with your other committee members, Mr Jones and - - -?---Yeah, so that first evaluation meeting had concluded and that, the recommendation, the outcome was, the recommendation was that Novation met the requirements of the tender.

Because it was only company that - - -?---It could fit.

40 - - - met the requirements.---Yeah, yeah.

And then did you send an email to Mr Steyn and Mr Jansen?---That was later on. So this was, initially I raised it with Craig just seeking advice and he said perhaps to back to Novation and see if they can provide a revised offer, which you can't do because that's just again you're giving one tenderer a competitive advantage.

Was that in relation to the price?---To the price, yeah.

Right.---To the price.

And so you didn't pick up that suggestion?---I, because, yeah, according to tender guidelines you can't get in touch and ask for a revised offer or anything along those lines because it could be considered providing one supplier a competitive advantage. And he did mention, the second thing he mentioned was possibly replacing the storage racks, which is something David Jones also raised as well afterwards. So Craig, I remember Craig got a quote and also David Jones also got a quote and I think it was around \$1,500 to replace a storage rack. So what I did then was, myself and actually Barry Everson as well, we got in touch with all the regions to see how many vehicles they had with storage racks, and based on that count just, you know, timesed that by 1,500 and I think I may have doubled it just to add extra fat, just in case, and I, yeah, all those figures I put together and I've put an email together for Craig and Arnold Jansen.

If the document at volume 10 at page 164 could be placed on the screens. How many vehicles had the storage racks, do you recall?---Sorry, I don't recall.

Now, you sent this email on 21 February, 2018. Was Mr Soliman still on leave?---Yes, he was still on leave.

And had you attended his wedding the previous weekend or the previous day?---I don't recall when his wedding was. I think it was around that time. I don't recall the exact date, though, because he was on leave because of his honeymoon I believe at this time, yeah.

So his wedding had already taken place if he was on his honeymoon? ---Yeah.

And you saw Mr Thammiah at the wedding?---I did.

Ah hmm. Now, you've sent a long email and you're familiar with this email?---Yes.

And you've informed Mr Jansen and Mr Steyn of the options and that Novation's option is around the \$2 million mark and that meets the scale dimension requirements, and that the other options are from AccuWeigh do not meet the scale dimension requirements and you've set out what the additional cost of replacing the scale storage racks would be and you've, at about halfway down the page you've said it would be \$300,000 to replace. ---Yeah.

And you sought clarification, didn't you, on whether replacing the storage racks could be considered within the scope of the tender?---Yes.

And you've said that you're confident that we can spend the money by the end of the financial year as long as the purchase order is raised before the end of March. What was the response you received to this email?---So when I sent this email, I was anticipating a response will be, "Yep, go ahead and replace the storage racks." So in anticipation if that, I organised another meeting with the panel members to re-evaluate the submissions based, excluding the dimension requirement, and in that meeting David Jones, because, because he hadn't tested that AccuWeigh scale, he wasn't confident that that scale was fit for purpose.

10

So you were anticipating that this scale dimension requirement might be dropped?---Yep.

Did that ever get confirmed that it would be?---Well, so we had this meeting, and based on David Jones's response I got back in touch with Arnold and I told him, gave him an update and I told him, you know, this was David Jones's response so we're going to have to go back to the original recommendation of Novation. So I don't think we ever had, I don't think there was ever a response to this email.

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So I'll just go back a bit. You had a meeting with Mr Jones?---And Claire and Barry.

And you discussed with them what would be the position if the scale dimension requirement is actually dropped?---Yes. And I said let's re-evaluate the submissions based, excluding that dimension requirement.

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And is your evidence that Mr Jones said, "Even if the scale dimension requirement is excluded, AccuWeigh is not the preferred scale"?---He said it doesn't, it wasn't fit for purpose because of the weight and there were some other factors because I did send an email to David Jones after that just to get clarification on what the issues were.

THE COMMISSIONER: My note was that you said something like Mr Jones said, "The AccuWeigh had been tested."---Untested.

Was?---Untested, not tested, sorry.

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Never tested or untested?---Yeah. By him so he couldn't make a recommendation on a scale he'd never tested.

Why hadn't he tested it? Was it just ruled out because it didn't meet the dimensions?---Oh, you mean during this time or prior?

Well, that's what I assumed, was that he hadn't tested it as part of this tender process.---No, he just hadn't tested it at all. Yeah.

Why didn't he test it as part of the tender process?---There was no time allocated. Because of the time constraints, there was no time allocated to testing which, which was raised later on by David Jones when he said that he was not going to sign this tender report, and then that's when I sent an email to Arnold and I think it was Craig as well, seeking, seeking if it was possible to move, roll this \$2 million to next financial year which will then give us time to evaluate the scales and hopefully have an open tender because we only had two scales to evaluate between, during this one. So, yeah.

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MS WRIGHT: Had there been any scoping studies around portable weigh scales by this time?---Not that I was aware of. Yeah.

Did that topic come up at all, "Have we trialled this particular piece of equipment"?---Well, that topic did come up, which is why I got, if you go back to that email I asked AccuWeigh to send scales for evaluation. So, so, "Note, we have requested AccuWeigh to supply a set of scales to trial and obtain feedback from inspectors." So yeah, that was discussed.

20 Unfortunately, I think the, I got, when I spoke to AccuWeigh it was, like, a six-week turnaround period to receive those scales. So, yeah, and, yeah, I guess, yeah, it just came down to time constraint as well.

If page 166 could be shown. This is a message sent to arrange a meeting with the other members of the committee.---Yeah.

And you've said, "The scope of the RFQ scale dimension is now not considered a mandatory requirement. As a result we should re-examine the AccuWeigh submission based on this new scope and provide a new score." ---Yeah.

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Previously your answers were that you anticipated getting that direction but hadn't yet.---Yeah. Yeah, so, yeah.

This suggests that you in fact - - -?---I did, yeah, just, sorry, I just, this, I worded this incorrectly. It's anticipation and assumption that, you know, the scale dimension was not going to be considered a mandatory requirement because of the cost savings that was going to be had.

40 You said "is now not considered a mandatory requirement".---Yeah. I just, like I said, I've worded that incorrectly.

So was it the position that you were never told it was not a mandatory requirement?---At that, at that point, no.

And you arranged a meeting to discuss a hypothetical with your other committee members?---Yeah, yeah.

Did they respond? You held that meeting.---That meeting was held.

And the four of you got together.---Yes.

And Mr Jones gave his response about the AccuWeigh scale.---Yeah.

And then you, Mr Jones did subsequently raise an issue with the recommendation, did he not, to go with Novation?---When he, that email he sent when he said that he's not signing the - - -

10 Yes, so you're familiar with the email - - -?---Yeah, that email, yeah.

- - - where he said, "I'm not signing the tender evaluation report," which would have recommended Novation be selected.---Novation. So, so the email I sent to him before that was just seeking clarification on the issues with the AccuWeigh scales as a result of that meeting we have.

See, so page 168 is the commencement of the email chain, and you were referring to your email, which is the first in time at page 170.---So, yeah, "as discussed in the meeting", yeah.

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Where you say "as discussed in this meeting. Can you send me some feedback regarding the Intercomp LP600 being unsuitable for your operational requirements." And then he says in response, at page 169, that in fact the LP788, this is at the end of his email, I appreciate there's a lot that goes before, but he says in fact the overall package is by far the best and most economical available option.---Yeah.

So he seems to be endorsing the - - -?---But it was untested and uncertified, so because it's uncertified we couldn't procure those scales.

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And he said he would not be signing the tender evaluation report due to reasons previously raised and discussed, and he's previously raised with you, had he, that he thought that the RFQ was too restrictive regarding the dimensions.---He did afterwards and that's why we went down the path of seeing if it was possible to replace the storage racks.

He refers to urgency to progress an RFQ relating to available funds to obtain new scales before the end of financial year.---Yeah.

40 What was that urgency?---So Samer told me that we needed the scales, to have the scales delivered before the end of financial year and this was, is already February and it takes a couple of months to, for the scales to be delivered to Australia, so I guess, yeah, so that was the urgency.

THE COMMISSIONER: Why did they have to be delivered? I can sometimes understand why maybe ordered and paid for, but - - -?---Yeah. I don't know why it had to be delivered. That's what I got told by Samer, so, yeah.

MS WRIGHT: What were the words that Mr Soliman said about that?  
---The urgency?

About being delivered to Australia.---Oh, he just said it had to be delivered to, because Intercomp, I think Intercomp, HAENNI and AccuWeigh, or not AccuWeigh, Intercomp, HAENNI and, or HAENNI didn't apply, so Intercomp and IRD, they're all located overseas, so the scales have to be manufactured overseas, yeah.

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THE COMMISSIONER: I'm sorry, when did he say that?---This was when this whole thing kicked off, so the issue regarding the urgency started off. So he told me he had a meeting with Roger, Roger Weeks and he got told that he had \$2 million which he needed and the scales needed to be delivered before the end of financial year, and he told me that Roger directed him to take the quickest approach, so you can either do the open, open tender process which is longer or you can issue it to the panel. I did question that. I go, "I prefer going through the open tender process," because HAENNI, HAENNI wasn't on the panel and that was my concern, that they would not be able to apply for this tender, but Samer said that, you know, Roger's direction was to follow the quickest process and issuing an RFQ to the panel was deemed the quickest process.

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MS WRIGHT: I note the time, Commissioner.

THE COMMISSIONER: Before we finish, tomorrow we're starting at 9.30. Can I get a very rough indication, I'm not going to bind you to it, but Ms Hogan-Doran, how long do you anticipate you'll be with Mr Singh?

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MS HOGAN-DORAN: If at all, no more than 10 minutes.

THE COMMISSIONER: Right. Mr Young's gone, has he? Have we got anybody here? No, we don't. I'm losing people. Ms Dabliz?

MS DABLIZ: I don't anticipate any cross-examination.

THE COMMISSIONER: All right. Thank you. Mr Lonergan.

MR LONERGAN: Yes, Commissioner, there will be a fair bit. Now - - -

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THE COMMISSIONER: It just gives me assistance as to whether we've got to organise another witness, so - - -

MR LONERGAN: Yes. The hesitation is simply that I am giving some documents to Counsel Assisting and - - -

THE COMMISSIONER: And you haven't received - - -

MR LONERGAN: Well, I've got them and will give them to her, but I mean Counsel Assisting can speak for herself, but there was the potential that given the delivery of the documents that my cross-examination might need to be delayed in order for that to be digested by the Commission.

THE COMMISSIONER: All right.

MR LONERGAN: But I'm more than happy to start and complete my cross-examination tomorrow.

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THE COMMISSIONER: And how long do you think you'll be?

MR LONERGAN: Be two hours tops.

THE COMMISSIONER: Two hours?

MR LONERGAN: Maximum.

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THE COMMISSIONER: Okay. All right then. Thank you for that. Any other - - -

MS WRIGHT: I think Mr O'Brien perhaps - - -

THE COMMISSIONER: Oh, sorry, Mr O'Brien, that was very - - -

MR O'BRIEN: Very short, but two hours, after that I don't know.

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THE COMMISSIONER: All right. Look, it just assists me for tomorrow, so thank you for that. We're adjourned until 9.30 tomorrow morning.

**THE WITNESS STOOD DOWN**

**[4.03pm]**

**AT 4.03PM THE MATTER WAS ADJOURNED ACCORDINGLY**

**[4.03pm]**