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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 27 MAY, 2019

AT 2.00PM

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

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

THE COMMISSIONER: Mr Thevathasan.

MR Thevathasan: Thevathasan, but that's okay. It's a mouthful. THE

COMMISSIONER: Now, yes.

MS HOGAN-DORAN: Commissioner, I seek leave to appear for Mr, he's just instructed me how to say it properly and I apologise. It's nearly as bad as my name.

10

THE COMMISSIONER: That authority is granted.

MS HOGAN-DORAN: Thank you.

THE COMMISSIONER: Now, two things. First thing, do you take an oath or an affirmation?

MR Thevathasan: Affirmation, please.

THE COMMISSIONER: Now, I've noticed you've got some papers plus a laptop.---Yes.

What were the papers?---Oh, it's just my notes, personal notes.

10 Now, do you mind putting those to one side. What I would prefer is that if you can listen to the questions that you'll be asked and answer them. You'll probably be shown some documents. If at any point you think, look, it would help for me to refer to my notes or look at something on my laptop, can you raise that and then we can deal with it?---Okay.

Now, is there any issue about a section 38 notice?

MS HOGAN-DORAN: Yes. He seeks that declaration.

20 THE COMMISSIONER: All right. Now, I would assume you've had a discussion with the legal representatives of RMS about a section 38 declaration?---That's correct.

30 What I say to everybody is that there's one, actually two very important exceptions. The first one is that it doesn't prevent your evidence from being used against you in a prosecution for an offence under the ICAC Act, including an offence of giving false or misleading information or misleading evidence. Now, that's like a form of perjury. It's a very serious offence. It brings with it a possible maximum penalty of five years' imprisonment, so it's very important that you are truthful and you don't give false or misleading evidence. Now, the second exception which may apply to you applies to New South Wales public officials. Evidence given by a New South Wales public official may be used in disciplinary proceedings against the public official if the Commission makes a finding that the public official engaged in or attempted to engage in corrupt conduct.

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

**PURSUANT TO SECTION 38 OF THE INDEPENDENT  
COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT  
ALL ANSWERS GIVEN BY THIS WITNESS AND ALL  
DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS**

**DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

- THE COMMISSIONER: Ms Wright.
- 10 MS WRIGHT: Thank you, Commissioner. Sir, could you please state your full name?---Theepan Thevathasan.
- Are you employed by the Roads and Maritime Services?---That's correct.
- When did you commence your employment at RMS?---In January 2011.
- What is your current job title at RMS?---System Strategy Manager.
- 20 How long have you been in that role?---Not sure. So I initially joined on a different capacity and I moved on.
- Did you join as a business systems analyst?---Correct.
- And you move on to your current position. Can you try and recall the year? ---Not sure, but in between I had another role as Manager of PMO.
- Was that an acting role?---Correct.
- 30 And then you moved on to a substantive role as the Systems Strategy Manager?---And then moved up to, yeah.
- What are your responsibilities in your current role?---So I look after the heavy vehicle enforcement systems across the state. That involves both operational and projects.
- Does your current role sit within the Heavy Vehicles Programs Unit?---Not anymore, but used to, but that Heavy Vehicles Programs Unit is disbanded.
- 40 I see. And so until when did your role sit within the Heavy Vehicles Programs Unit?---Just before Samer Soliman's suspension.
- And did you report to Mr Soliman until his suspension?---Correct.
- Did you commence your employment at RMS at the same time as him? ---Yeah.

And were you in – or we’ll come back to it. It might refresh your memory when you look at some documents. Were you involved in raising some purchase order requests for contracts awarded to the company AZH Consulting?---Correct.

And was there an occasion when Mr Soliman asked you to raise a purchase order?---More than one, yes.

10 More than one occasion. If Mr Thevathasan could be shown volume 3 at page 218, please. Sir, this is an email from Mr Soliman to you dated 15 March, 2017. It’s a blank email and he’s attached a contract DOI report and a document called Quote RMS06.---Correct.

Do you recall whether this was the first AZH quote which you raised at Mr Soliman’s request?---I need to check my notes, but I think there was one before that.

You do.---I have to check that.

20 THE COMMISSIONER: And it was one for AZH?---Yeah, my memory is that there was, it was a trial involving HAENNI scales but I have to check my notes to check the dates.

MS WRIGHT: Could I ask you to check your notes with the Commissioner’s - - -

THE COMMISSIONER: Yes. And they’re your handwritten notes or - - -? ---I typed, yes.

30 Okay, typed notes.---Sorry, that’s the first one. I have another PO request on 6 July, 2017 as well, so this is the first one.

MS WRIGHT: Well, we’ll come back to that.---Yeah.

But the one I’ve just shown you, according to your notes, it is the first matter that you were involved with involving AZH?---Correct.

40 Now, the email’s blank. Did Mr Soliman have any discussion with you about this particular matter?---He did. So it was verbal and he said he will send the documents through and that’s the email relating to the documents that came through and the two documents you’re seeing, one is the quote from AZH and the other one is, in the CM21 system there’s DOI, disclosure of information.

He said he’d send the document through to you. What else did he say to you about it?---To raise the purchase order, to request rather.

Now, the documents are at page 219. If that could be shown on the screen. That's one of the attachments he sent to you, a disclosure of information form?---Correct.

\$99,000 being the estimate payable. And at page 221 did he also attach to his email the AZH Consulting quote?---Ah hmm.

10 The quote is for a fixed price fee for all technology hardware trials in scoping studies and lists some inclusions, one being field trials at RMS selected sites. Did that quote appear normal to you at the time?---It's a bit too generic, but the nature of the conversation we had was, so if you look at the DOI and the quote, the numbers don't match up. So three times the quote is on the DOI. So this quote for a generic template of the works that were going to take place and my instruction that was given to me is we will be procuring three of, of these studies for different areas.

So the quote doesn't specify any particular trial. Do you agree with that? ---Correct.

20 And you said that you were told that the quote would be for three different trials for three different areas?---Yes.

What does that mean, three different areas?---So this is something I don't have a clear memory of but what I know is there were three different studies and trials going to be done. The same template was going to be used.

Who told you that?---Samer Soliman.

30 Was that at the time that he sent you the documents to raise, with the request to raise a purchase order?---Correct.

Did he tell you anything about when the trials would take place?---He may have but I can't recall.

Did he tell you what the nature of the trials would be?---He did say something but I don't have recollection of it.

40 And when you say he said something, you recall him referring to some specific trials?---Yeah.

But you can't assist the Commission at all with what they were?---I, I don't recall. So I did specifically ask him because there's one that's been quoted for and why are we doing three and there was an answer given as to what those three were but my memory is vague on that.

THE COMMISSIONER: Then you gave an answer that there was going to be three different studies or three different areas but the same template would be used. What did you mean or what did you understand that was

meant by that?---I'll give you an example but this is not exactly what happened but just to explain the situation. Let's say if you're evaluating three different word processors, one from Apple, one from Microsoft, you would take the same approach and the same type of process and produce and potentially the same type of deliverables but they essentially are two different evaluations. So what this quote is stipulating is it's just, it tells us how the work is going to be carried out and what outputs we're expecting but not necessarily what it is attached to.

10 So it sets out there's going to be a field trial at an RMS selected site and there was going to be a scoping study report produced?---Ah hmm.

Then what about the field trial requirements, adverse weather conditions, accuracy of respective technologies being trialled?---It's quite a normal thing. When we, when we do a roadside trial we would test them not just under normal conditions but also under adverse weather conditions.

So if it's raining, windy or - - -?---Yeah.

20 And then finally another report to be produced.---It's one of the same.

Oh, so two and four are the same?---Yeah.

MS WRIGHT: Did this quote raise any concerns with you, Mr Thevathasan?---It did in the sense that from, given my background when we engage somebody for a particular service it's targeted, so it'll be for a stipulated type of, in this case if it's a scoping study we will talk about what the study itself is and what the specifics are whereas this is more of a template in nature.

30 Right. And did you have any involvement in scoping studies prior to this? ---No.

Were you involved at all in trials of technology within your team?---I don't think so.

Had you heard of AZH before this request from Mr Soliman?---No.

40 So this was a completely new company to you?---Yeah.

Did you ask him any questions about AZH?---There was a general talk within the team about these companies, that they're being on board and what the nature of the works they are doing, but my background is not so much in the ITS space. I look after IT side of things.

THE COMMISSIONER: Sorry, you look after what?---IT rather than ITS.

MS WRIGHT: Is that in your role as Systems Strategy Manager?---Sorry, which is?

That's in your role as Systems Strategy Manager, you look after IT?  
---Correct.

And you were not sure, when I first asked you questions about your role, when you took on that role. Does this purchase order request of March 2017 refresh your memory that you were in that role at that time, you were  
10 in your current role at that time?---Correct, yes.

Now, when you say you look after IT, the Commission's heard evidence about particular technologies being trialled for use in enforcement operations, but your role in IT is different IT? Are you looking at computer systems within RMS?---So primarily, my role is a suite of software applications. Now, where ITS comes into play, these are at sites, whether it's on the side of the road or a checking station, what's now called a safety station. So software systems interact with ITS equipment to function for its own function, but my role itself is not to procure or run ITS systems or trial  
20 them or anything of that nature.

Now, the email, and perhaps if we could just have it back up on the screen again. Volume 3218. If I could just ask you to note the time that that was sent to you. It was 11 minutes past 11.00 on the 15 March, 2017, and then if we could have page 225 of volume 3. Did you then send the quote and the DOI form to Transport Shared Services? If you could look at the bottom of that page, there is an email from you to TSS RMS Contracts.---Yes.

And then over the page at 226, you've said, "Attached is a new Form 5399, along with quotes. Please note all other supporting information/docs has been included in CM21. Please note the quote is a fixed price per trial unit."  
30 You sent that email to TSS?---Yes.

And so you sent it, if we could go back to page 225, at 11.17am. So that's only about six minutes after Mr Soliman sent you the request. That's a fairly short period of time.---Correct.

You looked at the quote before you sent it on?---Ah hmm.

But that's all, I take it? You just looked at the documentation and sent it on?---No, this would have been a conversation before. So, the quote that came from Samer, it didn't just appear without any body in it. So he would have had a conversation with me as to what this involves and what the nature of the things are.  
40

THE COMMISSIONER: Can you recall having that conversation?---I recall having a conversation but I don't, very vaguely, but I don't remember most of the content, because the way I prepared myself for today is, I

actually had to go back to some of my emails to reconstruct some of the memories.

MS WRIGHT: And your email to TSS says, "Please note the quote is a fixed price per trial." And your evidence has been he told you there would be three trials, so it wasn't I take it your understanding that this quote would cover more than three trials?---No. So what I meant by that statement is that they have price for one trial and we are using multiple, we are procuring three trials with one quote.

10

And why would there be an expectation that each trial would have the same price?---I don't know.

And did you notice that the quote required payment before delivery of goods and services?---No, I don't recollect that, because later, you might have similar documents, when I, when the invoices came I had asked Samer in one of my emails whether this has been delivered to a satisfactory standards, and I remember him saying in an email that the report's available if people need to look at it, so I did verify that. So it was, and this is me trying to piece the information together, to me it looks like the funds were released only after deliverables were received.

20

THE COMMISSIONER: All right. But you didn't see the deliverables? ---I did not, no.

You're relying on what - - -?---Correct.

- - - Mr Soliman informed you about in that email.---Yeah.

MS WRIGHT: And then at page 255 you were asked to provide supporting documents by Transport Shared Services and you forwarded them the quote and the contract declaration of interest report. Do you agree with that? ---Yeah.

30

40

Now, if we could then turn to page 242. This may be the email you've just referred to where you have asked Mr Soliman whether the work was received to a satisfactory standard, and that was on 24 May, 2017, and you attached to your email an invoice from AZH for a thermal and cold camera field trial, and that's at page 243. Now, your email was sent to both Mr Soliman and to Mr Singh. Why did you ask both Mr Soliman and Mr Singh, if we could just go back to 242, please.---Because they were both involved, primarily Samer Soliman, but Jai, the nature of his work is he's heavily involved in a lot of R&D-style trials. He's, he's there onsite with most of these things.

You said he's onsite with most trials, did you?---Yeah.

How did you know that?---I, we're from the same team.

And did you ever procure trials?---No. By the definition I guess one could interpret this is me raising a purchase request would form me being part of a procurement process, but it's not effectively for my, for the delivery of my type of duties.

But you're aware of trials occurring within the Heavy Vehicles Programs Unit?---Correct.

- 10 People talked about them when they occurred?---Yes, a bit more than talk, because some of those trials would have downstream implications for my system. So when these trials are trialled and tested out in a standalone manner, and if they are fit for purpose for integration later on, then I would have to integrate them into the software system, so I had a bit of vested interest as to what the outcomes were and whether they were successful.

THE COMMISSIONER: So if the outcomes were successful and there was, what, a proposal that a particular piece of technology be bought, is that when you would become involved about concerning the integration?

- 20 ---A bit simplified, but in essence you're trialling a technology for its fit for purpose, but there's also further questions of whether this is a business problem worth solving, you're not, just because there's the technology we wouldn't jump on board. Once those hurdles have gone through, then there's a question about is it best to operate this (not transcribable) in a standalone manner or should we integrate into the software system to gain, whether it's a workflow or process efficiency or better information use, something like that, but sometimes it's worthwhile just keeping them as standalone.

- 30 All right. Sorry, so the trial would determine, A, whether it was fit for purpose, and what was the second aspect that you spoke of?---Whether the business problem itself is worth solving because if something is so expensive, as in equipment to procure and run, it might not mandate that to be solved in that fashion. So that - - -

Now, the trial, whether it was fit for purpose and also is that kind of a cost benefit analysis?---Financial viability, yeah.

- 40 Are you involved in those two steps?---Not necessarily, but I might be consulted or sought input from, but it's more of a management decision.

And then you would become involved. If those two issues received a tick in favour - - -?---Correct.

- - - it would then, as you said, an issue of whether it's more appropriate for it to be standalone or integrated into the software system and that latter question is where your expertise is really fundamental?---Correct, yep. To give you an example, weigh scales have been used by RMS inspectors for

years but they were never integrated into any of our systems even though there are vendors who might be able facilitate that. It was almost, it's a bit like an accountant using a calculator. It's not built into their work flow as such.

MS WRIGHT: If it came to your attention in that manner, because it was worth pursuing, would you expect to see a report that was produced in relation to the trial, such as a scoping study report?---Yes and no to an extent. To the extent that I would be very interested in the data outputs because that's what's the most important to me. At the end of the day, data coming out of one system needs to go into another. In terms of level of correctness and all of that, it's quite secondary to me. So error rates and all that are not as greatly important compared to data formats.

Does that mean you wouldn't be expected or you wouldn't expect to have someone give you the scoping study report about the trial?---It's a secondary interest to me, the overall output of a report but what, what's primary to me is the data formats and how frequent, so how, how, how frequently is the data flowing and whether there are any system issues in which we – because that's more of an integration question for me.

THE COMMISSIONER: And those integration questions, could they be answered by the scoping study?---It should be a starting point but there'll be more detailed conversations with who other vendors are.

MS WRIGHT: Have you ever seen a scoping study report?---Not in RMS.

Were you aware of scoping study reports coming out of trials?---Yes. I, I, I think I even have seen some partial outputs specifically around, I think they were called thermal cameras. Basically it looks at how hot the brakes are and, and I remember Samer mentioning to me that the outputs are good or, rather, we call it a hit rate but basically how effective the device was.

And you gave evidence that you would find out about trials if, essentially if the technology was worth pursuing, but how would you find out about trials otherwise? Was there a system for finding out that trials were taking place or was it word of mouth within the team?---There, there were, there were formal meetings within the team. So there were tea, catch-ups and people do give updates, but there's also sometimes, because I have number of times stepped up to Samer's role and I have had the opportunity to be briefed about things before I sign off on memos and all of that, so there's more than one avenue to get to know about these things, but mostly we all sat together.

THE COMMISSIONER: That anticipates that the study was as a result of a memo being created. Was it supposed to be created because somebody would put forward a proposal or some kind of business case along the lines of, you know, we've found out that there's this whiz-bang new technology, might be great, we need to trial it and that's got to be kind of put in

writing?---It's possible but there was no such strict protocol as to what steps we took but in most cases, when outputs had been obtained after a trial, it generally leads to a memo to the senior management, including the lead customer. So you probably have seen, heard names like Brett Patterson who are representing our inspector, so we would put that across to them because at the end of the day, they are the users of any systems or, whether it's IT systems to ITS systems, they're on the side of the road using them.

10 So you would anticipate that if there was a scoping study and even if its conclusion was this is pretty poor technology, there would be some memo to senior management plus the lead customers telling them, look, you know, we looked at, you know, your example of thermal cameras. It has these problems or these flaws. It's not going to really help us?---It's a reasonable expectation but I don't think that was always the practice. So it might have just gone up to the next level up to Mr Hayes or Mr Jansen nowadays, so whoever Samer reported to.

20 Okay.---Or it could have been a bit more informal, all the way to the GM or the director but in most cases if the outputs were confirming or suggesting that we should pursue it further because there's further requirement for funding to procure more units and run them operationally.

Okay. Good.

MS WRIGHT: You said you relieved for Mr Soliman on occasions. How often in your experience were trials conducted in the Heavy Vehicle Programs Unit?---During me acting for Samer or any time?

30 Well, in 2017 and 2018.---I cannot recall some of them but it might not be an exhaustive list.

Because they didn't come to your attention?---They are not necessarily a primary concern for my role as such.

Now, just going back to 242 of page, sorry, page 242 of volume 3. You said that you sent that to both Mr Singh and Mr Soliman because both were involved. What did you base that on?---In terms of their involvement or  
- - -

40 Yes. How did you know that Mr Singh was involved?---It's one of the primary things Jai did at a certain period.

Not this trial in particular but all trials?---Yeah.

And what response did you receive from this email?---I don't think I got anything from Jai but I have seen my own emails. There should be another email on top of this where, because I had asked questions about not just this invoice but there was another follow-on invoice, I think it must be named

AZH two PDF or something like that, relating to another PO I had raised because the person who raises the PO will get the request to release the funds through our work processing.

Well, we'll just deal with this one. What response did you get to this email?---That the deliverables were satisfactory and there was a report available on his desk physically.

10 Was that a verbal response?---No, that was an email.

From?---Samer Soliman.

THE COMMISSIONER: And sorry, the email said the receivables were - - -?---The deliverables.

Deliverables, I'm sorry.---Because that's the output of the trial.

20 So the deliverables were - - -?---Available as the report, to that effect, but he said that was physically on his desk. Anybody can look at it.

Did you go and - - -?---No.

MS WRIGHT: You didn't check his desk?---No.

30 How did this invoice come to you for it to be sent on by you to Mr Soliman and Mr Singh?---So this, we have an interim system called Equip. Basically it's an SAP number of modules in finance. So that would come through as a workflow to us. So every employee has a space they can go and look at and we get a notification when there is something outstanding to be actioned and this was just one form of action which is to certify and release funds.

Was there any requirement for verification that the goods or services invoiced had been delivered?---Sorry, I missed that.

Was there any, you've sent an email asking whether the work was received to a satisfactory standard, but was there any requirement to your knowledge for that verification to be sought?---Goods needs to be certified at, goods or services need to be certified as received before payment.

40 And was there any system within your unit for checking the invoice against the scope of works in order to verify against the quote that the goods or services were actually delivered?---That's the job of the person who does the engagement.

And the person who does the engagement, is that the person who sought the purchase order?---Interesting, but I don't think I can answer that, but in this case what I had done was, I relied on the advice from Mr Soliman. It could

be seen that I initiated the engagement because I was the one who request it, that's why the invoices keep coming back to me as the requester.

10 But you didn't see it as your role to check the invoice against the scope of works on the quote in order to check that the agreed quote or the goods and services quoted had actually been delivered?---I didn't physically do it myself but I relied on Samer in this case. But if, to give you a contrast, if there was an IT service procurement where it's part of my role to deliver things, I would be heavily and directly involved in checking that against the proposal, the quote, the proposal and the deliverables before any invoice raised.

20 So there really wasn't any formal system, it was just a matter of checking with whoever initiated the purchase order, which in this case was Mr Soliman, and you relied on him to confirm that the invoice was good to be paid?---Yeah, I think it was a technical, a bit more clearer term, the technical term there was that there has to be goods and services certified to be received. So I think there's an obligation on, on, on the side of the person who is releasing the funds that they have had enough, enough information to rely on before they can release the funds.

And what you relied on was Mr Soliman's word?---An email from him, because he would be the SME on that, sorry, subject matter expert.

Right. Was he a subject matter expert as a manager?---He was quite involved in a lot of these trials and he had a lot more visibility into ITS and some civil works because he looked after a team of people and these were some of the ideas he started off.

30 THE COMMISSIONER: Can I just ask you, you said that Mr Singh was involved in some of these trials. Why were you the one who Mr Soliman requested to raise the purchase order?---In hindsight a number of us have played the glorified admin's job.

40 Sorry, glorified?---It's a glorified admin's job because it's got nothing to do with what I do as part of delivery of my job, unless when I'm acting for Samer I wouldn't be expected to be involved in anything ITS. So it's just been a manager requesting can you do this for me, and at that time there was no suspicion about - - -

All right. So it was really an administrative task that you were performing. ---Correct.

With no involvement.---Correct.

As you said, this appears to be really an ITS matter and that wasn't within your jurisdiction, it was purely, as you said, an administrative way of really getting the financial side established through RMS systems.---It's, in a lot

more simpler way it's more assisting Samer in the process and, and, and personally reflecting, I didn't see that unusual to help the manager out, and it might even be one of my colleagues and we might have done the same thing.

MS WRIGHT: Now, a related document in this project is at page 234. Mr Thevathasan, you sent to Mr Soliman on 27 April an email about another quote and declaration of interest form for ITS trials, and that email has within it an email chain from AZH about a phase 1 and phase 2 report.  
10 Would just take you to the quote which is at 265. This is an AZH quote of 26 April about a report on heavy vehicle safety crash analysis and trends in New South Wales.---Correct.

And Mr Soliman has asked you at page 234 – which we just saw, if we could go back to that – to raise a purchase order for that quote. And you replied that it looks like the existing DOI you put in place seems to cover this quote as well, as far as the value goes, and you asked him if you just need to do a variation. And the DOI you're referring to is the one we've  
20 already seen, but if we could show that again at page 238, which contained the estimate of \$99,000. And so was it, when you said to Mr Soliman that this, the existing purchase order – well, you said the existing DOI seems to cover this quote. Did you mean the existing purchase order for \$99,000 seems to cover the quote?---I, I don't think I referred to the purchase order in that sense. I definitely have referred to the disclosure of information, and my reflection there was purely on a value basis. So I've looked at 99,000 already covered in a, in one DOI, and the other quote was 66K, and I just asked for clarification, isn't, can't this cover this one off? And I, at that time I don't believe I had, I had gone and done further checks on whether  
30 this 99,000 has already been, spent already or not. So I was just looking at this. This looks like this is something that can fit into this, and is there a reason we're doing it again.

THE COMMISSIONER: Can I just ask you, with the first one it anticipated three studies and a total of 99,000, and then a purchase order was created for the 99,000.---Correct.

And this is going to sound pretty basic, but is the idea that the vendor then would do the three separate studies, invoice, invoice, invoice, and that would come up to the 99,000? If, for example, the vendor did a fourth study  
40 for another 33,000, is the idea it wouldn't be covered by that first purchase order, that you'd have to create a new purchase order?---Correct. So it's already unusual to multiply a service contract by three to have it put in place, so it wouldn't definitely extend to the fourth. So it'll cap at 99K.

And that was the idea. So the purchase order creates the cap. Invoices can be submitted up until the cap.---Yeah.

And then as soon as work is done beyond that cap, you should be generating a new purchase order.---Well, a sensible vendor wouldn't be conducting further work beyond the PO they already received because there's no guarantee that they're going to get paid.

They're going to be paid, yes. Okay, good, thank you.

10 MS WRIGHT: So is there a general practice that if the financial – sorry, if the invoice fell within the financial value of the purchase order that that was good enough for approving the invoice? So - - -?---I don't think I understood that.

Well, the purchase order, would you agree, authorises the expenditure. Once you've - - -?---For a set scope.

- - - made the purchase order request and the purchase order is issued, that authorises a certain amount of expenditure.---Attached to the set scope.

20 THE COMMISSIONER: I'm sorry, I missed that.---So, so the, it does approve, so the caveat there, it needs to be tied to the scope to which the PO was raised. It's not a blank cheque.

AZH couldn't go out and do a scoping study on lunches at the local McDonald's and put in an invoice based on that. You've got to look at the scoping study and the – sorry, not the scoping study, the purchase order was for this amount for this work. The invoice comes in. It's got to be for that work or covered by the work, and also under the cap of the purchase order. ---Yeah. So the technical term there is verification of the deliverable against the statement of works.

30 Sorry, verification of the deliverable against the statement of - - -?---The, the statement of works. And that's what's used to certify whether the works have been delivered. In this case I don't think there was a statement of work or anything of that nature. It's just (not transcribable) bullet points.

MS WRIGHT: And so the statement of works is in the quote?---Correct.

40 So there would need to be a checking of the quote in order to check that the invoice is being properly issued and in compliance with what was approved by way of the purchase order pursuant to the quote. That was fairly long-winded but do you - - -?---Yeah, so I think, I'll just paraphrase what I heard. So I believe you're trying to establish whether the invoice raised is what should be cleared against a given purchase order?

Yes, yes.---To answer the question, yes, it is based on whether the invoice has covered the works that were delivered and whether the works delivered were actually what was procured as part of the quote.

And then I'm asking you whether, was there a practice within the Heavy Vehicles Programs Unit of approving invoices as long as they fell within the limit of the purchase order, without necessarily doing the checking of the statement of works, whether it be in a quote or elsewhere?---That would be wrong by the procurement standards.

10 Yes, it would be, but was there a practice of that, was there a general culture of approving expenditure, sorry, approving invoices as long as they fell within a purchase order limit?---There was this concept of, it sounds bad, but blanket PO. So where, when the works are trivial in terms of size and the amount is small, rather than raising a new PO and issuing a new contract every other week, there has been the practice of issuing a capped amount for the financial year or something along those lines, and you would approve specific works during that period. Even in that case the person who's approving those things is still expected to certify the works that were delivered is what they had requested in the piecemeal manner. So between two months if I had originated four work orders, just a technical term, it's still up to me and it's expected of me that I verify those work orders every time we release funds.

20

THE COMMISSIONER: And the four work orders are related back to the blanket purchase order and must in total come within the cap established by the blanket purchase order?---Correct. So the PO is like your limit on line of credit or OD, so you can only draw out to that amount, so there's nothing beyond that, and if it's to be beyond there has to be a variation of the purchase order, which is permissible, but it has to be consciously done.

MS WRIGHT: Your email, going back to 234 - - -

30 THE COMMISSIONER: I think we need page 234, volume 3.

MS WRIGHT: Sorry, 234 of volume 3. It's the email where you said looks like the existing DOI you put in place seems to cover this quote as well. It sort of, and this is not a criticism, sir, but it sounds like well, this, I've raised a DOI for 99,000, this quote is for 66,000, therefore that exhausts the \$99,000.---Not the intent. So the intent there is if you look at those two quotes, and the 33,000 and the 66, in principle there doesn't seem to be much of a difference, they all, both seem to talk about scoping studies and some type of analysis, and this is also a bit of a reflection on the fact that I'm not all that intimate with the trials that were being carried out. So my question to Samer there was that we seem to have already raised a PO and is that in any way different, but I should have probably used better words to articulate so that I can, I don't have to explain them. But so that's, that's, that's what the intent was, it's not to say, hey, we have a cheque issued, can we buy X, Y and Z and next time we can also include A, B, C, and C.

40

Could I take you to page 270, still on the same purchase order, and on 27 April it's the same date as the previous email. Do you see you've sent

another email to Mr Soliman in which you've told him you just looked at the old PO creation form and we've already raised the PO for 99, previous engagement was 33, there's still room for the new quote of 66?  
---Yep.

10 And so this quote which I showed you at page 265 for \$66,000 fell within that previous authorisation, and this would exhaust the \$99,000 authorised to be paid. Do you agree with that?---I have seen this myself, but I, I couldn't quite recollect the, the basis on which I have asked him that.

That quote for \$66,000 related to a heavy vehicle safety crash analysis. That sounds like quite a serious matter and something that might be quite a useful piece of research for the Heavy Vehicle Programs Unit.---Ah hmm.

What did you know about that project, if anything?---Very little. If I remember right, there was more than that. There were at least three or four more bullet points talking about collectively related topics but not necessarily the same.

20 Are you talking about the quote?---Yes.

So if that could be brought back up.

THE COMMISSIONER: It's page 265, is it?---I think quote relating to 66K or something like that. Yeah, so the, between phase one and two, there's, there's a number of distinct analyses being talked about.

30 MS WRIGHT: What did you know about this project?---Very little except for what, what it reads on the piece of paper.

Did you hear of any of the research coming through to the team by way of a report or any other way?---I haven't heard but I got an email from Samer because, along the lines of what we spoke about earlier, before receiving the goods, I did ask the question. I think it was more like, back to back emails or the same email trail used at different times.

40 You asked him about the invoice for the thermal and cold camera trial, that was for the first \$33,000, which I've taken you to that email, and you said you received a response from him, but the answer you just gave, are you saying that you also asked him about whether the safety crash analysis report had been produced?---I don't think I used exactly those words but my memory is that I had attached him an invoice that came through and I assumed there's another one, is it good to go, along those lines and I believe I only got one response for the two of the queries I put across.

THE COMMISSIONER: Can I just confirm this. Can we go to page 242, please. That was the email you were taken to before which attached the invoice for 99,000 which was dealing with a thermal camera and a cold

camera and you said you sent this to Mr Soliman and your recollection is you got an email in response from Mr Soliman?---No. My recollection is this is the first email and there was another email I sent on top of this and I had attached, either attached or asked him a question, there's another one waiting because in our workflow, these will be two different items because they're relating to two, two different POs. Even if it's the same PO, two different invoices will be two different items and I, my memory is that, and I have seen that email, is that he only responded once and they could all be cleared.

10

So you sent two emails to Mr Soliman saying invoice, invoice, basically, work received satisfactory standard, okay to release funds and in response to your two queries in an email you got one back from Mr Soliman?---That's my memory but if, I should be able to look it up on my laptop, I remember seeing one.

MS WRIGHT: Could I show you this document. And if it could be brought up on the screen if it's available and for Commissioner.---This is the one, yeah.

20

Mr Soliman has responded to you, "Yes, all good. Received this one. Hard copy is sitting on my desk for your reading pleasure and all the others. Okay to approve all of them." Now, your email attached the thermal and cold camera invoice from AZH, but he says, "Okay to approve all of them." Is that because you had sent another email in the interim in accordance with the evidence you just gave?---Yeah, so this email trail doesn't capture my second email. So the chronology is that first email (not transcribable) work received to satisfactory standards, the first email, but on the same trail I had sent him another email to the effect of I have another invoice, something like that, and, but he only responded to the first email. But I think that's just a, an issue of time lines, but the intent there is I covered multiple queries.

30

THE COMMISSIONER: Do we have the second email that - - -

MS WRIGHT: Not at this stage, Commissioner. If I could tender that particular email.---I would have it.

THE COMMISSIONER: We might get to that in a sec. The email exchange between Mr Thevathasan and Mr Soliman, dated on 24 May, 2017, will be Exhibit 43.

40

**#EXH-043 – EMAIL EXCHANGE BETWEEN MR Thevathasan AND MR SOLIMAN DATED 24 MAY 2017**

MS WRIGHT: And for completeness, Mr Thevathasan, I haven't taken you yet to the actual purchase order, which is at page 272.

THE COMMISSIONER: So this is the purchase order for the crash study, if I can describe it that way?

MS WRIGHT: It's for general hardware R&D trials, Commissioner. It doesn't specify the type of study. That's at page 272.

THE COMMISSIONER: No, but it's linked with that quote you - - -

10 MS WRIGHT: Yes. And then on page 273 it's for operational enforcement hardware R&D trials in the amount of \$90,000 and you signed that purchase order.---Correct.

THE COMMISSIONER: Was again this an administrative task that you undertook?---Yes. So the relevance of the works being carried out here is not the greatest for my job. It's mostly just administrative.

MS WRIGHT: And you actually signed the quote, which is at page 233, that you submitted at the same time as making the request for the purchase order.---Yeah.

20 Now, moving on to another of the AZH projects, at volume 3, page 285, is an email chain in July 2017, and the last email on the page is from Mr Soliman to you and Mr Singh, saying that "A couple of POs need to be opened. I've told Jai which ones and which WS bucket to use. He will create them tomorrow and you'll need to be approver tomorrow as I'll be on leave. Please make sure they are submitted ASAP, guys. I'm trying to match our financial forecasting." What did you understand that to mean, I'm trying to match our financial forecasting?---Yeah, this, this, this is, you touched on the cultural aspects within RMS. This is one of those issues. If I'm working for a private entity, if I don't spend money on the wrong thing, it's seen as a good thing, whereas government – at least within RMS, that's my only employer I've been – there's this notion if you don't spend the budget that it's, it's a bad thing and you won't get the same level of funding next year.

30 THE COMMISSIONER: So you've got to spend it all by 30 June or it's going to have repercussions for your budget or for your allocated funds next year.---And to allocate, yeah, depending on the nature of the funds. So the cap budgets can be carried forward, whereas any operational budgets, they, they are not useful beyond end of financial year. Now, I'm not necessarily suggesting that this is all bad news, but it has the potential for requesting (not transcribable) manufacture work that's not necessarily relevant just because the funds need to be spent.

40 MS WRIGHT: This particular email is sent in a new financial year, 6 July, 2017.---Yeah.

So what's the relevance of the evidence you've just given, given that this is, he's talking about financial forecasting early in July 2017. What did you understand him to be saying?---So the forecasts, the Finance team will chase this up, forecasts, on a monthly basis, and the processes and the governance structure followed over the years had morphed into different forms, and I don't quite recollect which one was prevalent at the time of this email, but Samer also had, there was a time there was an internal finance team and after a restructure they moved out, but then Samer and a number of other team members have had direct conversations or catch-ups on budgetary issues with Finance teams. Again, can't recall the names, but there was a process like that. Not sure where he would have had the urge to spend (not transcribable) forecast came from for this email, but to me – and this is me trying to piece things together from my vague memory – but to me it looks like there has been a monthly forecast that needs to be met and he's just highlighting that.

THE COMMISSIONER: Can I just ask you, you made a distinction between capital budget and operational budget, and you said roughly a capital budget can be carried forward to the next financial year, but your operational budget (not transcribable) couldn't be.---Yes, and can I also add, so there's, there's a disconnect between – I'm putting this caveat, I'm also an accountant by training – so in general operational budget cannot be spent on works of capital nature. I see most projects, unless it's too small, as capital works. But in RMS I don't think it's, that's strictly (not transcribable) so there can be an operational budget that could be spent on a series of projects, but by an accountant's rule book, it wouldn't quite qualify.

What about if a decision was made, you know, the example of the thermal cameras. Say that the scoping study in the reports, the thermal cameras were absolutely wonderful and there was a decision made we've got to buy them, but they're only going to become available to buy on 10 July. Could the capital budget not be exhausted and then carried over and then used to buy those thermal cameras on 10 July?---It depends on the purpose of the capital budget we are talking about. (not transcribable) budgets can be repurposed, and I think there's a technical term they use for, I think it's specified (not transcribable) where the sponsor of the, the funding stream will restrict that to a certain type of work and you cannot spend it outside that scope, but most other capital budget managers within their delegation powers the discretion to channel funds. But I think, to answer your question, if the capital budget itself wasn't committed before the financial year, I don't think that becomes available. That's my understanding. It might be different to how that's practised, but that's my understanding.

All right.

MS WRIGHT: Mr Singh, going back to 285.

MS HOGAN-DORAN: Mr Thevathasan.

MS WRIGHT: I'm sorry. I am so sorry, sir.---That's all right.

Thevathasan. You were asked by Mr Soliman to assist Mr Singh with raising a couple of purchase order requests and you responded to Mr Singh that you can sign electronically if urgent, just send it to me as a PDF, and Mr Singh said he would do so, and then the first email in the chain is – which is the last in time of course – he attaches the purchase order, and that's at page 287. And then you signed that as the person with delegated approval. That's at page 288. You were relieving for Mr Soliman at this time?---Correct.

Now, would you have seen the quote at that time, would you have required - - -?---I can't - - -

- - - the quote in order to sign as the delegate?---I don't remember that but this is the one I got confused earlier on in terms of the time line. So this is about the HAENNI portable scales.

20

Yes.---But to answer your question, I'm not sure. I may have seen it but if I haven't seen an email myself in the recent times I wouldn't be able to tell whether I've seen it or not.

Did you not have a practice of requiring the quote before you would approve the raising of a purchase order?---Generally, yes, I would expect, but this instance I can't be too sure because I haven't seen emails myself.

The quote is at page 289 and it's a quote by AZH for end-to-end management of a HAENNI dynamic portable scales trial. Did you know anything about this project?---Very little in the sense, I knew the background to this project because it started off at the issues we had broadly around portable weigh scales, and there were a number of vendors involved and, and the services were not that greatly satisfying, and there was a time when multiple vendors, this only talks about HAENNI but I can't remember the vendors' names but there were multiple vendors engaged to do trials. And if I also remember right, if not David Jones, somebody, one of his colleagues or somebody that worked for him might have gotten involved with carrying out some trials. This might even be to do with the Botany HVIS. It might be but I'm not 100 per cent.

40

To do with the, sorry?---The Botany HVIS. HVIS is a facility, heavy vehicle inspection station.

THE COMMISSIONER: At Botany?---I think it's Botany, yeah.

MS WRIGHT: But you don't really know what it was about?---I know what it is about, which is basically to trial a new brand of portable scale to see if that's fit for purpose.

At the time you signed this contract creation and variation form, did you know anything about this particular HAENNI dynamic portable scales trial?---I knew about the trial but not necessarily the details of HAENNI itself and how - - -

10 What did you know about the trial?---This is exactly what I said earlier. So that we were having issues with the old scales and they were almost end-of-life. More than almost, it's end-of-life, and we were looking for new types of devices and these were potential replacements and this was just a trial.

Did you understand that there would be a trial of HAENNI dynamic portable scales?---Which is this.

Did you believe that there was to be an actual trial - - -?---Oh, yes, yeah.

20 And did you know anything about when it would take place?---I may have known at the time but I can't remember anything but there were multiple trials and I think I only got involved in signing this one.

Did you hear later that a dynamic portable scales HAENNI trial had taken place?---Very late. I think I have heard but I don't think I know whether they were successful or what the issues were because there were a lot of issues in the scale space in terms of their sizes and performance and expectations and all those things.

30 THE COMMISSIONER: Did that come under your jurisdiction?---No.

Is it fair to say that you signed that purchase order because Mr Soliman had asked you to in that email which I took you to on 6 July?---Yes, but I also, also it has been, have been leaving him that time by the looks, when I look at the purchase order creation or requisition form and I had signed off as manager, Head of (not transcribable) Programs which is not my substantive role.

40 MS WRIGHT: So in signing the purchase order you were authorising the expenditure of up to \$48,750 on this trial?---Correct.

But you do not recall, as you sit here today, what you knew about the actual practicalities of this trial? When it was taking place, who was doing it? You don't recall if you even saw the quote, is that your evidence?---I, no, I can't give you hundred per cent on that. I may have seen but I, this is more about when I have enough emails, I can go back and look and reconstruct things. So I, I don't want to give you the view that I have seen something I don't, or known something if I have, if I, if I can't remember that now.

THE COMMISSIONER: No, no. Look, you're spot on. What we're interested in is your recollection as you sit there in the witness box. As you can see, Ms Wright has referred you to some emails and I think a lot of them correspond with the emails that you have. You can refresh your memory by looking at the email, but I think what Ms Wright's asking you about here is that you've said, look, there was an issue about the portable weigh scales they were coming to the end of their life, you remember discussion about that. You get this invoice, you approve this, but ultimately it is your  
10 recollection that you don't recall where this trial was going to take place, at what site, when or anything like that?---I can't recall now and also just to correct that, it's a quote I think, not an invoice.

I'm sorry, yes.---But I, I can't be too sure now. Yeah. I may have known and I, I would expect I would have at least made the enquiry from the people who were involved, what's this about, but I don't remember anything now.

All right. And the people, you said I would have made enquiry of the  
20 people involved, who were the people involved?---It would be either Samer or Jai and I, I don't know if this has been covered so if I – the portable weigh scales technically sat under a gentleman called Ange Fenech earlier on and I think he, he left the organisation, I can't remember what basis but he wasn't there and then Alex Dubois absorbed most of the works and - - -

But this is all within your team, isn't it?---Yeah, yeah.

Yes, okay.

30 MS WRIGHT: Ange Fenech was gone by the time of these documents?  
---Yeah, he left, yeah.

Now, you had some involvement in the establishment of the Professional Services Contractors Panel tender process?---I had involvement in what respect?

In that, well, did you have any involvement in the establishment of the tender process itself?---I was aware, I am, yes. So there was a memo that I had sent up, I think all the way to Ms Bailey or some senior management  
40 about a outcome from the Tender Evaluation Committee, yes. Is that what you're referring to?

Are you referring to, you might there be referring to the procurement of a 125 scales when you refer to a memo to Ms Bailey.---Correct, yeah.

Do you recall that there was a panel established for procuring professional services from contractors?---Yes.

And did you have any involvement in the tender process?---No, I was invited to that on the basis that I might benefit from the panel for IT services. This is - - -

10 When you say you were invited, what were you invited to?---Oh, Samer had asked, this is not, because I think he was looking at scoping this and he had offered that this panel could be of benefit to me and I remember at that time, my response was anything IT related, we have a dedicated area and we wouldn't have to go direct to market. Now, just to be fair there, there is, there are certain IT related things, even our, our IT Branch wouldn't get involved in, in which case we would go directly to the market and one example is speaking to compliance program. But broadly speaking, I didn't necessarily see the value of having a panel and, and me being a (not transcribable)

So your involvement was that Mr Soliman approached you to see whether the panel would be of interest to you for procuring IT service for the Heavy Vehicles Programs Unit. Is that correct?---Correct, yeah.

20 And was it your position that you would be procuring professional services for IT projects in another way?---Which is an established way.

Yes, but outside the PSC Panel tender process?---Correct.

And so did you, were you not involved therefore in the PSC Panel tender process?---I, actually I've even seen emails where there was a panel tender evaluation process, I even had an invite and I had even turned up on the day and I had, this is me going back in time with emails, and there was a last minute substitution as far as I knew.

30 Well, I'll show you those documents you might be referring to. Volume 8 at page 4. Did Mr Dubois invite you, together with Mr Soliman, Chehoud and Mr Steyn to a meeting on 23 August, 2017?---Well, as per this, yes.

40 Did you attend that meeting?---Vague memories I may have, and if I'm right, Nathan was on the phone or I was on the phone but I don't remember seeing Nathan, either of us would have been on the phone, but I don't know whether it's this but I have been in a meeting where WSP was making commentary about procurement process and all that, but that's just very vague.

There was another meeting, page 146, and that was more than two months later on 30 October, 2017, organised by Mr Soliman, where you and Mr Chehoud and Mr Singh were invited, again this relates to the PSC Panel tender.---Yeah.

Do you recall were you involved in the PSC tender panel process over that two-month period?---So this is where I made the comment that I was, I was

requested to be part of that committee and at the last minute I was substituted. There must be another later set of documents that would have the same trail where I had gone to the room and I couldn't see anybody and I remember asking Samer on email whether this is on and, and after that, then I saw another invite where Claire Lemarechal was substituted for myself.

So you went to a room for the purposes of actually evaluating the tenders - - -?---I think I went (not transcribable)

10

Sorry, if you could just wait till the end of the question. You went to the room for the purposes of actually evaluating the tenders. Is that right? ---Yes.

And you thought you were on the Tender Evaluation Committee at that point?---Ah hmm.

Yes?---Yes.

20 And was that on 30 October, 2017?---I wouldn't remember the names but if you show me the documents I can say if I - - -

Well, this document here, page 146, says, "Just locking in your time to collect the tender submissions from the tender box on this day for the PSC panel tender. There will be three people on the review board, Nathan, Jai and Theepan."---Yes.

30 So does that refresh your memory that on the day, it was 30 October, 2017 when you attended a room in order to do the evaluation?---If that was the day, yes, but I can't be too, too sure about the dates and just my nature, yeah.

Well, this suggests it was - - -?---Yeah, it seems like, yes.

- - - on this day. And how did you come to be disengaged from the committee? You turned up thinking that you would be evaluating tenders and how was it that you suddenly found yourself not on the committee?

---No, I, when I looked at my emails, the way I read it now is - - -

40 So you keep referring to referring to your emails. Is this something you've done recently in preparation for giving evidence?---Correct. I don't remember this, this file and until I see an artefact I can't jog my memory on these things. So what seemed to happen is I go into a room where this was going to take place.

THE COMMISSIONER: Hold on. What was going to take place?---The, the evaluation (not transcribable) and I couldn't see anybody in the room, and I must have sent an email either from the room or somewhere in the

building and asking Samer whether this is (not transcribable) and he said it had moved to – in an email – that it had moved to 11 o'clock or something.

It had moved, I'm sorry?---It had moved to 11 o'clock or something like that.

10 To 11 o'clock. Okay.---I, there must be an email I've seen on that. And I also have seen another email, Claire Lemarechal was substituted for me although I was on the invite or something. I think I must have it on the invite, but the actual personal (not transcribable) evaluate were Jai, Nathan and Claire. I think that's my memory.

MS WRIGHT: So you turn up to do the evaluation, you then go and check your emails, and in an email you learn that Claire Lemarechal is on the committee and someone else, but you're no longer on the committee. Is that - - -?---Yeah, but I need to double check the artefacts, but that's my memory.

20 That's your memory as you sit here now, that you learnt by email that you were no longer on the committee.---Oh, yes.

Did anyone give you a reason why you had been ejected from the committee?---I can't remember that. It, it might have in, from myself, if, if it was going to take, because the meeting had moved and this is me trying to explore what the possibilities could be, so with that caveat on, if, if there was, if I had other commitments on the day, I might have said this has moved and I can't make myself available, along those lines, could be a possibility, but I can't, can't be too sure.

30 How many Tender Evaluation Committees have you been a member of?  
---At least two. Yeah.

THE COMMISSIONER: Sorry, by now or before you were approached to be on this one?---By now. No, I, I, I (not transcribable) at that time, no.

MS WRIGHT: And prior to learning on the day of the evaluation that you were no longer on the committee, had you been involved in the preparation phase for the tender?---(not transcribable)

40 You do recall a meeting with Mr Chehoud where he was either on the phone or you were on the phone talking about the tender?---Yeah, I think Mr Chehoud's involvement, and I think there has, have been a number of engagements with WSP outside my scope, but they, their role was to oversee or facilitate the process side of things of the procurement.

Did you review any of the documentation?---I don't recollect.

Did you have any involvement in setting the requirements for the tender?  
---Definitely not, but I, I have seen an email where I've sent that to Samer about possible uses after talking to Jai outside the ITS space, and I had, I had mentioned that anything off the shelf that IT Branch (not transcribable) it might be a potential candidate. That's more of a clarification.

THE COMMISSIONER: Now, can I just stop for a minute.

MS WRIGHT: Yes.

10

THE COMMISSIONER: You're speaking a little bit too close to the microphone.---Sorry.

Because it creates some problems for our transcriber.---Okay.

So maybe if you just sit back a little bit, that would be terrific.---Sure.

Thank you.

20

MS WRIGHT: Mr Thevathasan, leaving the PSC Panel now, you've already referred to signing a memo. That's at volume 10, 226, being a memo to Ms Bailey.

Do you recall that? Well, first that's your signature on the memo?  
---Correct.

And you approved the purchase of a 125 scales via Novation Engineering.  
---Yes.

30

How did you come to be signing this memo?---So I was relieving for Samer Soliman at the time and I, again this is, I, I don't remember the things verbatim but I would have relied on Jai for input, and it might even be something Jai would have drafted.

Does this stand out or did this stand out as a significant matter, approving a purchase to the value of about \$2 million and approving what was proposed?---I am (not transcribable) I am approving the proposal to procure, not necessarily the value of the actual purchase. So this doesn't lead to somebody sending an invoice for 1.925, but this is recommending to Ms  
40 Bailey that this (not transcribable) be taken based on the committee's output.

What did you base your decision to sign the memorandum on?---I can't remember what, as I said, I would have relied on Jai's input on that.

Did you have a discussion with Mr Singh?---Can't recollect but generally I'm thinking I would have had.

I have no further questions, Commissioner.

THE COMMISSIONER: Could I – no, I’m sorry. I’ll go to other people. Mr Young, have you got any questions?

MR YOUNG: Yes. I’ll try and be brief. If we could just go back to - - -

THE COMMISSIONER: I’m sorry, Mr Young acts for Mr Soliman.

10

MR YOUNG: If we could just go back to page 226. Now, do you see above your signature, two paragraphs above the heading Recommendation, is the total cost of the submission by Novation Engineering is \$1.925 million?---Yes, I do see that.

20

And do you agree that you were approving that? By circling “approved”, you were making an individual decision to approve that amount?---That’s incorrect. So what I’m doing here is, so it’s a chain of signatories there. So myself being the immediate manager of that unit, I’m just making a recommendation up to Ms Bailey and I’m just approving the memo, not the amount. So it’s not a, it’s not an order to procure goods for that amount of money but it’s only approving the memo.

THE COMMISSIONER: And, sorry, so what’s in the – what are you actually approving that’s contained in the memo?---Yeah, it’s the contents of the memo and the recommendation of the memo.

30

But not the 1.9 million?---So the recommendation covers procurement with that amount of money, but with this memo Novation, is it Novation, yeah, Novation can’t send us an invoice and demand funds.

So for Novation to actually be paid, there’s more paperwork?---Oh, that’s, that’s the, the other artefacts we looked at. There has to be the purchase order requisition and declaration in CM21.

MR YOUNG: But if each of you, each of the four people who are named there sign that document, it is likely, is it not, that Novation will be paid amounts up to \$1.925 million?---If other processes were followed.

40

And what information do you say that you received before you signed that document?---So as I said, I would have relied on Jai’s input on that. Obviously there has been a Tender Evaluation Committee that would have produced the report. I might even have sighted the report but I can’t recollect it.

Well, it’s a fairly vague memory in relation to an approval of an amount of \$1.925 million, isn’t it?---Yeah, but (not transcribable) I can’t remember that far.

Now, you said that there were a number of times you stepped into Samer's role. When were those times?---There is an exhibit based on the information I had supplied to ICAC, there should be a screenshot of four or five line items and that's only a subset of a number of times I would have acted for Samer because I know that I have acted for him for more than that. That's just reflection of transitioning from one system to the other and I can refer back to my notes on - - -

10 THE COMMISSIONER: Hold on, hold on. Are you saying that you went back and looked at records and produced what you've described as a screenshot - - -?---Correct.

- - - of time when you acted as the manager, Heavy Vehicles Programs in the absence of Mr Soliman?---Yes, correct.

When did you produce this?---So this is after the interview I had with Mr Griffiths of ICAC, I followed it up with an email.

20 And attached to that email is this screenshot?---That's correct. And I can give you the specific dates from that, but I can also produce the same document that was sent to Mr Griffiths.

MR YOUNG: Now, if you could just be shown the email of 24 May, which I think is at page 242.

THE COMMISSIONER: Of which volume?

30 MS WRIGHT: 3.

MR YOUNG: 3.

THE COMMISSIONER: 3.

MR YOUNG: I don't think that is the particular document. The invoice of, sorry, the email between Mr, involving Mr Soliman of 24 - - -

THE COMMISSIONER: Is that when Mr Soliman says, "Yes, all good?"

40 MR YOUNG: Yes, that one.

THE COMMISSIONER: Now, that's Exhibit 43. Have we got that on the system yet?

MS WRIGHT: Yes, we do.

THE COMMISSIONER: Oh, okay. Great.

MR YOUNG: Now, is it your evidence that there is another email involved here, that we see an email from you at 12.45 - - -

THE COMMISSIONER: Mr Young, can I interrupt, because I was going to ask about this.

MR YOUNG: Yes.

10 THE COMMISSIONER: You gave evidence that you sent that email, then you sent another email dealing with the second AZH invoice, and then Exhibit 43 came back as Mr Soliman's kind of response to both emails. ---So looking at those two now, that's my interpretation. So he - - -

But my question is, do you – oh, sorry.

MS WRIGHT: I might be pre-empting your question. In the course of the investigation the Commission has obtained another email which might be - - -

20 THE COMMISSIONER: Which might be the missing email?

MS WRIGHT: - - - the missing email which I now have just had handed to me.

THE COMMISSIONER: We might have a look at this, Mr Young, it might answer your question.

30 MS WRIGHT: I could hand that to the Commissioner and I've got another copy.

THE COMMISSIONER: Yes. Maybe if first it can be shown to the witness.

MS HOGAN-DORAN: Commissioner, is that the one on the screen now?

THE WITNESS: That's correct.

40 THE COMMISSIONER: Oh, terrific. Thank you, yes. Is that it?---That's the one I was referring to.

All right. I think we've got our missing email, Mr Young.

MR YOUNG: So just the words, "Another one too"?

MS HOGAN-DORAN: Commissioner, could I ask, does that have an attachment. It seems to indicate it has an attachment.

THE COMMISSIONER: Yes. Have we got the attached invoice? Yes. Thank you. So do you see that, “Another one too,” is the text you sent with an attachment and it appears to be the attachment was that invoice?---Well, the, technically I, I can’t be too sure but that can be inferred based on the file name, I think that was AZH2.pdf. But now, back in time, I can’t quite, I think that might be that.

10 MR YOUNG: Now, do you recall sending documents to Yanni, Y-a-n-n-i Li, spelt L-I, do you remember sending documents to Yanni Li?---Not off the top of my head, no.

After receiving, you don’t know the position held by a person called Yanni Li?---No.

So with documents that you received, how did you know when you were acting in the position or when you received documents, you say in an administrative role, how did you find out where to send them, how did you know who to send them on to?

20 THE COMMISSIONER: Is this how to send the invoice on for payment?

MR YOUNG: Yes. How did you know which person to send them to? ---I’ve got, like, so it doesn’t need to be directed to any specific – so in our workflow system, the SAP system I was talking about, so once the requestor certifies the invoice, it, it goes into payment automatically. I think, I think their administrative staff in the Shared Services space would process that but we don’t generally have to actively engage them to do that. But if there are any follow-ups, generally happens if the vendors don’t get their money, they we would, we would follow that up. Generally starts with a  
30 distribution list and if somebody responds, we will liaise with them directly.

THE COMMISSIONER: All right. Now, just before Mr Young asks another question, I’m going to, Ms Wright, I assume this latest email is to be tendered?

MS WRIGHT: Yes, Commissioner. All right. The email from Mr Thevathasan to Mr Soliman and Mr Singh dated 24 May, 2017, attaching invoice from AZH invoice number RMS10 will be Exhibit 44.

40

**#EXH-044 – EMAIL FROM MR Thevathasan TO MR SOLIMAN AND MR SINGH DATED 24 MAY 2017 ATTACHING INVOICE FROM AZH INVOICE RMS10**

MS WRIGHT: I just have question following on from that tender but I’m happy to do that after Mr Young.

THE COMMISSIONER: All right. We'll wait until - - -

MR YOUNG: I have no further cross-examination at the moment.

THE COMMISSIONER: Thank you, Mr Young. Mr Lonergan.

MR LONERGAN: Very briefly, Commissioner. If we can just bring up  
of 10 volume 10, page 226. Sorry, Mr Thevathasan, I represent the interests  
Mr Thammiah.

THE COMMISSIONER: And Mr Thammiah was associated with  
Novation.---Okay.

MR LONERGAN: This document you were just shown before, if you want  
to have a look at it and perhaps if we can just go to the previous page. So  
this document, before you signed it, did you read it?---I would expect.

20 Not expecting, did you? Did you read it before you signed it?---I read it.

THE COMMISSIONER: Hold on. Do you have a recollection of reading  
it?---No.

When you're given a document such as this memo to sign, did you have a  
usual practice?---Absolutely.

30 And what was your usual practice?---So I would go through it myself, and if  
there's any clarification to be done, I would look at, I mean, if I'm the  
author I would know about it. If there's somebody who has authored, I  
would definitely clarify anything that I'm not too sure about. That's just the  
process.

MR LONERGAN: So you don't recall needing clarification on anything in  
this document?---I don't recall but I may have.

And if we just go back over to the next page. And your understanding is  
that you were signing this as a manager in the Heavy Vehicle Programs?  
---Correct.

40 And you understand that that's a key component in the sign-off of what is  
sought to be done from this document?---It's the closest to the matter.

Closest to the matter. So a key component, a key signature that authorises  
the contents of this document to move forward?---I think key would be (not  
transcribable) because given the amount, if she didn't approve, this  
wouldn't go ahead, so I wouldn't phrase (not transcribable) as key but I  
would say I'm the closest to the matter in terms of the food chain.

And being closest to the matter, there is an expectation that you would have the highest level of understanding of what is pertained to be done from the contents of the document.---Or relied on the right subject matter expertise.

But your evidence is that your usual practice is to read the document, and I presume from reading the document you would understand what is being sought to be done from the document.---That's correct.

10 And your evidence was that you thought you spoke to Jai Singh or is it that you actually did speak to Jai Singh about this?---No, we clarified that. So I, I cannot recollect talking to him but I did shed some light on my general practice.

Sorry, so, what, your general practice is that you speak to Jai Singh?---The author.

MS HOGAN-DORAN: I object.

20 MR O'BRIEN: Your Honour, can I take an objection, please?

THE COMMISSIONER: Yes.

MR O'BRIEN: My recollection of the evidence on this point was that he said, the witness said, "I don't recall seeking clarification of the document but I may have," and if that's where that evidence was left, then pursuing this line of inquiry is rather futile, with respect.

30 THE COMMISSIONER: The witness did say previously, I've got a recollection somewhere, that he was relieving for Mr Soliman and he either relied or obtained Mr Singh's input. It's not that. I think it's a different document. Have we got page - - -

MS HOGAN-DORAN: It is that document.

MR O'BRIEN: No, it's the same document, Commissioner.

40 THE COMMISSIONER: Now I'm getting confused. I thought we were looking at volume 10, 226.

MR O'BRIEN: Yes.

MR YOUNG: We are.

MS HOGAN-DORAN: Commissioner, our note of the evidence is that he would have relied on Jai for input.

THE COMMISSIONER: All right.

MR YOUNG: Or, he said, read the report of the committee.

THE COMMISSIONER: I think we agree that you can't recall reading it.  
---Yeah.

But your practice is you would have read it, step number one.---Correct.

10 And then if upon reading it there was an issue or something you needed clarification of, you would seek that clarification. Now, looking at the content of this document, in previous answers you referred to Mr Singh. Can I ask, why would have you referred to Mr Singh if you – sorry, I should confirm, if you required clarification with this subject matter, would have you referred to Mr Singh or can you recall who you would have referred to?---It could (not transcribable) scales and the fact that I was relieving for Samer, and at times when he's on leave if matter is really important we would (not transcribable) make contact.

20 With whom?---Even with the person who was absent, which is Samer in this case. But what I cannot recall, so the practice is I would make contact with the person who would know the most about the subject, and that could be Mr Singh, Mr Dubois or Mr Soliman, depending on what we're looking at, and in this case any of them could be liable, but I think Mr Dubois to a lesser degree. It would be between Mr Soliman and Mr Singh.

All right.---But what I cannot recall is who that individual was and considering the author is Mr Singh I might have done that.

30 All right.---And just to add to that, Mr Singh does a lot of documentation for the unit, not necessarily just limited to his work, he does a lot of memos and gazettal-related documentation.

Memos and?---Gazettals for cameras before they go into, any instrument to be gazetted, and he, yeah, he was, he was author of many documents.

MR LONERGAN: So you gave evidence that you stood into the position of Mr Soliman on occasion. Is that right?---Correct.

40 And were you involved in any of the technology projects when you were stepping into his capacity?---I would have had visibility and would have had oversight or potentially given direction to orders, yes.

So are you aware of an internal mandate within RMS of the persons conducting the reports to be independent of RMS?

THE COMMISSIONER: Hold on. I think for that to have any value it should be a requirement of, if a scoping study was commissioned, for the

person undertaking the scoping study to be independent of RMS. Is that - -  
-

MR LONERGAN: Yes, Commissioner.

THE WITNESS: Yes, I'm aware of that. This came about, I can't quite remember the time but I can give you names and some context. And I heard this from Mr Soliman and I think Mr Hayes and Mr Endycott might have been involved in that decision, that any trials we conduct we would get a  
10 third party to verify the outcomes so that we have a clear separation of concerns. And I can tie this back to the other comment I made earlier, if the trials were successful we would pitch for further funding and further consideration of the work and it would be much more credibility if you had a third party.

THE COMMISSIONER: Now, can I just clarify, you heard that requirement from Mr Soliman?---Yeah, I heard it from Mr Soliman but I think I also heard Mr Hayes and Mr Endycott associated with that decision.

20 And when you say associated with it, what do you mean by that?---It might have been a decision that would have come all the way – Mr Endycott was the GM, Mr Hayes reported to him, Mr Soliman reported to Mr Hayes.

All right.---It would have come all the way down from the top.

And was it in writing?---I don't remember seeing anything.

MR LONERGAN: And you heard independent of Mr Soliman these requirements?---Sorry, I don't understand.

30 THE COMMISSIONER: Did anybody else tell you of this requirement?  
---No, I don't recall that.

MR LONERGAN: And you said that the requirement for independents was for the purposes of what?---Making an observation on the trial. So if somebody, so the party, the intent there is the party who's carrying out or initiated the trials wouldn't be making a statement or recommendation or an observation about the trial, so you would get a third party to make that  
40 commentary.

And that was related to the procurement then of moneys. Is that your evidence?---I don't understand.

THE COMMISSIONER: If the trial was positive and there was a decision to try and get funding or to buy, you said it was beneficial to have that independent report to accompany the submission up the line. Is that what you were saying?---So it would add value (not transcribable). So the company that's reporting wouldn't be recommending whether we should go

and buy X number of these, or anything like that, but they will make an observation purely limited to the trial and within that scope that we, we were sent out to do this and our observation is such-and-such and it seemed to be having an effect of some sort.

MR LONERGAN: No further questions.

10 THE COMMISSIONER: Thank you. Now, I'm getting lost. Is there anybody else? All right. Oh, Mr O'Brien, I'm terribly sorry. You tricked me by moving.

MR O'BRIEN: It's quite all right, Commissioner. Very briefly, if I may.

THE COMMISSIONER: Yes.

MR O'BRIEN: Sir, I represent the interests of Mr Singh and I just wanted to ask you, you mentioned in passing in relation to Mr Lonergan's questions that Mr Singh did a lot of documentation for the department. I wondered if you could expand on that answer, please, why was that so?---It  
20 was a request primarily – let me go back. So the role Mr Singh held until recently is the very role I, I joined RTA at the time and, and that was specifically an IT focus role. However, when Mr Singh got recruited, it was a bit more broader and, and I remember making commentary to Mr Soliman whether this, that role should be reporting to the current role I now hold because of the alignment of the ITS space and I, I recall him making comments around this person will be more heavily in, will be involved in business cases and a lot of writing and process side of things, and in reality what he mostly did was carrying out, I mean, he initially started in an IT skew and then went primarily into trials and was, almost in every case he  
30 was more into R&D style of things.

THE COMMISSIONER: R&D?---Yeah, basically trying new technology along, along the lines of innovation and he also did a lot of writing for, for, for the other teams including Mr Soliman and other members of the team. So that would be things like memos, business cases and primarily those two, I think, yeah.

40 He'd given evidence that he did a lot of work on cameras. Is that your recollection?---In the, so closer to his termination, he was heavily involved in rolling out cameras. So the contracts there is, the Safe-T-Cam cameras which are used for fatigue related matters, they are end-of-life or they have been end-of-life for a long time and, and recently we have been replacing them with another type of camera and he has been the conduit between, so I, I deliver the IT side of the project and Mr Steyn and Mr Dubois are primarily involved in camera procurement and site preparation and civil aspects. So he was playing the conduit between the two worlds, if I put it that way, yeah.

MR O'BRIEN: I want to ask you about the camera issue that the Commissioner asked you about in a moment, but I want to come back to that issue of the work that he was doing in writing documents. You said, during the course of your evidence that you felt you were a glorified administrator. Do you remember saying something to that effect?---Correct.

10 And you felt that you were, you said, if I am right, you were the glorified administrator for Mr Soliman. Was that the effect of your evidence?---In some incidents, yes.

In some incidents. And that was because you've effectively been asked to do things that he really ought to have been doing himself, is that so?---Not necessarily. Not, in, in a managerial position people may not have the time and it's, it's perfectly valid to involve somebody else in the team to do that so I think a bit more harsher reflection there.

20 So if I can then reflect on that and suggest that what you were doing was doing the administrative work that he ought to have had an administrator do or something to that effect?---Could be correct.

Right. And did you see in the course of your experience with this particular unit that Mr Singh was effectively doing a lot of that administrative or glorified administrative work for Mr Soliman?---It applies more, more to Mr Singh than other members of the team because if you look at the number of documents his name is associated, it's quite unfathomable, the number of documents, yeah.

30 And to your mind, and to what you saw going on within the department, that was reflective of this glorified administrative task that was going on, is that so?---That's your words but I think it's a repurposing of his role but Mr Soliman to make it that way.

So did Mr Soliman essentially, let's use the word curtail or formulate the role in a way that affected - - -

MR YOUNG: I object, oh, look, I object to this.

40 MR O'BRIEN: I'll withdraw that question, I'm coming at it in a different way, but - - -

MR YOUNG: Seriously, this is going - - -

THE COMMISSIONER: He's withdrawn the question.

MR YOUNG: I do understand, but there is a question of the witness's capacity to answer questions such as this.

MR O'BRIEN: I want you to understand, sir, I'm asking you questions about your experience and what you saw within the unit at the time. Do you understand that?---Correct.

And what I'm suggesting is that Mr Soliman was effectively using Mr Singh as an administrative-type employee, which was almost outside of his actual job tasks and description. What do you say to that?---So it's your words that he extensively used him administratively. So my evidence there is his role was used slightly different to the position description, because I have  
10 held that position and I know what's expected of that role, and he was hired under the same position description, but in practical terms, his performance of the duties were largely different to what I would have done, what I did.

Insofar it was more administrative than what you did. Is that so?---It comes down to your definition. So writing a memo all the way up to an executive director with your knowledge and research is a little bit beyond administrative, it's not a scribe's job, so it needs one's (not transcribable) understanding of that, and he has been quite hands-on with a lot of trials as well, so I wouldn't just classify that as purely administrative in nature.  
20

Well, let's take the example of the requesting a purchase order - - -?---I agree with you.

- - - as you have done, really knowing very little about what it was designed to achieve. That is administrative. Do you agree with that?---Yes, I would agree with that.

And just as you've described that as being largely administrative in nature, he was doing that as well to your knowledge?---He was doing that and other things, but my evidence here is that he did things that are different to what's  
30 expected out of that position description. That position description of the role I had fulfilled before is primarily a business analyst in a, in an IT sense.

THE COMMISSIONER: Can I just ask you about that. I was going to ask you, your description of the position is the same when I did it to when Mr Singh started, when I did it, it had more of an IT focus, and then you said that Mr Singh was recruited on a more, I think you described it as a broader basis and that you had a discussion with Mr Soliman about the role. When you said it was broader than an IT focus, does that mean it moved into the area of ITS?---No, broader in the – this is a bit of a vague memory, but if I  
40 put a term to this, the expectation, and this is (not transcribable) expectation of Mr Samer, Mr Soliman when Mr Singh was hired is more like a technical writer rather than a “business analyst” in an IT sense. Broader in the form of exposure into ITS and other things as it's panned out to be, but I think that's, that's mostly an observation from me rather than anything else.

MR O'BRIEN: Turning then to the issue of his role in relation to camera and the projects associated with the cameras, cameras I take it in this

particular unit were a large ticket item, if I can use that expression, they were, it was an extensive project, the use of cameras, the upgrading of them and so forth. Is that so?---If you look at the end to end, yes.

And I want to suggest to you that from about mid – sorry, withdraw that – from about mid-2017 Mr Singh was very heavily involved in the upgrade, maintenance of cameras.---Sorry, what was the timeline?

Mid-2017.---I can't be too sure but you could be right, yeah.

10

And that I want to suggest to you, sir, then, that those were a series of very big projects involving multiple sites. Would you agree with that?---That's correct. But his involvement wasn't end-to-end.

But it was a significant involvement in the rollout of new cameras. ---Depending on the definition.

THE COMMISSIONER: Of what?---Of, what significant means here?

20

MR O'BRIEN: Well, let me put it this way. Mr Singh was a hard-working member of this particular unit, am I right?---That's very subjective as an opinion.

Well, don't give me an answer, then. I withdraw that question. I'll put it this way. Mr Singh was involved in many projects associated with this unit, am I correct?---Sorry, projects around what?

Projects around matters associated with the Heavy Vehicle Unit generally. ---Correct, yeah.

30

And he worked hard and diligently, from what you could see, in relation to those tasks and projects, do you agree with that?---So if you're asking for a character observation, yes, I would agree, yes.

Thank you very much. That's all I have.

THE COMMISSIONER: Thank you. Ms Hogan-Doran?

40

MS HOGAN-DORAN: Nothing from me. But I understand, subject to the additional question I understand Ms Wright was going to ask.

THE COMMISSIONER: You're going to ask something that doesn't clearly come within re-examination?

MS WRIGHT: Well, the document which we obtained has made me revisit some of the documents and I will do it in as few questions as possible.

THE COMMISSIONER: Ask the questions. Let's hear the questions and answers, and if something new arises and somebody wants to address it, then they can apply.

MS WRIGHT: Thank you, Commissioner. Mr Thevathasan, you recall the two emails dated 24 May, 2017 in which Mr Soliman approved the payment of two invoices.---Correct.

10 Where you had, in response to your email to him "Is the work received to satisfactory standard?" So he said, "Yes, all good. Okay to approve all of them." And then in a separate email he said, "Another one too."---I said.

THE COMMISSIONER: No, that's Mr Thevathasan.

MS WRIGHT: I'm sorry. You said, "Another one too," and then he responded, "Okay to approve all of them."---Ah hmm.

20 And the emails attached, there was one invoice – this is Exhibit 44 – in relation to the heavy vehicle safety crash analysis and trends report by AZH.---Ah hmm. Yes.

And that was for \$66,000. And then the other email related to – this is page 242 of volume 3 – an invoice from AZH for thermal and cold camera field trial and scoping study. And that was in the amount of \$99,000.---Correct.

30 So one's 99,000 and one is 66,000. The various documents I took you to, and if we need to go back to them, suggest that the purchase order, both of those invoices derived from an original purchase order for \$90,000 plus GST.---I think they're from two different POs. So the 99 covers the three - -

There was the original quote, which was for \$33,000, and it didn't specify a particular project, it said hardware R&D field trials, and you were told there would be three.---Correct.

And that invoice exhausted that amount because it was for \$99,000.---Yes.

40 THE COMMISSIONER: That's the invoice on page 243.---Okay.

MS WRIGHT: And then at page 270 of volume 3, in response to an email from Mr Soliman, asking you to raise a purchase order – so this is at page 270 – and the email at the bottom he'd forwarded to you the quote, quote RMS10, relating to the heavy vehicle safety crash analysis. You said, and this is at the top of the page, that you looked at the old PO creation form and we've already raised the PO for 99. Previous engagement was 33, okay, because the quote you recall had been for 33, and you attached the PO, which is at page 272. And then at page 273 one can see the price and the

project described, “operational enforcement hardware R&D trials, 90,000”. So in other words, this is the PO against which this new invoice – sorry, new quote at this stage – for the vehicle crash analysis was being raised. Do you understand?

THE COMMISSIONER: Is that what you were proposing at that stage?  
---So the one with the screenshot, I think that was - - -

10 Page 270?---Yes. I think this is me getting confused and asking for clarification because, because there was also another email I had seen (not transcribable) but I couldn’t find the PO for the life of me, and it might be all related. So what I’m asking here is, in a state of confusion, is that there is, A, \$99,000 PO request and I must have associated the 33,000 quote, and then you get another 66 numbers (not transcribable) and I say this is something that’s the same in terms of the value cumulatively.

20 And then were you corrected by Mr Soliman along the lines of they’re two separate purchase orders or they are to be two different or separate purchase orders?---I cannot recollect, but what I have seen in my emails is that I actually had gone and created a new one for 66K, where I was the requester and he was the approver.

MS WRIGHT: But you do say in that email there is still room for the new quote of 66K on that purchase order for 99.---Correct.

But then subsequently we see at the end of May two invoices authorised which exceed \$99,000. But is it your evidence you think that there was a separate purchase order raised - - -

30 THE COMMISSIONER: For the crash analysis.

MS WRIGHT: Because it appears that the two invoices exceed the limit of the expenditure authorised pursuant to the purchase order. Do you see what I’m getting at?---No, so my memory is that there was a PO for 99K and there was another PO for 66K including GST, and the invoices came separately, one for 99 and the other one was 66. And the 99 is actually three pieces of work of the same type, 33 each.

40 THE COMMISSIONER: Could we have page 243 up of volume 3. My understanding is that’s the invoice for the – how did you describe it? The field - - -

MS WRIGHT: R&D field trials.---Yeah.

THE COMMISSIONER: Field trials, yes.---In relation to the 33,000 quote each.

Yes. And that has a PO reference ending in 7137.---Yeah.

Correct? Then if you go to 3-263. No, sorry, 3-277. Have we got that? 277. That seems to be the invoice for the safety crash analysis.---Okay.

And it's got a different PO reference.

MS WRIGHT: Yes, it does have a different PO reference.

10 THE COMMISSIONER: Is your concern that another PO wasn't actually created or - - -

MS WRIGHT: Yes, yes. And the email at 270 suggests that the crash analysis quote was raised against the R&D trial's purchase order.

THE COMMISSIONER: Can you see the confusion?---Yeah, I can see that, yeah, yeah.

20 Do you have something in your documents which - - -?---Let me check that. So your concern is if there's a third PO number?

The invoice would suggest that another purchase order was raised, ending in the number 7-9-1-5 and your concern in that was it actually raised?

MS WRIGHT: Yes.

THE COMMISSIONER: Because it seems contrary to that email - - -

MS WRIGHT: Yes. Where Mr Thevathasan says - - -

30 THE COMMISSIONER: On page 270?

MS WRIGHT: Yes. Maybe we can look at it overnight, Commissioner.

THE WITNESS: So I have a note and I need to open the specific artefacts just to double confirm. So for the \$66,000 the POI I have noted here is 7-9-1-5 and for 99,000, it's ending 7-1-3-7.

40 THE COMMISSIONER: But do you actually, have you printed out a copy of any document evidencing the purchase order, for example, the raising of the actual purchase order ending in 7-9-1-5?---I have a requisition form but confirming the number, I need to check. I do have a CM21 number associated with the \$66,000, which is what we're suspecting at PO7915 but if I may, I can check it on my computer if I got any POs attached to it.

And when you say check it on your computer, you're talking about your laptop there?---Yes.

Do you we need to pursue this?

MS WRIGHT: If it could be done, not necessarily right now, given the time  
- - -

THE COMMISSIONER: I thought we were sitting until 4.30.

MS WRIGHT: I'm sorry, Commissioner, yes.

THE COMMISSIONER: You're probably exhausted.

10

MS WRIGHT: No, no. Yes, but it may take some time. Perhaps if we have  
a five minute - - -

THE COMMISSIONER: If we take a five minute adjournment because  
once we've figure all this out, will that be the end, have you got any other  
questions?

MS WRIGHT: It will certainly be the end.

20

THE COMMISSIONER: That would be terrific because then I probably  
can excuse you, which you would probably like. How about we take a five  
minute - - -?---Yeah, sorry, if I don't find it, it's not all that hard for our  
Finance personnel to - - -

Let's take it in steps. I am going to take a five minute adjournment and see  
if you can find it and if you can't, then we'll work out what to do next. So  
five minute adjournment.

30

**SHORT ADJOURNMENT**

**[4.14pm]**

THE COMMISSIONER: Yes.

MS WRIGHT: Mr Thevathasan, could I ask you to stop what you're  
doing.

40

THE COMMISSIONER: No, no, no, just put your phone and the laptop  
~~MS WRIGHT~~ You'd like to show you a document, and I have one for the  
Commissioner. Do you see this is an email chain dated 5 May, 2017 where  
you have been sent a purchase order ending in 7915 for the supplier AZH  
Consulting?---Correct.

And you've then been sent another email which actually attaches the copy  
of a purchase order and the attachment in that bundle is the purchase order  
ending in the number 7915?---Yes.

Does that appear to be a purchase order in respect of the \$66,000 relating to the invoice which you then approved at Mr Soliman's request?---Yes, so this is the phase 1, phase 2 quote, yeah.

I tender that email chain, Commissioner.

THE COMMISSIONER: The email chain dated 8 May, 2017 which attaches a changed purchase order ending in 7915 will be Exhibit 45.

10

**#EXH-045 – EMAIL CHAIN DATED 8 MAY 2017 WHICH ATTACHES A CHANGED PURCHASE ORDER ENDING IN 7915**

MS WRIGHT: Was it changed because there was a variation to the original purchase order?---No, I looked at that just then. So the first time they create, what happens is, every time there's change to a purchase order the requester gets a notification with the nature of the change, which is the next sheet. The first time they created they created it as a blank and then the  
20 second email I got from Finance is the one that's got the \$60,000, but to me it looks like they've created an empty one for whatever reason, I can't reason, but then I got the second one with the updated with the correct amount.

When you say an empty one, we've seen a purchase order which was in the amount of \$90,000 plus GST.---60,000.

I'm sorry, there was a purchase order for 90,000.---So that's the other one.

30 7137.---7137.

THE COMMISSIONER: Yes.

MS WRIGHT: Yes. And then this is one for an, isn't it for an additional \$60,000?---Correct, yeah. For the two separate POs.

Yes.

40 THE COMMISSIONER: So the original purchase order that was raised didn't have an amount of money in it?---So for the PO ending 7915, I think it's an administrative aspect, quite trivial, from the side of Finance, so as a process what happens is every time there's a PO created or amended, being for a variation or otherwise, we would get a notification with the nature of the change, so I have two emails I just looked at, so there was an email with a zero amount and then there was another email from finance with the \$60,000 which is the correct amount.

And you're saying that the first purchase order with the zero amount was just some administrative error being - - -?---It must be, but I need to look a little deeper to see if there is further sent and receiveds of the same topic.

Can I just ask – oh, I'm sorry, Ms Wright, have you finished with your questions?

MS WRIGHT: Yes.

10 THE COMMISSIONER: Can I just ask you, the top of Exhibit 45, Claire Bampton sends you an attached copy of the PO and a screenshot below of the approval flow. What's the approval – can you see up on the screen?  
---Yes.

What's the approval flow?---So this is the workflow system we spoke about.

Oh, okay.---So the person requesting is different from the person approving it. So, which is the same as what you would find in the PO requisition form. So in this case Mr Soliman has the approval because of delegation there.

20

And so it's got his name and then the little kind of tray to the right, does that indicate it's gone into his workflow?---I can't be too sure about that but yeah, it might be, but basically it's sitting with him at this stage.

All right. Thank you for that.

MS WRIGHT: No further questions.

30 THE COMMISSIONER: All right then. Can Mr Thevathasan be excused?

MS WRIGHT: Yes, Commissioner.

THE COMMISSIONER: Thank you for coming to give evidence and you're excused.---Thank you.

**THE WITNESS EXCUSED**

**[4.29pm]**

40 THE COMMISSIONER: Mr O'Brien, I'm terribly sorry, I had hoped Mr Singh, we could have completed him. He's going to have to come back tomorrow morning at 9.30, but Mr Young is on his feet.

MR YOUNG: I am. Commissioner, you'll recall at lunchtime there was discussion about completing Mr Singh's evidence today and that this witness will be short?

THE COMMISSIONER: Yes.

MR YOUNG: But unfortunately that hasn't turned out to be the case and Mr Singh's evidence hasn't been able to be completed. I have difficulties which I just cannot overcome tomorrow morning which is going to take me up until 2 o'clock. Somebody else may need to seek authorisation to appear. It's just impossible to make arrangements in relation to the other matter. So what I'd be seeking, I know that there are other witnesses who will be giving evidence from the RMS but what I would be seeking is that the evidence of Mr Singh, further cross-examination go to 2 o'clock.

THE COMMISSIONER: Ms Wright. Have we got witnesses who can take us through to – you can't get out of, or get out earlier from your other commitment?

MR YOUNG: It's absolutely impossible. I have tried, I can assure you Commissioner, that I have tried everything, sought adjournments which were consented to by the opposing party but not by the court - - -

20 THE COMMISSIONER: Which court are you in?

MR YOUNG: - - - and it's just not possible to arrange for other counsel in this matter of this sort of type of - - -

THE COMMISSIONER: Which court are you in?

MR YOUNG: It's a matter that was at the Federal Circuit Court in Sydney. For reasons that, it's been moved to Parramatta so that's the reason why I wouldn't be back before 2 o'clock. But it's a hearing of around about two hours in the morning.

THE COMMISSIONER: Commissioner, we have Mr Hayes scheduled for 9.30 and I'm just making an enquiry whether Mr Walker can also be here.

MS HOGAN-DORAN: I understand Mr Walker is available tomorrow morning and can assist the Commission.

THE COMMISSIONER: Oh, good.

40 MS WRIGHT: So normally those witnesses would take until 2 o'clock, Commissioner.

THE COMMISSIONER: Did we have anybody else listed for tomorrow?

MS WRIGHT: Mr Li and Ms Lemarechal.

THE COMMISSIONER: I was hoping that they would be short. May I enquire, are they - - -

MS WRIGHT: Mr Li is not short.

THE COMMISSIONER: Sorry.

MS HOGAN-DORAN: Could I say something about Mr Li. I have met with Mr Li. Mr Li, English is his second language and I understand Ms Wright has just said that he will not be short so I wouldn't be surprised if, in those circumstances, that we would reach Ms Lemarechal.

10

THE COMMISSIONER: Sorry. Could we have Ms Lemarechal available as well?

MS HOGAN-DORAN: I haven't met with her yet, she's not here. I am meeting with her tonight, we could send a message through.

THE COMMISSIONER: Well, I think she was already scheduled for tomorrow, so she should, it's just making it maybe earlier.

20

MS HOGAN-DORAN: Yes, we'll make those enquiries.

THE COMMISSIONER: All right. Well, no, I want her here, I want her available to give evidence tomorrow and that may be in the morning sometime.

MS HOGAN-DORAN: We'll convey that information. Thank you, Commissioner.

30

THE COMMISSIONER: Thank you. Sorry. Just before I get to Mr O'Brien, Ms Wright, anything else on that?

MS WRIGHT: No. There's one further matter not in terms of witness scheduling but I will raise in respect of Mr Hannam's - - -

THE COMMISSIONER: I'll go back to witness order. Mr Young, you I ask you the following. I will agree to - I'm sorry, I should stop. Mr O'Brien, did you want to make a submission on this? I'm terribly sorry.

40

MR O'BRIEN: Obviously we're keen to proceed and give evidence but I understand my friend's position, these things sometimes can't be helped but, Commissioner, it strikes me that there might be some utility in deferring Mr Singh until it's time for him to come back on this subsequent occasion in any event. Counsel Assisting's foreshadowed the release of certain information on to the portal and that he would be required in any event on another occasion. This is his fourth day in the box as it is.

THE COMMISSIONER: Yes, I know.

MR O'BRIEN: I wondered if the Commission could give some consideration to the concept of simply bringing him back on that one occasion for Mr Young to complete his cross-examination, for those questions to be raised by Counsel Assisting connected with the spare parts and for a short re-examination by myself and any other examination by others that related to spare parts.

10 THE COMMISSIONER: I would prefer to proceed that when Mr Young returns from Parramatta, we resume Mr Singh's evidence. And what I'd ask, Mr Young, I know you've foreshadowed 2 o'clock, but if you're travelling by train, there's great express trains back and forth.

MR YOUNG: Oh, I know that.

THE COMMISSIONER: Can you try and get here as soon as possible?

MR YOUNG: I will certainly do that, Commissioner.

20 THE COMMISSIONER: Because I am keen to – and I take your point about Mr Singh. I really would like to get his evidence to a certain point finished and then we can proceed with the other witnesses. But if we can have those three witnesses available for tomorrow, and if you can get back here as soon as possible.

MR YOUNG: I will be back here as soon as the train and whatever else prevent me.

30 THE COMMISSIONER: Thank you. Now, Ms Wright, was there another issue?

MS WRIGHT: In relation to Mr Hayes's evidence, he was shown an exhibit during his examination. Those documents are already in the brief at volume 7, pages 193-206 and so there is no need for a further order to lift the section 112 order in relation to those documents.

THE COMMISSIONER: If one looks at the transcript, is volume 7, pages 193 to 206 - - -

40 MS WRIGHT: Identified as Exhibit 18.

THE COMMISSIONER: Exhibit 18. Good.

MS WRIGHT: I'm told they're not identified as Exhibit 18 but – I'm told it's not actually identified as Exhibit 18 on the transcript, Commissioner.

THE COMMISSIONER: Do we know how it's - - -

MS WRIGHT: I don't at this point, so I'll have to check that and I can indicate. Yes, I see. It is identified. That's what I understood. It's identified on the compulsory examination transcript as Exhibit 18 and those documents are at volume 7 of the brief, page 193-206.

THE COMMISSIONER: Tremendous. Thank you. All right. We're adjourned until 9.30 tomorrow morning.

10 **AT 4.37PM THE MATTER WAS ADJOURNED ACCORDINGLY**  
**[4.37pm]**