

EMBERPUB00820
30/05/2019

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pp 00820-00871

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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION EMBER

Reference: Operation E18/0281

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 30 MAY, 2019

AT 2.00PM

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

THE COMMISSIONER: Right. Thanks, Mr Jones. Ms Wright.

MS WRIGHT: Mr Jones, just before I resume asking you some more questions about spare parts for portable weigh scales, sorry to jump around a bit, did you have occasion to evaluate the Intercomp scales, the 788 scales after you'd finished the procurement process for the 125 scales?---About
10 that time, yeah, I think it was after. I did do an evaluation, a brief evaluation, yeah.

Could we have volume 11, page 104 on the screen. This is an email from Mr Soliman to you on 21 May, 2018, and if we could go to page 105. At the bottom of the page Mr Singh has asked you, copied to Mr Soliman, "Hi, DJ. Just wondering if you'd received the set of LP788 and what's your availability like next week for us to attend the site and check it out, get feedback et cetera?" Do you recall that?---Yes, I do.

20 And then you responded that the scales had been received and will be evaluated next Wednesday at the Orchard Hills site.---Correct.

Was that within your part of the Sydney West sector?---Yes, that's out on Northern Road, just five minutes from Penrith, yeah.

And you invited him and Mr Soliman to attend?---Correct.

Mr Jenkins you see at the top asked if they were certified, and then back on
30 page 104 Mr Singh has responded to him saying they're static scales and not sure if the ones they've given are certified.---Correct.

And then you've said you assume they are certified, "As this was the holdup in March when I made initial inquiries with Jason from AccuWeigh, they have been calibrated and labelled."---Correct.

To your knowledge were the 788 scales certified?---I believe at that time they weren't certified, no.

40 Do you know whether they became certified?---No.

You don't know?---No.

And Mr Soliman has said, "Essentially we need to test any new scales available to understand if they are better than the old Intercomp ones which the build quality seem very poor. We need scales to last at least 20 years.

Did the evaluation take place?---Yes.

And did Mr Soliman and Mr Singh attend?---Mr Soliman did.

Mr Soliman. And at page 108 this is an email chain not including you at the top of the page, but there's an email from you to Mr Soliman on 25 May. Do you see that halfway down?---I do.

And you've contributed your thoughts about the LP788 scales.---Yes.

10 And over the page at 109 you sent an earlier email concurring with some observations made by Mr Soliman - - -?---Yes.

- - - about the performance of the LP788.---Yes.

You weren't happy with them?---It was only a brief trial but on initial testing they appeared to be giving us problems, yeah.

Was that the only evaluation opportunity that you had in relation to the Intercomp LP788 trials, scales?---It is, yes.

20 Did you intend by these emails in which you provided some negative comments, do you agree they're negative comments about the LP788? ---Yes.

Did you intend by that, that if there was a subsequent purchase of scales that the LP788 would not be selected?---Certainly not.

30 You received your scales which were procured through the tender process which you were involved in, did you actually receive new scales after the 125 scale procurement?---Yeah, I received a batch of those, yes.

Was there any delay in their receipt?---No.

Now, just going back to the question of spare parts, there's just a document I'd like to show you and seek your comment upon if possible. And it's a table setting out some descriptions of spare parts for the PAT SAW 10A Series I as well as some other SAW items. Is SAW the brand or is PAT the brand?---Same thing, one or the other.

40 Same thing. Okay. Now, it also sets out some quantities. Could I ask you, I'm going to take you through and just ask you to assume that total quantities indicated on this table in red were ordered between 10 January and 15 May, 2017. So that's a five-month period.---Yes.

Are you familiar first with the handle weigh pad coupling hardware for a Series I?---I'm not sure what they're referring to.

Then moving to the aluminium baseboards right and left with coupling hardware, do you see that description?---Yes.

Are you familiar with the aluminium baseboard?---Yeah, they're the bottom plates, yeah, I'm familiar with that.

Does the scale require both right and left baseboards?---Yes, yes.

And you see the quantity there is 37 of them?---Yes.

10 Would you have an expectation that 37 right and left aluminium baseboards with coupling hardware would be needed, and this is, I'd ask you just to assume that this is on a New South Wales-wide basis at this point, would be needed in a five-month period in order to conduct maintenance of Series I SAW 10A scales?---It's hard to answer it unless I know exactly how many scales were presented for servicing and recalibration in that period, but on face value it seems excessive.

20 THE COMMISSIONER: And the use of that spare part could arise if the scale was broken and had to be fixed, is that correct?---Yeah, the, the, the baseboards are generally where the pivoting parts are, the couplings are, and because of metal fatigue and age, that would be where the, the holes had stripped, where I'd been repairing them. But if they were beyond that, then you'd have to replace them. But I, I never had any replaced in that period. I, I repaired them all myself.

MS WRIGHT: So during this period, January to May 2017, you were doing repairs yourself?---Correct.

30 Not sending them off to the maintainer appointed by RMS at that period, at that time?---Unless there was something that I couldn't do, yeah.

40 THE COMMISSIONER: Just out of interest, the other, your comparable positions, officers in the other sectors, to your knowledge, did they do their own repairs, or were you pretty unusual or unique?---Pretty unique, I suppose, Commissioner. Roll the sleeves up and get the job done, you know, that's what I do, and have done right through my career. It was in an effort to get them back into service quickly, rather than, you know, if they were only minor repairs, it wasn't costing me a lot, and I could do them in, you know, 40 minutes or something or other, it was easier than sending them away and having them away for a week and whatever, yeah.

But I was just wondering if you ever – you spoke about I think monthly meetings – whether you chatted with any of your other counterparts and discovered that any of them were doing the same thing.---Oh, basically I, as I said previously, I trained the other blokes in Sydney how to do it, yeah.

Yes.---Yeah, so initially, I was doing it for everyone in Sydney, and I thought, this is too hard, I'll train the blokes up, I'll tell them where to get the bits, and whatever, and then they'd appoint someone within their group

to do the, the running repairs, the minor ones that didn't need to go away.
Yep.

MS WRIGHT: Do you know what the arrangements were in other sectors for maintenance?---No. No.

No.---I, I assume that – no, I, I won't make any comment, I don't know.

10 Just going down the list then, for steel baseboards, for the Series I, right and left with coupling hardware. First, you're familiar with that item, what it is?---That, the steel baseboard is a minor fitting at the end of the, at the end of the side, the, the aluminium side baseboards. Rare do they give any trouble.

Did you say "rare"?---Rarely, yeah. Some of them were steel, some of them were alloy. The steel ones never gave any trouble. It was, the screws might have come out, that's about all.

20 Have you - - -?---But as far as replacing those items, I've never had to replace one.

THE COMMISSIONER: And if screws came out, I take it you could pop to Bunnings, or - - -?---No, to a, a proper - - -

Sorry. Okay.--- - - - supplier of nuts and bolts, a industrial, yeah.

MS WRIGHT: But locally?---Oh, sure.

30 The last one on that first page, weigh pad platform board only, do you know what that is?---I would think that is the, the actual LED electrical component.

It's the, it says, "Platform board only," is that the electrical - - -?---Well, I'm not sure. It may be that, or it may be the actual weighing platform, the, the whole surface board.

Okay.---Um, by the price, um - - -

40 You looked surprised when you saw the price there, Mr Jones.---Yeah, but there, that was only one, is, is there more over the, the page, or that was the one only?

If we could turn to page 2. There's just one, at - - -?---At \$20,000?

\$20,780.---Well, could have bought two new scales for that.

THE COMMISSIONER: I was about to say that.---Yeah.

Oh, okay.---It's rare that the weighing platforms ever gave any problems.

MS WRIGHT: The next one is (not transcribable) plastic subhandle with coupling hardware.---I, I would think that is the blocks that flex with the, the actual handle themselves. Originally they were a rubber block, and then they, they went to a coil spring affair.

10 Did you ever need to replace them?---Yeah, I had to replace them but they were roughly \$40 each when I was buying them.

So you sourced them locally, did you?---I sourced them at the time through, when I was buying them, through ELWC.

And they were about \$40 each at that time?---At that time, yeah.

21 of them assume statewide in a five-month period, does that seem reasonable or excessive or a small amount?---It's quite probable because that was a part that broke quite regularly, the old rubber-type ones, and you couldn't buy those anymore, so to put the latest style in there it's probable.
20 Yeah, I would have them, the problem being is when, when we do the weighing, some of the drivers purposely try and spit the scales out and damage them, some because they don't know how to drive spit them out and when they spit out, you know, they, they do damage and that was a part that seemed to get damaged a lot.

The SAW 10A Series I battery pack, do you know what is meant by battery pack?---Well, that intrigues me because the SAW 10As have six single AA batteries, either rechargeable, which we use in the city with a charger and leads, or just the normal AA that they generally use in the country and when
30 they go flat they throw another six AAs that you buy at Woolies or Bunnings or whatever, yeah.

So they're rechargeable in the city sector.---In Sydney we use rechargeable batteries and in our vehicles we have the scale chargers and the leads, yeah. In the country they tend to not use chargers, they just put normal AA batteries in.

40 THE COMMISSIONER: Are you talking about the ones I use at home?
---Yeah.

MS WRIGHT: Do you have any experience of how often the batteries would need to be changed if they're the normal ones that aren't being used with a charger, how often would the batteries be changed?---That would depend on how often you use the scales. Part of the service agreement is that they're changed every 12 months when you have them re-serviced and recalibrated, but in the interim if, if they, if they fail for whatever reason they wouldn't recharge, you went and bought your own and threw in, yeah.

Do you have any experience of how often the portable weigh scales are used by the country sectors, that is outside the metropolitan area portable weigh scales used?---No. I know that we use them in Sydney quite a deal more than the country, yeah, because of the particular work that we're doing, yes.

10 What's the particular work?---Since 2016 we've had an operation concentrating on construction industry vehicles because of the amount of infrastructure going on and concern by the minister that there were vehicles out there that were non-compliant, so we've been targeting in a three-phase attack or three-phase operation, construction industry vehicles since 2016.

In terms of their weight or their mass?---In terms of their weight, in terms of their maintenance, in terms of the way they're loaded, in terms of whether the operators are, you know, are exceeding their hours and maybe doing something else. Locally you don't have to record on a, on a work diary, but you know, there was concerns about doing a job overnight and then coming and doing their work during the day, hauling spoil.

20 And that hasn't applied in the country areas?---No, because it was, the concentration in Sydney was because the amount of infrastructure going on here, yes.

Now, is there any other thing that the battery pack could refer to other than the six AA batteries that the Series I 10A scale takes?---Not that I'm aware of.

30 The next one is a complete electronics cover rubber seal keypad display cover, sealing screws hardware. Do you know what those spare parts are? ---It would appear to refer to the cover over the LED display in the, in the head, yes.

And the rubber seal around it, is it?---Yeah, it's just got a rubber seal, yeah, to stop the water.

As well as the screws and other hardware in relation to that, relating to that? ---Seldom you'd, I've never had to replace a screw, I don't think there's any other hardware-related, it's a plastic cover in a metal component with a rubber seal to keep the water out and four screws holding it in place.

40 How often would that need to be changed?---I've never replaced one.

Would 52 seem to you a reasonable figure?---It seems extremely excessive to me.

Now, the next one is battery compartment cover with rubber seal and hardware.

THE COMMISSIONER: Can I just pause you.

MS WRIGHT: Yes.

THE COMMISSIONER: At your monthly meetings, if there had suddenly been within a particular sector the electronics cover were all disintegrating or needed to be replaced, would that be raised, would somebody say, you know, we're having a lot of trouble with our LED covers at the moment. Is anybody else experiencing it? Is it - - -?---That would have gone around the state, yeah.

10

And nothing like that - - -?---No.

MS WRIGHT: Battery compartment cover with rubber seal and hardware. Do you know what that is?---Yeah. That's just a plug at the end of the scale. You slide the six AA batteries in. It's supplied with a slot to undo it with a screwdriver. It has a rubber seal so no water gets in. Unless you stripped it putting it back in place you'd never have to replace it.

So how often do you think you've replaced them?---Rarely, if ever.

20

Rarely, if ever?---Yes.

The next one is display cover.

THE COMMISSIONER: Sorry. What about \$440 for one of those?
---Commissioner, I would think \$15 top money.

Thanks.

30 MS WRIGHT: Do you need to get them from IRD?---Yes.

You couldn't get that locally?---No. Oh well, I suppose you could have got an engineering place to make them for you but the problem and the price would have gone up because they would have had to do a run of 1,000 where if you only wanted a small amount buy then direct from the distributor.

40 Now, display cover, is that for the LED or what's the display cover?---I assume it links in with the previous item 3H. It appears to be a duplication of that. That's the only display cover I know. That's the plastic cover that's a window that lets you look at the LED readout housed in a metal compartment that screws in place and seals in place.

All right.---I've never replaced one. I don't see the reason why to replace them.

Then if we could go to page 3. This one is a SAW III dynamic system, dynamic static software and chargers. So this is about the dynamic Series

III scale. Now, you said you trialled some. Are you aware whether any dynamic Series III 10A scales were purchased for use anywhere in New South Wales?---I'm not aware that anyone else had the scales except myself. I had the four in Sydney.

Four in Sydney. Do you think you would have heard if they were purchased for other sectors?---Yes.

10 Then the next one is Saw III again dynamic system one alignment flex frame, two bluetooth transmitters and a receiver.---All, all I can work from this is that this is for the purchase of these four units that I was trialling. That's the costing of buying the 10Cs.

So those items that you received contained the receiver and bluetooth transmitter and - - -?---Correct.

- - - flex frame?---Yes.

20 And if it wasn't that purchase then you don't know what this relates to? ---No. I, you know, looking at, talking about the software which we needed, the chargers we needed, the levering ramps we needed, the dynamic system is the scales themselves.

THE COMMISSIONER: But you ordered four, didn't you, you got four. ---Correct.

30 You see, that's - - -?---I don't know why there's a five or 10 of this. 10 ramps, yeah, because, well, you needed eight ramps, which I, sorry, one, two, three, four. You needed only four ramps, which I have, not 10.

And sorry, what role do the ramps play?---That's to level out so that the whole, the axles are on the one level, to use a, a, a scale dynamically, you have to have, best practice the, all the axles have to be at the same level. So it's a, a lead in ramp, like a blocking system. So to bring the axle on the same plane. Why there's 10 there, I had the four in Sydney and you can only use two scales at a time. Four ramps for the four scales.

40 MS WRIGHT: So four scales would require just four ramps, not eight? ---Correct.

And do you know whether when you buy the SAW III dynamic scale, do the ramps come with it, or do you have to buy the ramps as an extra add-on? ---I believe it was a package.

You think it's a package.

THE COMMISSIONER: And the idea that access and levelling ramp of three metres would cost, is that \$10,000 each?---I don't know what the price is. I would hope not.

MS WRIGHT: Now the next one is a SAW 15C III scale. So not a 10C, but a 15C. Are you aware of that version of the SAW scale?---I'm aware that there's a 15C available. I don't know of any being supplied or used. I've never used them.

10 You've never heard of the 15C being used anywhere in the state?---No. No, no-one to my knowledge has ever used a 15C.

THE COMMISSIONER: And I take it again if somebody within the RMS had decided to trial a 15C, you would have heard about it either at your monthly meetings or on the grapevine?---Generally, if it was trialed in one of the other four regions, then they report it at sector managers' meeting and that would filter down to me at, when I have my operations manager meeting for the Sydney sector, and I'd comment or pass the information on, yes.

20

MS WRIGHT: The SAW III dynamic system alignment flex frame, do you know what that is?---Yes, the actual 10Cs have to sit into a frame and then the, the, the lead-in mats click into those frames.

Does the frame come with the 10C, or do you - - -?---Comes in the package.

And did you need an extra two, because you're the one that trialed the 10C dynamic scales for RMS?---For the four scales, I needed four frames.

30 Okay, so you - - -?---So for the lead-in mat and the, and the exit mat that sat in a frame, metal frame it locked into the frame and then the mats locked into that frame on the entry and exit. So you needed two frames per two scales.

Okay, and did - - -

THE COMMISSIONER: And did they kind of come with the scales?
---They were delivered – initially, when I got the delivery of the 10Cs, one of the frames wasn't there. It was, oh, or maybe two, I don't, I can't recall,
40 but there were, we were missing the frames. We were missing the, the screws that you screw into the side of the, the scales that locks into the frame, then you lock in the mat. But they were supplied later.

And they were supposed to be part of the package you bought?---Yeah, we couldn't use them without it.

MS WRIGHT: Then finally, the SAW calibration cable. Are you familiar with that part?---Yes.

Why are you laughing, Mr Jones?---Mmm, it's a piece of wire with an electrical end on the, you know, \$20 worth.

THE COMMISSIONER: Is it the same as a charging cable?---Similar, Commissioner.

MS WRIGHT: And is that used on a Series I?---No.

10 Oh, what's it used on?---Specifically to that, to the Series 10Cs.

10Cs, right. Now, Commissioner, I tender that table as well as the two volumes it refers to, 9A and 9B.

THE COMMISSIONER: And, sorry, the source documents are in - - -

MS WRIGHT: Yes, they're on - - -

THE COMMISSIONER: They're in volume - - -

20

MS WRIGHT: - - - the right-hand side of that document there's a reference to volumes 9A and 9B and they haven't been tendered.

THE COMMISSIONER: All right. And you want them all together?

MS WRIGHT: If the table could be separately and then if 9A and 9B could go back into Exhibit 34, that would work.

30 THE COMMISSIONER: Right. The table of spare parts software and scales will be Exhibit 49.

#EXH-049 – TABLE OF SPARE PARTS SOFTWARE AND SCALES

THE COMMISSIONER: And Exhibit 34 will now include volumes 9A and 9B.

40 MS WRIGHT: Mr Jones, in your statement you've referred at various times to trials. At paragraph 14 you refer to a trial of an, "Infra-red braking cameras we were conducting out at Penrith." Have you ever heard the term, scoping study?---(not transcribable) not involved in this.

So scoping study was not an expression that was used by you or heard by you back during the events we're talking about here?---No, no. It would have been an evaluation or a trial. I've never heard that terminology before.

And you said Mr Soliman attended a trial of infra-red braking cameras. Was that in 2017?---I'm not sure of the date. I think so.

Was any external person there, a person independent of RMS there?
---Yeah, the supplier of the infra-red cameras was there and setting it up, we had technicians onsite, this particular system has to be set in the ground so we had to cut a hole in our inspection site over at Orchard Hills, they had to run power to it, yeah, so there was a number of tradesperson onsite at the
10 time.

Was there any person there to your knowledge who was sort of an independent person not associated with the supplier of the camera or with RMS to check on the trial or oversee the trial?---Not to my knowledge, no.

I have no further questions, Commissioner.

20 THE COMMISSIONER: You were asking about a scoping study and you said, you know, we undertook evaluation and trials. For example, the evaluation or trial of the dynamic scales, were you just going to do that yourself with your inspectors? I think you said Mr Thammiah arrived at one stage but that was because of difficulty that you had in downloading the software or using the software?---That's correct. He, he came on an number of occasions to, to try and correct the software, yeah. They were bluetooth, that was the beauty of them, we didn't have to have cables, and we just couldn't get it working.

30 But assuming that you didn't have those technical problems with the software, the evaluation or trial that you were going to undertake, was it just you and your inspectors using the equipment and seeing how it worked, what you thought of it?---Yes. Initially we thought that you could use a dynamic scale on its own, and that would have been ideal, we could have put a dynamic scale down as a screening device, run the truck over, saw that it was overweight and then put the static scales underneath, but then we found out that you needed to have the brackets and the lead-in mats and the whole works to get them to work properly, yeah.

All right. Mr Glover?

40 MR GLOVER: No questions at this stage, Commissioner.

THE COMMISSIONER: I think this is your chance.

MR GLOVER: Oh. No questions, Commissioner.

THE COMMISSIONER: Mr Young.

MR YOUNG: Well, Commissioner, for what it's worth, I have been asked by counsel for Mr Patterson and Mr Jansen whether they could go first because they – oh, Mr Tyson's happy that I go first so - - -

THE COMMISSIONER: Is this an application on the basis that Ms King and Mr Tyson are going to ask questions about a discrete area?

10 MR YOUNG: A very discrete area, as I understand it. Yes, that's correct.

THE COMMISSIONER: I'm fine with that. Ms King, do you want to - - -

MS KING: I understood that Mr Tyson would like to go first.

THE COMMISSIONER: Oh, okay. Mr Tyson.

MR TYSON: Do you want to - - -

20 MR YOUNG: No, you go, you go.

MR TYSON: Thank you, Commissioner.

THE COMMISSIONER: And if everybody can identify for Mr Jones who they're appearing for.

MR TYSON: Mr Jones, I appear for Mr Brett Patterson in this inquiry. Understand that, sir?---Yes, sir.

30 I just what to understand the chain of command, how it worked as at March 8, 2018. Now, you were aware in March 2018 that Mr Patterson was the Senior Manager Compliance Operations at RMS.---Correct.

And that the Compliance Operations Section which Mr Patterson managed, that section was in fact a user of the PAT scales?---Correct.

So not directly involved in the procurement process per se but they were a user of the scales?---Correct.

40 And as at March 2018 your direct manager was Raymond Jenkins?---That's correct.

And in March 2018 you had a very good professional relationship with Mr Jenkins?---That is also correct.

And then looking above Mr Patterson in the hierarchy or the chain of command, you understood that Mr Patterson was accountable to Mr Roger Weeks?---Correct.

I just want to, I'll turn now to another topic which is your relationship with Mr Patterson. As at March 2018 you had known Mr Patterson for a considerable amount of time.---That is correct.

And in fact it was as early as about 1996 that you first had professional dealings with Mr Patterson.---About that time, yeah.

10 I think he was an inspector at the time and you were an investigator.---'96 I was the, I can't remember what my title was, yeah, I was doing that role, I was looking at the authorised inspection station scheme, yeah.

And then from about 2000 you worked with Mr Patterson in the Vehicle Identification Unit.---That's correct.

So as at March 2018 you had a longstanding professional relationship with Mr Patterson.---Correct.

And it was a very good relationship.---It was.

20 There was mutual respect between the two of you.---Correct.

There was mutual trust between the two of you.---Correct.

And it was a friendly relationship.---Correct.

30 And in fact earlier in 2018 you had had a role in bringing an issue to light regarding an RMS employee who had improperly used an RMS vehicle and there were some issues of time sheet fraud. You had been involved in that issue and bringing it to light.---Certainly had.

And Mr Patterson had supported you in relation to that ethics issue, hadn't he?---Certainly had.

40 So I now want to go forward if I may to the meeting that took place on 6 March, 2018 attended by yourself, Mr Jansen and Mr Patterson. Now, before that meeting commenced were you aware that Roger Weeks had had a meeting with Mr Jansen and Mr Patterson about your email of 28 February where you said you would not sign the tender evaluation report?---No knowledge of that.

Were you aware that your email transmission of 28 February, 2018 at 4.32pm where you wrote to Mr Jai Singh and said you would not be signing the tender evaluation report, were you aware whether that, that that email had been forwarded to Mr Weeks?---No.

And you weren't aware that Mr Weeks met with Mr Jansen and Patterson about that email?---That's what I said.

Right.

THE COMMISSIONER: Mr Jones, if at any time somebody refers you to a document and you would like to have a look at it just speak up.---Thank you, Commissioner.

10 MR TYSON: Now, you gave some evidence before lunch about what took place in that meeting and I might ask you about some of the details of that if I may. One of the things that I'm instructed was that during the meeting, early on during the meeting Mr Patterson said to you words to the effect that he and Mr, he said Arnold, but Arnold is Mr Jansen. You understand that, don't you?---Yes, I do.

Mr Patterson said to you that he and Arnold had met with Weeks last week as a result of your concerns.---I don't recall that but that might have been said.

20 It might have been said but you just don't recall it?---Certainly.

Correct. One of the things that was communicated to you in the meeting and this was by Mr Patterson and Mr Jansen both during the meeting, they communicated to you that the position was, was that funding was for the 125 scales, the funding could not be carried over and was only available this year. Do you recall - - -?---I believe words to that effect were spoken, yes.

And that was stated by both Mr Jansen and Mr Patterson in the course of that meeting?---I don't recall who actually said those words but - - -

30 But you recall that was said to you?---That is correct, yes.

And in the course of the meeting you've stated your concerns over the specific requirements of the tender to a specific scale size. You remember that?---That was part of the, my argument, yes.

You explained that. You also explained that the Intercomp LP788 was a possible cheaper option and if scale racks needed to be replaced they were around \$1,600?---Probably words to that effect, yes.

40 And Mr Jansen said to you during the meeting that the tender was for scales to fit into the existing scale racks fitted to RMS vehicles and he stated that RMS only had funding for this financial year?---He may have said those words. I don't recall exactly.

Possible he did say it you just don't recall?---It's possible, yes.

And Mr Patterson also asked you to explain about certification in regards to the Intercomp LP788 during the course of that meeting?---I don't recall but he may have done, yes.

And do you recall that Mr Patterson reiterated to both you and Mr Jansen that any future or further tenders should include a broader market search? ---I don't recall that but that was probably in the discussion because I was pushing for that.

10 And in fact you agreed with that going forward in the future for a broader market search to be adopted?---Correct.

Correct. And towards the conclusion of this matter you advised that you would sign off on the tender evaluation document and that you would do it later that day?---With the proviso that going forward that there was something else done, yes.

Yes, well, so you agree that you did say in the meeting that you would sign off on the tender evaluation document?---Yes.

20

And that you would sign off on it later that day?---Or the next day, yes.

THE COMMISSIONER: Did you say with a proviso?---The proviso that if we went to, out to tender again it had to be a field trial and it was done with different specifications and we looked at other things rather than looking on pieces of paper, yeah. Plus, you know, there was talk of getting the remainder of the 550 scales in statewide and we didn't need 550. We didn't need 425 scales.

30 You didn't?---No.

How many did you need?---I estimated around about 300 needed to be bought in the second batch.

I'm sorry, Mr Tyson, why - - -?---So there's 550 scales statewide.

Yes.---I already have 24. I've bought another, or we've been supplied another 125. We swapped the 10Cs for another six so what does that come around to.

40

About, hold on.---Sorry. 150 odd.

I've got it down to 305.---305. Yep. So we didn't need, I think we needed around about 280 to 300 scales. We didn't need to buy another 425. The arrangements out at Parkes is that they had put in a weighbridge, and they sent their old scales back to me, because they didn't need them anymore.

So, subsequently, the 425, 120 of those weren't necessary?---Correct.

Sorry, Mr Tyson, I've taken you off your, what you're concentrating on.

MR TYSON: That's perfectly fine, Commissioner. Now, Mr Jones, on my instructions, this meeting that took place between yourself, Mr Patterson, and Mr Jansen, in terms of its tone, was professional, respectful, and it wasn't hostile in any way. What do you say to that?---Initially, it was very hostile. It settled down after that.

10 So you say initially it was hostile. You gave some evidence earlier to Counsel Assisting about a comment made. You said Mr Jansen said something about that you were a troublemaker and hard to deal with. Is that what you're referring to when you say hostile?---I am. Yes.

Could you be mistaken in that that wasn't said to you?---Absolutely not mistaken.

Because on my instructions if that, if Mr Jansen had said that to you, he would have, given Mr Patterson's respect for you, he would have called Mr
20 Jansen out on that. What do you say to that?

THE COMMISSIONER: Well, I think that's a bit speculative.

MR TYSON: Well, you accept, don't you, that you had a very good relationship with Mr Patterson as at the time of this meeting.---Yes.

And that there was mutual respect and trust between the two of you.---Yes.

30 Was a longstanding relationship.---Yes.

And you worked directly under Mr Jenkins who in turn was, who in turn reported to my client, Mr Patterson.---Yes.

Well, let me put the question a different way. I suggest that Mr Jansen did not say in Mr Patterson's present [sic], words to the effect that you were a troublemaker, stubborn, and hard to deal with.---That is incorrect. The words, or words to that effect were spoken.

40 But you say, at least after that was said, that your response to that was along the lines of I said all of the above in response to that, those remarks.---Yeah, I said, yeah, I agree with him, yeah. All, everything you're accusing me of, I, I've done or I've, I am. Yes.

Which would suggest to me, well, sorry, it would suggest that you're a robust person who was not easily dictated to.---Absolutely not. I've been around for 46 years in this organisation, and I'm known as a person that rolls his sleeves up and gets the job done. If I refuse to do something, it's on good grounds. I read things, I digest them, I see what the consequences

are, and if I don't agree with it, irrespective who the person is above me, up to the CEO, I voice my opinion.

10 THE COMMISSIONER: Did you feel the comment troublemaker, et cetera wasn't giving you the respect that, or taking your issues seriously, given, as you said, that you read everything, you take into account everything, and you take your position within RMS very seriously?---I'd never met Mr Jansen before. That was the first time we'd met. Introduced ourselves, sat down, and basically that was his opening statement. So, I don't know what background he did on me, or who he spoke to, but I was offended by it, and that's why I got cranky at the meeting, you know, and took it as offensive.

Yes.---Yes.

MR TYSON: But you weren't intimidated by the comment?---I wasn't intimidated, I was just - - -

20 THE COMMISSIONER: I think that's different from being offended.---I was offended by it.

MR TYSON: Yes. You were offended by it, but you didn't feel that you would be dictated to by Mr Jansen to do something that you did not believe in.---Absolutely.

And it was open to you to turn to Mr Patterson and say, "Brett, I don't like the way he's talking to me."---Why?

Oh, well - - -

30 THE COMMISSIONER: You don't think - - -

MR TYSON: Please explain, what do you mean by "Why?"? Why do you say that?---Why, why would I need to do that? (not transcribable) you know, I've, I've been fronted with people before that don't know my background or how I operate before, and dictate, and demand things, and I take it as a grain of salt, and water off a duck's back, yeah, you want to say that, I'm good.

40 Yes.---I'm offended by it, but we'll move on.

And that's how you took the statement?---I was offended by it, yes, and we moved on.

You were offended by it?---Yes.

But it didn't impact upon you in the way you did your duty.---Absolutely not.

And indeed if you had felt pressured or anything like that, you could have complained to Mr Jenkins about that.---It was no good complaining to Mr Jenkins because he's in the middle of the tree, you know, I'd have, I'd have excused myself from the meeting and if there was anything I would have spoken to Brett after that, yes.

It was open to you, as you say, to excuse yourself from the meeting.---Yes.

10 It was open to you to talk to Mr Brett Patterson about that afterwards.---Yes.

And it was also open to you, you knew both Mr Jansen and Mr Patterson reported to Mr Weeks.---Yes.

20 You could have gone above them and said, you know, Mr Jansen said these things to me and they're inappropriate, couldn't you?---Look, it was, I was taken aback, g'day, I'm Arnold and I've heard that you're a, you know, a troublemaker, you know. Hello, I'm here for a meeting about something else, why are you attacking me. Okay then, you've had your go, I agree, yeah, I am stubborn and I am outspoken and I will not be dictated to if I don't think that it's true and correct or there's issues of safety involved, been in a long while, just bore it and moved on.

And then after that for the rest of the meeting I think you agree that it wasn't hostile after that?---Yeah, it wasn't hostile after that, no.

30 And there was nothing after that that Mr Patterson did that was coercive or pressuring to you?---Collectively they wanted me to push the thing through, if you, if you deem that to be coercive they were pressuring me to, to get on and sign the thing, yes.

Well, there was a discussion about whether to sign it.---Yes.

And the reason why you didn't sign it were fully discussed in the meetings? ---Yes.

And countervailing factors were also then discussed, arguments - - -?---By countervailing factors - - -

40 Arguments in favour of signing it were discussed?---Yes.

And funding issues were discussed?---Yes.

And ultimately at the end of that meeting you agree that you would sign off and that you would do it later that day.---Or the next day, correct.

THE COMMISSIONER: With the proviso.---With the proviso, yes, Commissioner.

MR TYSON: Correct, with that proviso you mentioned earlier in your evidence.---Yes.

Now, can I ask you please to go to – this is at volume 10, page 171 I think. It’s an email transmission of 6 March, 2018, from Mr Jones to Mr Singh. Mr Jones, so just by way of background to this email transmission on 6 March, of course you had written on 28 February at 4.32 to Jai Singh where you had said you would not be signing the tender evaluation report, you remember that email, don’t you?---That’s correct, yes.

10

Now, between that email and this email on 6 March, had you had any communications with Mr Singh about this topic?---No.

So this was really the first communication after you had said you wouldn’t be signing the tender evaluation report where you communicated with Mr Singh on this topic.---After I convened the meeting with Mr Patterson and Mr Jansen, yes.

20

When you say you convened that meeting, you - - -?---Well, at the end of the meeting, you know, the agreement was I was going to sign it, so I sent an email saying I’m going to sign it, provide the document for me and I’ll sign it, yeah.

But you didn’t convene that meeting earlier that - - -?---No, I didn’t convene that meeting but the end of the meeting.

30

Correct. So in this email transmission on 6 March at 5.55pm, you’re communicating to Mr Singh that you will now be signing the tender evaluation report.---Yes.

And that’s very clear both in the first paragraph where you say, and you can look at it, that the TEC recommendation should now proceed in this instance. Do you see that, sir?---Yes, I do.

And also in the very last paragraph, you see that you say, “At your earliest convenience, please forward a current TER so that I can sign same and commence the purchase supply”?---Yes.

40

So you’re communicating the change in your position to Mr Singh?---Yes.

And also in the course of this email transmission, you communicate your reasons for that change?---Not entirely but some of them, yes.

Well, one of the things you indicate to Mr Singh is that there’s been what you call a consultation process, so a matter of process?---Yes.

And then in terms of matters of substance, in the second paragraph, you first deal with the problem that the request for quote was specific in relation to scale dimensions. Do you see that?---Yes.

And that had been your prime concern about the tender process?---It was one of my concerns, it wasn't the prime.

But it was a significant concern?---Certainly significant, yes.

10 And then having stated that reason, you then gave three reasons why nonetheless you had decided to proceed?---That's correct.

Looking at the first matter after the word however in that paragraph, you write, "This aligned with the current scale racking system fitted to most RMS enforcement vehicles." Can you just explain please what you meant by that?

THE COMMISSIONER: I think we've heard a lot of evidence about that.

20 THE WITNESS: The scales fitted the racks.

MR TYSON: Pardon?---That scales fitted into the racks.

I take the Commissioner's point and I'll move to the next part. Then it says after the conjunctive and, "Enabled a speedy supply process in order to replace the large number of current scales failing in service." Can you please explain what you meant by that?---It meant if we got the scales, I wouldn't have to be repairing them myself. I'd be happy to go ahead and get them.

30 But what did you mean by speedy, a speedy supply process?---It means before the end of the financial year I expected there was 125 scales delivered into Australia.

So that was relating to funding leading up the financial year?---Well, that was the, the, the tender was to buy these 125.

40 And the third matter that you dealt with after the next use of the conjunctive and, "Preventing uneconomical repair costs," what did you mean by that, please, sir?---The old scales were getting expensive to repair. The actual electronic heads for the 10A Series I and II could no longer be procured.

And then if I go to the next paragraph and please feel free to read it to yourself, is that along the lines of the proviso that you've given the Commissioner evidence about in the last half an hour or so?---Correct.

And so this email, you'd agree, was an email which you sent to Mr Singh to communicate your change in position in regards to signing?---Yes.

And you were also communicating to him your reasons for that change?
---Yes.

But this wasn't, in any way, a record or a file note or a summary of what had been, you know, a blow by blow description of what had been said or not said in the meeting earlier that afternoon?---No.

10 And just before we leave this document, you'll see that you've addressed the email transmission to Mr Singh, you've then copied it to a Craig Steyn. Who's he, please?---I believe he was acting in, I think at the time he was acting in Arnold Jansen's position or he was somewhere in the management side of Heavy Vehicle Programs.

Was he someone who you had talked about this specific area of concern to you in regards to the tender process?---He was not, no.

20 And then of course, the other people, Mr Soliman, Mr Jansen, Mr Patterson and Mr Jenkins. And Mr Jenkins of course was your direct manager?
---Correct.

Commissioner, no further questions.

THE COMMISSIONER: Thank you. Now, Ms King, I really do not want you going over ground that Mr Tyson's already asked Mr Jones about.

30 MS KING: Yes. Noted, Commissioner. Mr Jones, I appear on behalf of Mr Jansen and I'll ask you a confined number of questions. The first point is just to correct an issue that was raised in relation to the email of 6 March, 2018, which is found at page 171 of volume 10. You were just asked some questions about the identity of Mr Craig Steyn.---Yes.

If I suggested to you that he was acting in the role of Samer Soliman at that time, would that refresh your memory?---I, I thought at the time he was acting on behalf of Arnold Jansen. I'm not sure.

40 THE COMMISSIONER: But you've got a recollection he might have been acting for somebody who was away, acting in their position?---Yeah, he was, he was involved in, I was tagging him into emails that I was talking about the service contract with AccuWeigh and other matters. I, I thought at the time he was filling in for Arnold Jansen, yes.

MS KING: He wouldn't have been acting for Arnold Jansen on 6 March because that was the date that you'd just met with Mr Jansen, wasn't it?
---That's correct, yeah.

Yes. So he must have been acting in some other capacity.---I assume so but I'd been conversing with him about these matters previously and I just wanted to give him a heads-up where we're at.

THE COMMISSIONER: Ms King, does it actually matter?

10 MS KING: It was just a matter to be corrected because it was suggested that he was acting in Mr Jansen's role, and Mr Jansen had the meeting with Mr Jones on that day. Mr Jones, when you had the meeting of 6 March, you knew that Mr Jansen had only recently started with RMS, didn't you?---I found that out later, yes.

THE COMMISSIONER: After the meeting?---Oh, I can't recall before or after, yes.

MS KING: If we go to your statement at paragraph 47, you say, "Jansen was the new boy on the block."---Yes.

20 You understood that he was the new boy on the block because he'd only recently started with RMS, didn't you?---That's, that's the inference I'm making, yeah.

Sorry, when you entered the meeting with Mr Jansen on 6 March, you knew that he had only recently started with RMS, didn't you?---I think so, yes.

In fact, he only started with RMS at the end of January 2018.---I don't, I'm not aware when we were (not transcribable) to the position.

30 And you've variously recounted, in your statement you say Mr Jansen said words to the effect of "I understand you're a troublemaker. You're not doing your job." But then in evidence today, the comment that was said was, that you say Mr Jansen said, was that you were stubborn and hard to deal with. Can you recall which one of those it actually was?---I don't know the specific words that were used but it was words to that effect, that, you know, I wasn't doing my job and I, I was stubborn or something along those lines. I don't know exactly what words were spoken but they were of that meaning.

40 THE COMMISSIONER: And words that you took offence to.---Yes.

MS KING: Now, I don't wish to dispute the fact that you found these words offensive, but I want you to think back to the meeting and to think about the expression on Mr Jansen's face and wonder if it wasn't intended to be offensive but in fact could have been somewhat clumsy humour.---I didn't take it to be in that vein. I, you know, this is the first time I've met a person. We're introduced, shake hands, and then basically his opening

statement is, you know, “We’re here today because you’re not playing the game.”

Mr Jones, once again I would like you to think about not how you received the statement, which I acknowledge you felt was offensive, but the demeanour of Mr Jansen as he made this statement. Was it in an aggressive and overbearing manner or could it have in fact been a clumsy attempt at humour?---I didn’t take it to be a clumsy attempt at humour.

10 THE COMMISSIONER: Can you recall the look on his face when he said it?---Not particularly, Commissioner, no.

MS KING: But you certainly don’t recall that he was looking overbearing or aggressive?---No.

And in fact during the course of the meeting with the concerns that were raised by you about the process that had been undertaken thus far, Mr Jansen in fact adopted those concerns.---Yes.

20 Nothing further.

THE COMMISSIONER: Thank you. Mr Young.

MR YOUNG: Yes. Mr Jones, I represent the interests of Mr Samer Soliman. Now, I’ll be asking you some questions in relation to your statement. Would you prefer to have a hard copy in front of you while – or are you happy to just look at - - -?---No, it’s fine on the screen. I’ve got a hard copy (not transcribable). The screen’s fine.

30 Now, you recall Mr Tyson, the gentleman to my immediate right, asked you some questions in relation to various people at RMS as to whether you knew them. You were on this four-person evaluation panel for the tender of the 125 scales with three other persons.---Correct.

Now, they were Clare Lemarechal, Barry Everson and Jai Singh?---Correct.

Taking each of those in turn, did you know each of those people prior to your involvement on the Tender Evaluation Panel?---Clare, definitely. Barry, definitely. Jai, I think so.

40

Now, just dealing with, when you say Barry, that’s Mr Everson?---Yes.

Now, he has a 50-year career in the – well, as of now a 50-year career in the RMS. That’s correct?---I’m aware of that. Yes, that’s correct.

And would you say that he is a person you would regard as being a person of integrity?---Yes.

Now, dealing with your statement, I'll take you to various parts of it, but you stated that you had concerns – well, I'll withdraw that. I want to deal firstly with the company ELWC, which you give evidence about at paragraphs 19 to 21 of your statement. Now, ELWC at one stage had a contract with RMS and lost it, is that correct?---That's my understanding, yes.

10 It's a bit more than an understanding, isn't it, because you had a close relationship with Mr Doherty.---I didn't have a close relationship with Mr Doherty.

Well, you certainly dealt with him from time to time.---Professionally, yes.

Now, paragraph 21, you say he was nine months behind supplying calibration certificates which you need if you need to go to court. Now, what are you talking about in terms of going to court?---If you, if a challenge, if someone challenges or appeals against a breach or a court attendance notice about a vehicle being overweight, they may require the
20 calibration certificates to ensure that the scales at the time we were using were in calibration.

The position was, wasn't it, that ELWC had become, their performance had become scandalously bad.

THE COMMISSIONER: Sorry, the performance with doing the calibration certificates?

30 MR YOUNG: Their performance generally in terms of the maintenance of the IRD products had become scandalously bad.---I wouldn't say scandalously.

MS WRIGHT: I object to the – I object, I object. I object to the word “scandalously”, Commissioner.

MR YOUNG: Well, I'll withdraw it. It was a matter of notoriety in the RMS as to how bad their performance was.

40 THE COMMISSIONER: How about within the inspectors and the people you work with?

MR YOUNG: Within the circles in the RMS in which you moved, it was a matter of serious concern.---His work had gone off. He'd become slack. Obviously that was a concern if the scales weren't being repaired properly or calibrated properly, yes.

And it had, well, it had two potential consequences, didn't it, firstly that people could be charged incorrectly?---(No Audible Reply)

I mean people could be charged with breaches as a result of the equipment not being correctly calibrated?---If that was the case, yes.

And unless they challenged it in court they could be wrongly convicted?
---Yes.

10 Now, that is a matter which would be serious discussion with the RMS, wouldn't it?---I don't know if he wasn't calibrating them properly. I know he wasn't repairing and servicing properly, I don't know whether the calibration was conducted as per the requirement.

THE COMMISSIONER: So the calibration concern was more a delay? Because you talk about he was nine months behind.---That's in providing the certificates after the calibration.

So you needed - - -?---If it was called upon by court we needed to produce the certificate to say at what date that particular scale had been recalibrated.

20 So delay in actually providing the certificate evidencing the calibration.
---Correct.

But also there was a concern, as you said, his work had gone off and he was slack on repairs.---Yes, on servicing, yes.

MR YOUNG: Now, your view of it was that he just wasn't doing the job.
---Not to our expectations, yes.

30 Well, no, not to your expectations, he just wasn't doing the job are your words in your statement.---I don't believe I said that but I may have done.

Well, let's just have a look.---Well, have a look, yeah.

Have a look at paragraph 21, third line.---Yeah, that was my opinion, yes.

So the job that he was meant to be doing, he wasn't doing.---My opinion was that he wasn't doing it to the best of his ability or what was required, yes.

40 Not to the best of his ability, he just wasn't doing it.---He was doing part of the job. He wasn't not doing anything, he wasn't doing exactly what was required.

Now, one of the things that he was doing was he was manufacturing his own parts, wasn't he?---That's my understanding, yes.

Now, that is not a proper practice, is it?---Why not?

Aren't you required, for scales such as the IRD scales, the PAT scales, to use OEM parts, in other words, parts from the manufacturer?---I'm not aware of that.

You're not aware of that requirement?---No.

Do you not see why that might be a safety requirement?---No.

10 You're satisfied with a local person manufacturing parts, not a certified spare parts manufacturer, making parts for overseas-manufactured equipment?---These aren't major components that would affect the weight cells or the electronics of the scales, these are minor articles such as rubber handles or springs, cups and balls and post, circlips, washers and wave washers, plates at the bottom and screws. They're not major parts or any way would affect the performance of the scale.

THE COMMISSIONER: So the weight cells or electronic components, your view is that they should have been sourced from IRD?---Absolutely.

20 MR YOUNG: And was it part of the end of life of the scales arising at the time that it did partly due to the fact that they hadn't been properly maintained in recent years?---No. It was the fact that we were, they were wearing out. They should have, there should have been a program in place years before to, to, you know, progressively replace them. You know, they, they were, they were old, they, you know, there, there was metal fatigue. We were using them more and more and they were breaking down.

30 And do you know, during 2018, whether the direction was from senior management that the whole of the fleet was to be replaced?---I don't know anything about that. I, I had heard that but, you know, they were, the intention was to replace them or, my understanding or my, I, I gathered that there's every probability, if we transfer over to the national regulator and they take over equipment, you wouldn't want to be supplying them with equipment that was worn out.

Now, the whole fleet was 550 vehicles?---No, no, no. 550 scales we had state wide.

40 Oh, sorry, 550 scales, I beg your pardon. The whole, was 550 scales?
---Correct.

And the tender evaluation that you dealt with was for 125 scales?---That's correct.

So you would expect that the future evaluation would be in respect of 425 scales?---But I'd already done the figures on that and I didn't, I knew that there wasn't another 425 required.

THE COMMISSIONER: The figures which I wrote down, you originally deducted 124, they had been provided in 2016?---We got 24 in 2016, we got 125, we got six that replaced the 10Cs, so collectively that was the amount of new scales that we had.

And that left me with 305, doing the maths?---Correct, yes.

10 MR YOUNG: Now, you say that, in paragraph 22 and onwards, you talk about you first coming into, paragraphs 25 and onwards, about a company called Novation. Now, what do you say your concerns were about Novation?---They were untested, they were new to the market, I done a Google search and I couldn't find an address or a phone number for them. I was concerned if they were going to supply scales, how they would cover wiring on those scales and servicing of those scales.

And who did you communicate these concerns to?---I communicated to my manager, Mr Jenkins, I spoke about it at meetings, I talked with my colleagues.

20 Well, long before the tender evaluation process?---Yes.

So you must have raised it during the tender evaluation process?---Yes.

But you didn't.---I did.

When?---I spoke in general conversation that I still wasn't happy with this company, I still was, had concerns about this company.

30 Well, you say that you said that at the meeting of the committee that took place on 12 February?---Probably that meeting, I believe so, yes.

Well, you see, have you read a statement from Mr Everson in relation to that meeting?---Not at that time, no.

No, have you read a statement that has been prepared for these Commission proceedings by Mr Everson?---Absolutely not.

40 Well, Mr Everson says that there were, you agree, there were three tenders submitted?---Yes.

He says that the Tender Panel progressed. As it progressed, each of the panel members took a tender package and read and evaluated each one individually.

MS WRIGHT: I object to this line of questioning, Commissioner. I submit it's not of assistance to you, Commissioner, to be putting another witness's version. The evidence of this witness is what it is and that of Mr Everson.

THE COMMISSIONER: I don't think it is very useful, Mr Young.

MR YOUNG: Well, what I suggest to you is that that panel on that day – that is 12 February, 2018 – individually and as a group came to the decision that Novation Engineering was the most suitable group for the tender to be awarded to. Do you agree with that? On that day.---By the way, we did that summary and weighting system, yes, I would think that would be correct, yes.

10 THE COMMISSIONER: And that's because they provided the PAT scales?---Yes.

MR YOUNG: And you didn't mention during that evaluation one single concern that you had about Novation.---That's incorrect.

Well, you understand that Mr Singh sent out an email on 13 February?---I expect so. I don't recall it.

20 Well, he sent out an email attaching a draft evaluation report, didn't he?
---It's possible. I don't recall it.

Well, what did you ultimately respond to in late February?---I don't know. Put it up and I'll be able to confirm it or deny it.

Well, I'm just asking you at the moment, what do you recall - - -?---I don't recall.

- - - you were responding to?---I don't recall.

30 If you have a look at page 31 of your statement, and I believe that this is at volume 10, page 169. Perhaps that can be brought up.

THE COMMISSIONER: This is the email of 28 February, where Mr Jones to Mr Singh says, "Hi, Jai. FYI, I will not be signing the tender evaluation report."

MR YOUNG: That's correct.

40 THE COMMISSIONER: We'll get it up for you, Mr Jones.---Fine. Yeah. I recall that. Yes.

MR YOUNG: Now, that is, is it not, 16 days after the Tender Evaluation Committee meeting?---Somewhere around about that time, yeah.

And what have you done in the meantime in relation to these concerns?
---Nothing.

THE COMMISSIONER: Sorry, the concerns that Mr Jones raises in his email?

MR YOUNG: Yes. The concerns that are raised in this email. Did you do anything about them from the time of the meeting up until 28 February?---I spoke to people about it, yes.

Well, which people?---My manager, my colleagues.

10 Well, did you speak to Ms Lemarechal?---No.

Did you speak to Mr Singh?---I don't believe so.

Did you speak to Mr Everson?---I don't believe so.

Now, where in that document, that email of 28 February, is there any concern expressed in relation to Novation?---There's nothing there, is there?

20 But you say that this was one of your biggest concerns.---I didn't say it was one of my biggest concerns. I said it was one of my concerns.

Well, if it's one of your concerns about the nature of this company, why would you not express it in this email?---I didn't go into detail of everything that I was concerned about. There were a lot of things I was concerned about. I outlined some of the things I was concerned about and said I didn't want to sign it. I was concerned about the whole deal.

30 Well, what you said was that the LP788 was the best and most economical available option, didn't you?---(No Audible Reply)

THE COMMISSIONER: Well, I think it's subject to - - -

THE WITNESS: Not on that document.

MR YOUNG: Well, the - - -

40 THE COMMISSIONER: I'm sorry, Mr Jones. It starts off by saying, "If and when these scales can be evaluated, after obtaining certification and behave successfully in operation, the overall package, scales and scale racks is by far the best and most economical available option."---Yes.

MR YOUNG: Yeah. So weren't you completely going against what you had done on 12 February?---Yes. I'd reflected on what we'd agreed to on 12 February, I'd been thinking about it for a while and I was concerned about it and that's why. I just wasn't happy, I wasn't comfortable with what was going on and therefore I said I don't want to sign this, I want it to start again, I want it to be done where there are field trials, I wanted the

specifications changed, I wanted to be able to look at these scales, I wanted the whole thing done again.

Well, why didn't you say exactly what? What you're saying is here, isn't it, that within the tender specifications that subject to the LP788 being untested and uncertified, that it was the best available and most economical option? ---If you read my first line it says, "Due to reasons previously raised and discussed." I talked about it.

10 Now, at that stage you had had discussions with AccuWeigh, hadn't you, about when they were going to complete the process of certification?
---I don't know what stage I spoke to them about that.

Well, what's your best guess?---Don't know. Can't recall. A lot going on. I was testing different scales, I had other things happening. I'm not sure of the timing.

20 But you did know or you did believe that they would get that approval around about June of 2018.---That's what they indicated to me, yes.

Now, why are you having discussions with AccuWeigh while you're part of a tender evaluation process about a matter such as that?

THE COMMISSIONER: Well, I don't know if he agreed with you that that's when he made the inquiry of AccuWeigh.

30 MR YOUNG: All right. I'll withdraw the question. Is it possible that you had these discussions with AccuWeigh prior to 28 February?---I don't believe so.

If you had have had those discussions with AccuWeigh would you have brought to the attention of the other members of the Tender Evaluation Panel?---Yes.

40 Why did you have conversations with AccuWeigh after 28 February, before June?---I wanted to trial this scales, they said that there would be scales available, irrespective of whether, what was in the tendering, I wanted to look at other scales, on my own, I wanted to look at what was available going forward.

But what you've said is that you believe that it was after 28 February that you had your discussion with AccuWeigh.---I'm unsure of the timing.

But you are it seems sure that AccuWeigh told you that they were expecting approval around about June?---I think so, yes.

So what I'm asking you is if it's after 28 February, why would you be having discussions with AccuWeigh as to when they're going to get approval?---Again, because I wanted to test their scales.

Well, what's the approval process got to do with testing their scales?
---They're uncertified. It's no good testing a scale if they're not going through the process of getting them certified, is it?

10 Well, we're talking March, April, May of 2018.---Yes.

Why would you be testing AccuWeigh scales?---To see if they worked.

For what?---Going forward, so if we were going to buy more scales, I could report back to someone if I was invited to be on a panel and say that I have physically evaluated these scales, and they meet the requirements, or they are better or as good as anything else on the market.

20 THE COMMISSIONER: Mr Young, you will recall that Mr Jones put, had the proviso which was included in the tender evaluation report that moving forward if there's going to be further purchase of scales, he wanted an open market.

MR YOUNG: Yes.

THE COMMISSIONER: And I would see, this would be part of that open market testing other scales.---Correct. Yes.

30 MR YOUNG: Well, it was never envisaged, was it, that the, that process would be done by you?---No.

And if you received important information about certification, that certification was in fact imminent, why didn't you convey that to anybody at the RMS?---I hadn't even tested the scales at that time. They're telling me, we're going to get them done in June. Who knows which June it was going to be? They said 2018. I don't know when the, what the timing was. I don't know even know to date where we sit today if they've been certified.

40 Well, here you are, on 28 February, saying, here's a great product, by far the best and most available, economical available option. Two problems, one untested, one uncertified. You're told - - -?---Yes, on paper, they appeared to be, because of their dimensions, and their weight, it would be a better scale than what we had ever used before, on paper only.

And you're told that certification is imminent.---I'm told that it was supposed to be completed by June of 2018, correct.

And yet, you tell nobody at the RMS about that.---No, why?

Well, is it not potentially relevant to any future consideration if this does get considered in future, or any matter in relation to any proposal by them? Is that not a relevant matter for the RMS to know?---Provided when I did the field trials of the scale, if they were suitable, then I probably would have pursued it. If they were unsuitable, well, they would have dropped the case, and I wouldn't, there wouldn't have been anything to do with that particular model scale, whether it was certified or not.

10 Now, in your statement, at paragraph 41, you say that as, you cried foul as soon as you saw the tender.---After reflecting on the tender, yes.

Well - - -?---Poor choice of words, "as soon as." Probably after I reflected on it, had a think about it, yes.

What, after about three weeks?---Yes.

Well, you see, you put this statement forward knowing that this has important consequences for individuals, didn't you?

20 MS WRIGHT: Oh, well, that - - -

MR YOUNG: Well, I'm sorry, I press the question.

MS WRIGHT: No, I'm sorry. That's not a fair question. He's been asked to give a statement of his recollection of facts, and it's been put that he made the statement knowing it would have consequences for individuals, when that's not a fair proposition, in my submission.

30 MR YOUNG: Well, with respect, it is a fair question (not transcribable) about whether they understand the significance of a statement that as soon as they see the tender specifications, they've cried foul.

MS HOGAN-DORAN: Commissioner, I rise in support of Counsel Assisting's objection on this basis, that Mr Jones is not represented. I'm sure the Commission would take that into account.

MR YOUNG: I - - -

40 THE COMMISSIONER: All right. Sorry, your question is that - - -

MR YOUNG: Well, I - - -

THE COMMISSIONER: - - - he made this statement knowing that it's going to have repercussions for people?

MR YOUNG: Well, I'll withdraw the – in view of the second objection, I will withdraw that question, so that, I don't want to be unfair to a person who is not legally represented.

THE COMMISSIONER: Okay, thanks, Mr Young.

MR YOUNG: When you gave this statement, you knew it was for an ICAC enquiry.---Obviously.

And you have mentioned before that in a meeting, you actually discussed ICAC and that something might end up in front of ICAC.---Correct.

10 So that you knew ICAC and what it does?---Yes.

And you know that that can have recommendations, or reports of ICAC can have serious adverse consequences for individuals.---Well, that's stating, with respect, the bleeding obvious, yes.

So when you are talking about something using a word such as "foul" - - -?
---Yes.

20 - - - you understand that that is an extremely pejorative word.---Pejorative, that's your opinion. I don't see it that way.

THE COMMISSIONER: So when you said, "I cried" - - -?---Foul, called it foul, smell a rat, wasn't happy with it. All the same.

MR YOUNG: Well, there's a big difference, isn't there, between "I wasn't happy with it" and "smell a rat".---In your opinion. It's my terminology I used.

30 THE COMMISSIONER: So when you used the words "I cried foul," you meant "smell a rat", "not happy with it"?---All of the above. I just wasn't, I, I just had this gut feeling that there was something more to all of this, and I just wasn't happy.

Kind of not kosher?---No, "not kosher" would be the word rather than "smell a rat" or being foul. That would be probably better, Commissioner, yes.

40 MR YOUNG: So it is just inconceivable, isn't it, that you would not have raised this at the Tender Evaluation Committee. It is just inconceivable.---I spoke about it. I'm sorry, you weren't there. I spoke about it. It's in the reply I sent to Jai, the discussions that we'd held.

So if that is the case, why did you go forward with the evaluation of the tender submissions on specifications that you smelt a rat about and cried foul about?---At the time, I did what was expected of a panel member. I weighted them up. I gave them a scale, I gave them a rating. I knew some background about them. We agreed that that was who had won the tender, and then I reflected on it. I thought I'm not happy with all of this.

Now, how many meetings did you have?---Don't recall.

But it was certainly more than one. I'm talking here about the Tender Evaluation Panel. You certainly had more than one meeting.---I think it was two total. Maybe wrong. Don't recall.

So there was no, you didn't feel there was any rush in relation to the actual evaluation process.---What do you mean by that?

10

Well, in terms of the actual process by which you were, your deliberations occurred, you didn't feel any pressure that you had to simply decide it in some unreasonably short period of time?---No, just followed the course of happenings, yeah, just business as usual.

Now, you say Jai took the lead.---Yes.

But you were a person of immense experience.---In what regard?

20 In regard to the RMS.---As far as the RMS, yes. I had nothing to do, as I've spoken about, I had no formal training on purchasing or probity. I'd never sat on a panel before.

Well, you certainly had knowledge in relation to specifications.---Yes.

And you would be able to guide individual panel members about any issue in relation to specifications.---If they asked for that guidance, yes.

30 Well, I suggest to you that at least one member of the panel did ask for that guidance.---Don't recall. That's possible.

And you went through each of the submissions or tenders to see whether they met the requirements and the specifications.---That's correct.

Now, you say, at paragraph 45, that you said to the others on the panel words to the effect, "I don't like this. There's only going to be one winner out of this. We haven't even trialled anyone else."---Words to that effect, yes.

40 Now, I suggest to you that you said no words to that effect at all.---Well, you're incorrect, I'm sorry.

Well, if that's the case, why do you agree to - - -

THE COMMISSIONER: Sorry, can I just stop for a sec. Mr Young, was Mr Soliman at this meeting?

MR YOUNG: No, he's not. But I'm relying on what other witnesses have said. I'm entitled to do that.

THE COMMISSIONER: Right.

MR YOUNG: And it's also (not transcribable) there is another basis for it.

THE COMMISSIONER: All right. Keep on going. Quickly, please.

10 MR YOUNG: If you had have said that, you would not have agreed to the decision made on that day to appoint Novation, would you?---The decision was made on the weighting system. The decision was not made on my gut feeling.

So you're saying that there can only be one winner out of this?---Correct.

In other words, the system's rigged.---They're your words.

20 Well, you tell me if I'm wrong in what your meaning was "there can only be one winner out of this".---My interpretation of the specifications that were set in the tender process were so narrow, they fitted exactly the specifications or dimensions that I had supplied. If you want a particular product, then you widen the scope to say, "Can your product fit within that scope." This particular specification narrowed it down to one and one only scale could meet those specific dimensions in my opinion.

If you say there can only be one winner out of this - - -?---Yes.

30 - - - you are saying quite clearly this system is rigged.---They're your words, not mine.

Well, do you agree with that or not?---No.

You don't?---No.

So you weren't saying to your other panel members, "We should not be doing this"?---No.

40 THE COMMISSIONER: Was your concern that potentially out in the market there could be other whiz-bang scales that although they might not fit in with those very, the particular specifications, might have been a great alternative?---Absolutely, Commissioner, yes.

And that's why you recommended the proviso, and the recommendation was that if you go on in the future and buy any more scales, for goodness' sake go out and do the market scan?---Correct, yes.

MR YOUNG: In relation to this particular tender, you've got three people there – including Mr Singh, who's the convenor of it – and you say that you are saying there can only be a single winner out of this?---By the way the specifications were set, yes.

Well, I suggest to you that the very first time you ever said anything like that to any of your panel, to convey in any way to any of your panel members, was when that email was sent in late February.---I suggest that you're wrong.

10

Now, you've given evidence about the racks and the cost of racks. Racks aren't something that can just be bought at Kmart, are they?---No.

And there are particular Australian design standards in relation to these racks?---No.

There are safety issues in relation to the use of racks in vehicles, are there not?---Safety issues in what regard?

20

That the racks are safe in the event of a crash.---They're a fixture. They're bolted in.

Yes, but they have to be safe in the event of a crash.---So does every component of a vehicle.

It is not, I suggest to you, simply a matter of going out and purchasing racks for vehicles. They have to be tested in relation to safety.---No, that is not the case. It is a storage system. It's a cabinet where you slide something in. All it does is locate it in a vehicle so they're not flopping around.

30

And do you say you have knowledge of that?---Yes.

Now, is your evidence that as a result of the meeting that you had with Mr Patterson and Mr Jansen that you signed on 7 March, 2018, a recommendation that you did not agree with?---Yes.

And that recommendation stated that the preferred tenderer on a value-for-money basis was Novation Engineering.---Yes.

40

And you did that in relation to some promise about the future?---I requested if we were moving forward that we did something differently, yes.

So is what you're saying that you were prepared to sign to a document that your opinion was A, when it was not A, on the basis that you were promised something about the future?---No, not entirely. I had a gut feeling about it, I didn't want to, I didn't like the process, having said that, the weighting system selected a particular scale, I still had concerns about the company

and the supplier. At the end of the day I wanted the scales, I needed them desperately.

Now, later on you were asked to be involved in the Tender Committee for the 425 scales, were you not?---Absolutely not.

I suggest to you that you were approached by Mr Singh on behalf of Mr Soliman as to whether you were prepared to be involved.---That is incorrect. I was approached by no-one. I had no conversation or documentation in regards to sitting on the second panel.

Did you have any conversation with anybody about the second panel?
---I certainly did.

And who was that?---Mr Jenkins.

Going back to the issue about ELWC, the arrangements that happened after ELWC ceased having the contractual relationship with the RMS resulted in a significant improvement in maintenance, didn't they?---No.

Well, I suggest to you that there was a significant improvement in maintenance.---Absolutely not.

Well, do you say that the position now is the same as it was back at the, at the time that ELWC were doing the maintenance?---No, there's been an improvement after, after AccuWeigh got the contract, had it taken off them, put an interim WeighPack in the place, back to AccuWeigh again, I was involved in all that trying to get them to repair the scale properly and get them delivered and picked up. I've had scales lost, I've had them misplaced, I've had them stolen.

THE COMMISSIONER: You say May 2019 the maintenance has improved?---Yes.

As you said, ELWC out of the picture, first entity is AccuWeigh.---Yes.

And I think you gave evidence of their technician coming up from Melbourne and - - -?---That's correct, Commissioner.

- - - you having to teach him.---Yes.

Very shortly your view of the standard of maintenance when they were first appointed?---They didn't know what a PAT scale was.

Then WeighPack took over for a period?---Yes.

What was your opinion of their maintenance services?---After I provided some training they were, they were fine, yes.

Then it went back to AccuWeigh?---Under a decision by the court, yes.

And their performance has improved?---Yeah. We're still having problems with them, but yes, it has improved.

MR YOUNG: Now, you've given evidence about a conversation that you had with Mr Walker about a scoping study. You say that he was a bit vague about it. What's your recollection of what he, what he told you?---My
10 recollection was, I asked him was there, you know, I understand there was a scoping study done on a evaluating scales. I said, "What scales did we evaluate?" He couldn't recall. "What were the outcomes?" He couldn't recall. "Was there a formal report?" He couldn't recall.

Now, when you saw in the RFQ the dimensions of scale that were in that, did they ring a bell with you?---Not initially, no.

Well, don't you say that they were dimensions that you gave when you say that the, when you said that the ideal scales was the 10As with the 10C
20 handle and change wheels?---That's right. The, the RFQ showed the dimension for the weighing platform, and later down the document, it showed the request for the handle, put the two together, you get the result on what I recommended or gave the dimensions of, the most acceptable, suitable scale.

In relation to those dimensions, it's just not true, is it, that the only scale that could meet those specifications was the PAT?---Overall, those dimensions, when you add the two together is exactly the dimensions of a PAT 10A
30 scales with a 10C handle.

That's not the question I asked you. You say in your statement that the only scale that could meet those specifications was the PAT.---Exactly those specifications, yes.

If you have a look at your email of the 28th of April, don't you say that the LP788 fits the dimensions?---Well, I don't remember screening, I didn't do anything in April.

THE COMMISSIONER: Sorry, that was the 28th of February, which - - -
40

MR YOUNG: 28th of February, yes.

THE COMMISSIONER: If you need to see it's volume 10, page 169.

MR YOUNG: Page 31 of your statement, it's volume 10, page 169.---Yes, I recall that.

Well, they met the specifications, didn't they?---Which met the specifications? Which particular scale are you referring to?

Paragraph 41, you say the only scale that could meet the specifications was the PAT.---The exact specifications, yes.

10 In your email of 28 February, 2018, you say that absent the issues of not being tested and certified that the best scales, fitting the dimensions, I suggest to you, fitting the specifications, was the LP788.---On paper it appeared that it would be idea because of the height, the weight and the weigh platform dimensions, yes.

In other words, it met the specifications.---No, it didn't meet the specifications. It was too long.

20 THE COMMISSIONER: What you said in paragraph 41 was exact dimensions. So the LP788 wasn't the exact dimensions and now you're saying it was longer but - - -?---Overall these dimensions are for the weigh, the actual platform where you put the tyres over it. it met those dimensions overall. It was longer than our racks but going forwards, as I said, the racks, to me were not expensive.

Not an issue.---This, on paper, because of the weight and in most particular, the height, 21 millimetres, was ideal. That's comparable with a HAENNI scale. The lower it is, the easier it is to get 60 tonne up on top of it.

30 MR YOUNG: Could the witness be shown volume 10, page 47D, please. Now, you were asked questions about this today and also 47C and 47F. And you said that it was something that you had never seen before.---Not in that format. Parts of that are not in the format that I had seen before.

Well, in relation to, at 47F you said that that was not a document that you had seen.---That particular document, no, but some of the contents were included in the tender or the proposal that was forwarded.

Well, what is the document that you saw?---The proposal to supply by Novation, which contained some of those details from that particular document.

40 Well, going back to 47D - - -?---I knew nothing about banks transfers and anything of the like in the document that I saw.

Well, going back to 47D, did it have a cover such as that?---Not that I recall.

Have you ever since the Tender Evaluation Committee process seen the document again?---No.

But whatever it was, it's not that document.---I didn't see that particular –
no.

Now, the specific request for you to be on the Tender Evaluation Committee
was made to you by Mr Jenkins, is that correct?---I believe so. That's what
I recall, yes.

10 And do you recall when that was?---No.

Was there any discussion with him about the nature of the tender and the
number of 125?---No.

Was there any discussion about urgency in relation to funding?---Not that I
recall, no.

20 Now, in your experience over the years in public service, you do realise that
funding which is not allocated or not spent in a particular year may not be
available in a subsequent year, don't you?---And it may be carried over, yes.

Well, there is a risk that it won't be.---Yes, I suppose so, yeah.

So was that not a risk that had to be evaluated in terms of this process? That
there was funding available and that if a decision was not made, that the
funding might not be subsequently available?---I suppose so, yes.

Yes, thank you.

30 THE COMMISSIONER: Now, I think we've got Mr O'Brien left. Have
you got any questions?

MR O'BRIEN: Yes, Commissioner.

THE COMMISSIONER: And then we've got Mr Lonergan. Now, Ms
Bonnor, I've seen you here, I take it you've got no questions?

MS BONNOR: That's right, Commissioner.

40 THE COMMISSIONER: Oh, Mr Boatswain, sorry, you don't have any
questions?

MR BOATSWAIN: No, Commissioner.

THE COMMISSIONER: And Ms Dabliz?

MS DABLIZ: No, Commissioner, no questions.

THE COMMISSIONER: All right. Now, this is my big favour to ask Mr O'Brien and Mr Lonergan, this hearing room has to be used for another matter at half past 4.00, so I'm really keen to get Mr Jones's evidence finished. Do you think we can do it? Let's start. Come on, Mr O'Brien.

MR O'BRIEN: I'll certainly be within that time frame. I anticipate I'll be 10 minutes.

10 THE COMMISSIONER: Okay. Quickly.

MR O'BRIEN: Thanks, Commissioner. Mr Jones, my name is O'Brien. I represent Mr Singh.---Okay.

And I wanted to ask you some questions in relation to the procurement of the 125 portable weigh scales. Can I start by having you shown Exhibit 48, please, and in particular the email from 13 February that I think just about begins that sequence of emails in that chain. Now, have you got that there in front of you?---I do, yes.

20

So it's not on the screen. Oh, hang on, there it is.

THE COMMISSIONER: There it is.

MR O'BRIEN: Now, if you go back along that chain to the last page within the exhibit you see there's an email from Mr Singh to you dated 13 February, 2018?---Yes.

It also is to Mr Everson, Ms Lemarechal. Right?---Yes.

30

Now, that is obviously, that is obviously, that is obviously an email that is sent to you after the Evaluation Committee has met.---I'm not sure of the timing.

THE COMMISSIONER: I think it was on the 12th you met. Is that correct? ---It's probable, yes, I think so, Commissioner.

MR O'BRIEN: And you can see that Mr Singh has said, "I can recall, I recall you mentioning that inspectors carry eight to 10 scales these days," et cetera. Do you see that part of the email?---Yes.

40

And that was obviously something I suggest you'd mentioned at the meeting, at the Tender Evaluation Committee meeting. Is that right? ---I would expect I would have said that, yeah, yes.

Thank you. And he then asks you about the issue of new racks. Correct? ---Yes.

Because again, at the meeting there had been discussion about the dimensions being too limiting in scope. Correct?---Yes.

And the committee had resolved that they ought consider, that you ought consider as a committee the possibility of fabricating new racks for the RMS vehicles. That's right, isn't it?---No.

That's right?---No.

10 Oh, you said no?---No.

Well, I'm suggesting to you that that was one thing that was raised at the meeting. Do you not agree?---I don't recall, no. It may have been, can't recall.

Well, this is an email sent by Mr Singh to you the day after, it would appear, the committee met and he's raising these matters for your information. Correct?---It appears so, yes.

20 And he's raising these matters because you are the subject matter expert in the committee. Correct?---Yes.

And you had the wherewithal and knowledge to know about the, whether or not new racks could be fitted that might fit other types of scales. Correct? ---Yes.

And so I'd suggest again that that's what he's raising with you, that that had been raised at the meeting and the issue of fabricating new racks for different types of scales could be facilitated and asking you about that process. Correct?---It appears so, yes.

And it looks like he's asking you whether or not if you put new racks in, will that affect the number of racks that inspectors could carry, first of all, correct?---Yes, but in fact, we already had racks that held 12 scales in some of our vehicles.

And he's also asking you about the cost implications of that. Is that right? ---He indicates that it's not part of the, a whole deal of the funding, but it was my understanding that if there was to be racks, new racks to be made, that it would come out of my funding, and, and in fact, the current racks I modified to suit the scales at a small cost.

And you were obviously concerned that the funding should come out of, if there's going to be new racks installed in the inspectors' vehicles, then the funding should come from the terms of the procurement - - -?---No.

- - - not from your budget.---No. No. Definitely not. No. It was about buying scales. It wasn't about buying racks.

But if there - - -?---It's always been the case that I buy racks for my vehicles.

10 But weren't you concerned if there was going to be a procurement that only involved the, in fact, one type of scales being available to fit the racks, that was a problem, wasn't it?---It wasn't a large problem as far as the current racks that I knew of in Sydney. I didn't know about the rest of the state, as have, as I've said. And I repeat, there was a small cost to modify these racks to suit the scales.

Yes, well, let - - -?---The existing scales and existing racks. It wasn't part of the project to buy the 125, as I understood it.

Okay, well, and in fact, this is exactly what Mr Singh is asking you about in this email, those type of, that type of information, as the subject matter expert, correct?---It would appear so, yes.

20 Thank you. And you responded to that email, do you recall, on 15 February, and that's further along in the chain, on the, so, 15 February, you see you've written there, "Hi Jai," you've got that?---Yep.

And you have set out, there are, there's numerous manufacturers of scales, correct?---Yes. Correct.

Highlighting your problem that you had been in this procurement process only been provided with a small number of manufacturers, correct?---Yep.

30 And also, further on in the email, you set out the costs of, let's call it refabricating the racks, and placement in the RMS vehicles, correct?---Yes.

And you've given evidence before the Commission that your view was the racks shouldn't be a problem, that the racks can be changed, and that shouldn't restrict the procurement process, correct?---Correct.

And, but one of the things that you were concerned about was who was going to pay for the racks to be changed.---I wasn't concerned about it. I was going to do it myself.

40 Every single RMS vehicle was going to be done by you?---In Sydney. I'd have arranged it to happen, yes, if it, it was required, yes.

But were all of these 125 portable weigh scales going into Sydney regions? ---Yes. The first 125 – oh, sorry, some went down south. But the bulk of them, I think 80-odd, don't quote me on it, 80-odd scales went to Sydney, yes.

So is it your evidence, Mr Jones, to the Commissioner here today that you were going to yourself facilitate or in fact install the new racks if they were required?---I would arrange to have the parts made if we needed to do that to modify the existing racks. There was no necessity if we were going to buy that particular scale.

Did you have the budgetary enablement to have that occur?---Yes.

10 Right. And so you just expected that'd come out of your budget?---Yes.

I see. I'm suggesting to you that there was concern raised by you at the meeting at the time, as you've raised in this Commission, that you were concerned where the money was going to come from for that particular re-fabrication process. What do you say to that?---No, I say that's not correct.

Very well. I want to take you then to volume 10, page 164, please. Now, this is an email from Mr Singh to Mr Jansen and Mr Steyn. Do you see that?---Yes.

20 Have you seen this email before?---No.

Now, I don't intend to take you laboriously through it but if you feel the need to read it because of some Michael's apprehension or whatever with my questions, then please take the time but what I'm going to suggest to you is that this email to those two gentlemen from Mr Singh on 21 February, 2018, sets out that there had been a problem raised in the Evaluation Committee related to the restrictive nature of the scope vis-a-vis the dimensions of the racks in the cars. Do you see that?---No. Whereabouts are you reading from that, which part's that? Is it down the bottom?

30 No. I'll take you through it. You can see in the second paragraph - - -

THE COMMISSIONER: Do want a minutes just to read it very quickly, seeing you haven't seen it before? It just might quicken things, Mr O'Brien.

MR O'BRIEN: Certainly, Commissioner.

THE WITNESS: Yeah, read that, yeah.

40 MR O'BRIEN: Thank you. So this email followed your email setting out the cost of refabricating the vehicles in terms of the racks, correct?---I assume so.

And it set out an additional cost to replace the racks on all RMS enforcement vehicles, you see that?---I do.

And indeed it then added that cost to each of the two tenders quotes or two tenders figures where those tendered had not provided scales that fitted within the scope dimensions, correct?---Yes.

And it then asks within the terms of this email whether or not those more senior to Mr Singh in this process, Mr Jansen and Mr Steyn in particular, could clarify whether replacing the storage racks could be considered within the scope of the procurement. You see that?---Yes, I do.

10 And so I want to suggest to you that this email, at least to some extent, reflected the concerns by the panel members as to this particular problem?
---No.

THE COMMISSIONER: Sorry, was that a yes or a no?---No. That's a no, Commissioner.

MR O'BRIEN : Well, you - - -?---And I note there that it says there's a cost of approximately \$300,000 and I think the word mentioned was we put a bit of fat on it and I think I said I, it was around about 70 or \$80,000 would
20 have replaced every rack across the state if that was necessary but I am not aware of what make, style, dimensions of racks in all the country vehicles are. I'm only familiar with what's in Sydney and as I've said, I modified the existing racks at a small cost to fit the scales.

Well, leaving aside the cost, leaving aside the figure and what it ought to be, well, I withdraw that. First of all, at the committee meeting itself, evaluating these portable weigh scales options, there was no figure given as to the cost of replacing the racks in each of the motor vehicles, was there?
---I don't think, no, as I recall it, I don't think so, no.
30

But that there was subsequent correspondence between you and Mr Singh as to what that cost might be, correct?---Yes.

So leaving aside then the figure, there was obviously going to be a cost associated with that process, correct?---Yes.

And that was a cost associated with this procurement process, correct?
---Procurement was to buy scales.

40 Well, you yourself mentioned in your statement that one of the items that needed to be considered was the chargers for the scales, correct?---Yes.

Well, you yourself mentioned in your statement that one of the items that needed to be considered was the chargers for the scales, correct?---Yes.

It was a cost incidental to the purchase of the scales, right?---No.

Well - - -?---The scales, the scales don't work without the chargers.

Yes. So - - -?---The racks, the racks may have fitted different makes of scales depending on their dimensions or for a small cost been modified to suit.

So if they had to be modified to suit, there was a cost associated with it.
---Yes.

Am I wrong in describing that as a cost incidental to the procurement?
10 ---Yes, you are wrong.

Well, I suggest you're being ultra, ultra-semantic in that response, Mr Jones.---Well, that's your opinion, yes.

THE COMMISSIONER: But I think is your point, Mr O'Brien, if the racks had to be modified, who was going to pay for it? And we've heard Mr Jones's evidence that it would come from his budget. It wasn't part of the -
- -?

20 MR O'BRIEN: Yes. And I've suggested to Mr Jones that was a concern of his at the time. He's disagreed with it. So I'm simply following it up with this email that seems to suggest that that was the case. But I'll proceed, Your Honour, Commissioner. So you see in the second-last paragraph of page 164 that Mr Singh is asking Mr Jansen and Mr Steyn whether the scope of the procurement could be expanded to consider the cost of storage racks. You see that?---I see that, yes.

And I'm suggesting that that logically flows from the emails between you and him as to the possible necessity, depending on the scales that were
30 procured, to have to do that, correct?---I don't see it that way, no.

Thank you. Now, Mr Jones, I want you – well, I don't need you to be shown volume 10, page 169. You've seen that many times already this afternoon. That's your refusal to sign the TER.---Yes.

THE COMMISSIONER: The email of 28 February.---Yes, Commissioner.

MR O'BRIEN: And that was sent at 4.32, according to the document, on 28 February, 2018. But I'd like you, please, to be shown – it is again but
40 unfortunately necessary – the email on page 168 of volume 10, please. So at the bottom of that email at 5.53pm, on 28 February, 2018, Mr Singh sends an email to Mr Steyn and Mr Jansen.---Yes.

Relaying the concerns that you have raised in relation to not wanting to sign the tender evaluation report. You see that?---Yes.

He says that there are valid points in relation to you as the subject matter expert and that you've raised those, correct?---Correct.

They were, I think you'd agree, they are fairly, he has fairly raised your legitimate concerns in this email to senior management, correct?---He's been inaccurate in what he's raising.

Well, I want to suggest he has suggested in this email first of all that you've got valid points in relation to the evaluation procedure, correct?

10 THE COMMISSIONER: Have you had a chance to read it?---Yes, I have, and my concern is that in the second paragraph it says that "The RFQ being restrictive was due to the size of the scale racks currently installed in the vehicles." That wasn't part of the RFQ. We were buying scales. We weren't buying racks.

20 MR O'BRIEN: Well, Mr Jones, without having to quibble with you about it. I suggest that is one of the issues that was raised, not in those identical terms, but that was one of the issues you raised in your email an hour earlier on 28 February, wherein you said you would not be signing the tender evaluation report. Do you disagree with that?---I, I don't, without looking at the exact wording that I've said, I - - -

I'm not suggesting it's word for word, Mr Jones. I'm suggesting it's the tenor and flavour of what you were complaining about in relation to your refusal to sign the TER. Do you disagree?---Well, well, with respect, can you put it back on the screen. I'll have another look at it.

THE COMMISSIONER: Page 169.---Please.

30 Yes. Sorry, volume 10, page 169.

MR O'BRIEN: Now, you see that, "I will not be signing the tender evaluation report due to the reasons previously raised and discussed." Dash.---Yes. Yes.

"The RFQ was too restrictive regarding dimensions and other applications submissions were unable to meet the specified dimensions." Do you see that?---Correct.

40 Well, isn't that a reference to the dimensions being the racks within the RMS vehicles?---It is most certainly not. It is in reference to the tender process and the specifications set out for a scale.

But you know, Mr Jones, and you knew then that those specifications related to the racks within the RMS vehicles.---Absolutely not.

Are you saying you didn't know that then or you don't know it now?
---You're asking me if this all, that reply that I sent back related to we're not buying these because they don't fit the racks. That's incorrect.

No, Mr Jones. You've raised in this email here that's on the screen - - -?
---Yes.

- - - a problem with the dimensions that have been provided in the scope of the RTF, right?---For a scale.

Correct. Which you know and knew then related to the size of the racks in the RMS vehicles. Are you disagreeing with that?---I don't see your point.
10

I'm not making a point, I'm asking a question.---I don't, I don't understand the question. I'm buying scales, I'm not buying racks.

Yes, but you knew that the dimensions were based on the size of the racks, did you not know that?

THE COMMISSIONER: Well, hold on. Do you agree with that?---I'm sorry, the dimensions were for a scale. The racks themselves could fit scales larger and smaller if you modified them, sorry, in the existing racks that I knew of in Sydney, not statewide.
20

MR O'BRIEN: Okay. I'm going to come at it one more time and then I'm going to move on. I'm suggesting to you, Mr Jones, that you knew at the time of the Evaluation Committee's meetings and you know now that - - -

THE COMMISSIONER: Can we just keep it - - -

MR O'BRIEN: I'll break it up, yes, certainly, Commissioner.

30 MS WRIGHT: I think it's already been - - -

MR O'BRIEN: You knew at the time, at the time of the Evaluation Committee meeting that those dimensions in relation to the scales had been provided because of and related to the size of the racks on the motor vehicles.---Absolutely not.

Coming back then to page 168, please, do you agree that Mr Singh in the second paragraph has said in conformity with your view that the RFQ is too restrictive?---That's what he's written, yeah. I don't agree with it.
40

Did you think the RFQ was not too restrictive?---The RFQ was restricted in the dimension for the scales, nothing to do with the racks.

Well, that reflects your view that the RFQ was too restrictive.---In line with the dimensions of the scale. Yes.

Thank you. And then he goes on to - - -?---Those words are referring to a rack. I didn't write them, I didn't advise Jai about that.

THE COMMISSIONER: Mr O'Brien, the point that Mr Jones has really made is that it's not his document, he hasn't seen it before, it's a communication between Mr Singh and Mr Steyn and Mr Jansen, copied in to Mr Soliman. I don't quite know what you're trying to achieve or where we're going.

10 MR O'BRIEN: Contrary to the suggestion that there's any wrongdoing by my client, he has followed the concerns raised by Mr Jones, being the expert in the field, as to what was raised at the Evaluation Committee meeting. That's the point. This was a faithful or close to faithful representation of what the concerns were raised by Mr Jones. That would suggest something other than what's set out in the summons in these proceedings.

THE COMMISSIONER: Oh, I think the summons in the proceedings goes to something different, but anyway.

MR O'BRIEN: Well, given - - -

20 THE COMMISSIONER: Can I just ask, do you think you'll be finished, and sorry, I should, the first thing I will say is I'm obviously very, very keen to get evidence finished, but I recognise that counsel have questions to put to the witness so that they can represent their clients, so to both you, Mr O'Brien, and Mr Lonergan, where are you, I'm keen on trying to get things moving, but please don't feel that I'm putting you under pressure and limiting you. Are you going to be finished, Mr O'Brien, by half past?

MR O'BRIEN: No. I didn't anticipate the difficulty I'm having.

30 THE COMMISSIONER: Mr Lonergan, how long do you think you'll be?

MR LONERGAN: Half an hour, Commissioner.

THE COMMISSIONER: You know where this is going.---I do, Commissioner.

40 Mr Jones, I'm terribly sorry, but as I said, we've got to vacate the hearing room for another matter and your evidence just won't be finished. Unfortunately you're going to have to come back Monday morning at 9.30. ---C'est la vie, Commissioner.

Again I apologise because as I said first thing this morning I know you sat around yesterday, but your evidence is very important to the inquiry. ---Look, there's no problem, Commissioner. I've been to court and proceedings and provided statements to ICAC in my long career. I accept that there are delays and mix-ups with witness lists and whatever, and what will be will be, and we'll move on. I'm happy with that.

Okay. Yes?

MS HOGAN-DORAN: Commissioner, I note Mr Everson has also waited sometime.

THE COMMISSIONER: I'm sorry.

MS HOGAN-DORAN: You require him to attend again on Monday?

10 THE COMMISSIONER: Where's Mr Everson?---At the back.

Again, apologies. I think you might have been here yesterday when I apologised. Mr Everson, I will have a discussion with Counsel Assisting and my solicitor about the witnesses for Monday, but my chief aim will be to finish Mr Jones and to try and minimise the inconvenience to you any further, which may mean – are you able to come back on Monday? All right. We'll confirm on the website when you should come back.

20 MS HOGAN-DORAN: And I hesitate to raise again, and we're also awaiting indication as to Mr Lee, whether he's required to return.

THE COMMISSIONER: Yes, we'll take that on board.

MS WRIGHT: Yes. I will make a determination and discuss that with you, Commissioner.

THE COMMISSIONER: Now, Ms King's raised?

30 MS KING: Yes. I just note that Mr Jansen is meant to be giving evidence on Monday and he's here right now. Can we perhaps give him some comfort that he's unlikely to be called on Monday or will be know that in the near future?

THE COMMISSIONER: Mr Jansen, again, oh, Mr Jansen, sorry, apologies. Can you just let me have a discussion about the ordering of witnesses and we will let both Mr Jansen and Mr Patterson know as well but I'm just very keen to get them finished.

40 MS WRIGHT: As well as Mr Chehoud who also remains on the witness list and who's here.

THE COMMISSIONER: Oh, yes, sorry Ms Bonnor. Hi, Mr Chehoud, again, apologies to you. Yes. I think Mr Jones expressed it best, it's just one of the problems with these types of matters where you have lots of interested parties who want to ask questions but we are trying to minimise the inconvenience to everybody.

MS BONNOR: That's understood and thank you and we'll be in touch with those assisting.

THE COMMISSIONER: Thank you, Ms Bonnor. All right then. We'll adjourn and resume at 9.30 on Monday morning.

THE WITNESS STOOD DOWN [4.28pm]

10

AT 4.28PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.28pm]