

EMBERPVT00353
25/01/2019

EMBER
pp 00353-00418

COMPULSORY
EXAMINATION

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

COMPULSORY EXAMINATION

OPERATION EMBER

Reference: Operation E18/0281

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 25 JANUARY, 2019

AT 10.00AM

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

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

Sensitive

THE COMMISSIONER: Please have a seat.

MR HAYES: Thank you.

THE COMMISSIONER: Now, this is a compulsory examination of Paul Hayes and it's being conducted for the purposes of an investigation of allegations or complaints of the following nature. Since September 2015, Roads and Maritime employee Samer Soliman has partially and dishonestly exercised his official functions in relation to the awarding of contracts to Novation Engineering Pty Ltd, and since November 2016 Roads and Maritime Services employees Samer Soliman and Jainesh Singh have partially exercised their official functions in relation to the awarding of contracts to AZH Consulting Pty Ltd. Now, Ms Hook.

MS HOOK: Thank you, Commissioner. Ms Hook for the Commission.

THE COMMISSIONER: Thank you. Now, Mr Hayes, you don't have any legal representation today?

20 MR HAYES: No, I don't.

THE COMMISSIONER: Have you spoken to a lawyer about the examination today?

MR HAYES: No, I haven't. I haven't thought it necessary.

THE COMMISSIONER: All right. What I'm going to begin with is I'm going to make a number of orders. The first order is a direction as to who can be present during this compulsory examination. I direct that the following persons may be present at this compulsory examination – Commission officers, including transcription staff, and the witness.

Now, the next order I'm going to make is a suppression order. When you received your summons to appear here, you would have seen on the second page it stressed that these are confidential proceedings, and other than a discussion with a legal representative to get some legal advice, you are not to tell anybody that you came here for a compulsory examination, you are not to tell anybody about the questions that were asked, the answers that you give, anything about the proceedings.

40 MR HAYES: Ah hmm.

THE COMMISSIONER: And the following order that I'm going to make again extends that confidentiality to what will occur today.

MR HAYES: I understand.

Sensitive

THE COMMISSIONER: It will prevent those present today, other than the Commission officers, from publishing or communicating information relevant to this compulsory examination. It will permit Commission officers to publish or communicate information for statutory purposes or pursuant to any further order made by the Commission. The direction may be varied or lifted by the Commission without notification if the Commission is satisfied that it is necessary or desirable to do so in the public interest. And, importantly, it is a criminal offence for any person to contravene this direction under section 112.

10

So being satisfied that it is necessary and desirable in the public interest to do so, I direct pursuant to section 112 of the Independent Commission Against Corruption Act that the evidence given by this witness, the contents of any exhibits tendered, the contents of any documents shown to the witness, any information that might enable the witness to be identified, and the fact that the witness has given evidence today shall not be published or otherwise communicated to anyone except by Commission officers for statutory purposes or pursuant to further order of the Commission.

20

SO BEING SATISFIED THAT IT IS NECESSARY AND DESIRABLE IN THE PUBLIC INTEREST TO DO SO, I DIRECT PURSUANT TO SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT THAT THE EVIDENCE GIVEN BY THIS WITNESS, THE CONTENTS OF ANY EXHIBITS TENDERED, THE CONTENTS OF ANY DOCUMENTS SHOWN TO THE WITNESS, ANY INFORMATION THAT MIGHT ENABLE THE WITNESS TO BE IDENTIFIED, AND THE FACT THAT THE WITNESS HAS GIVEN EVIDENCE TODAY SHALL NOT BE PUBLISHED OR OTHERWISE COMMUNICATED TO ANYONE EXCEPT BY COMMISSION OFFICERS FOR STATUTORY PURPOSES OR PURSUANT TO FURTHER ORDER OF THE COMMISSION.

30

THE COMMISSIONER: Now, the final order that I can make is under section 38. Now, did you have a discussion with Ms Hook?

MR HAYES: That, that has been explained to me, yes.

40

THE COMMISSIONER: Right. And do you wish to have the benefit?

MR HAYES: I do wish to take it, yes.

THE COMMISSIONER: Now, I understand you've had a discussion with Ms Hook.

MR HAYES: That's correct.

Sensitive

THE COMMISSIONER: Now, as she's probably explained to you, outside the Commission if you're asked a question, you have a right to silence. Here I can compel you, you are compelled to answer those questions but you can give those answers under objection, which provides a protection to you that it can't be used against you in civil proceedings or, subject to two exceptions, any criminal or disciplinary proceedings. Now, I just want to explain to you in a little bit more detail the two exceptions.

10 The first exception is that the protection does not prevent your evidence from being used against you in a prosecution for an offence under the ICAC Act, and what we're really focussing on there is it's an offence if you give false or misleading evidence. The penalty can be imprisonment for up to five years. It's an offence that's similar to a form of perjury.

Second exception applies only to New South Wales public officials. Evidence given by a New South Wales public official may be used in disciplinary proceedings against the public official if the Commission makes a finding that the public official engaged in or attempted to engage in corrupt conduct.

20

Now, you've asked for me to make the declaration. By making the declaration, you don't have to object every time you are asked a question, it's like a global objection but can I just emphasise that it will not provide protection of you are found to have given false or misleading evidence. So it is just so important that you tell the truth during your evidence today.

MR HAYES: I understand.

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

40 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS COMPULSORY EXAMINATION ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

Sensitive

THE COMMISSIONER: Now, the final matter, Mr Hayes, I understand you'll take an oath?

MR HAYES: I'll take an oath, yes.

THE COMMISSIONER: We'll administer the oath.

Sensitive

<PAUL HAYES, sworn

[10.22am]

THE COMMISSIONER: Thank you. Ms Hook.

MS HOOK: Thank you, Mr Hayes. Are you currently employed?---I am. I'm self-employed at this stage.

10 And in what capacity?---I'm a private consultant in the areas of transport technology.

And do you have clients at the moment?---I do.

And can you name them?---The National Heavy Vehicle Regulator is one and the other is Transport for NSW in the area of the Centre for Road Safety.

The Centre for Road Safety?---Correct, yes.

20 And how long have you been in that consultant capacity?---Since I concluded my employment with Roads and Maritime, which was from, oh, those roles probably didn't start until about somewhere in 2018. I don't have the details with me right here. Probably mid-2018 until now.

Okay. So you left RMS at the end of 2017, is that right?---Correct, November 2018. I gave my notice in August and concluded my employment in November.

30 In November 2017?---Sorry, '17, my apologies.

That's all right. Can you give the Commission an outline of your employment history with RMS?---Okay, I, I had, I with RTA, Roads and Traffic Authority and Roads and Maritime for 26 years in total. I just looked it up, I had individual separate roles within that period of time. The last role was as a senior manager (compliance monitoring) but I, as I say, I had a number of different roles in between leading to that position.

40 How long had you occupied your last role there?---Look, I had trouble finding the thing but somewhere about, I was in that title for roughly about three or four years but I was doing similar work from about 2020 [sic] with different levels of responsibility.

Two thousand and?---Sorry, 2001, I should say.

2001.---So I roughly, in, I was responsible for enforcement technology and program management from about 2001 as those programs scaled up.

So roughly three to four years in the senior manager's role?---Correct.

Sensitive

Were you a manager prior to that role?---I was. In various, there was a lot of, what would they call it, organisational realignments and there was different names, but in all I was probably in a senior management role for nearly all of the period from 2001 in different levels of seniority if you want to put it that way. They, when we started off, just to give a scale of things, when I started off, there was only five in the team. By the time we finished there was 77 in the team and seven sub-managers.

10 And you had management responsibilities over the 77 staff at the end?
---Correct, yes, yeah.

THE COMMISSIONER: And sorry, you said 77 in the team?---Well, what I'm saying is that my area, which was compliance monitoring, had seven sub-units, if you want to put it that way and within those was a total of 77 personnel. There were seven sub-managers that I, I had dealing with, sub-units if you want to put it that way.

20 MS HOOK: Was the compliance monitoring unit with the seven sub-units, was that a creature of the most recent restructure?---It had been very similar in structure for a number of structures back, if you understand what I mean. Most recently an intelligent access unit was added to it but as, as the programs got bigger and more programs were added, you know, more areas of responsibility were put in there. For example, mobile enforcement was one that has been added on a number of years before that and I suppose because the, it was a very similar area of business, they were put together.

30 So when was it, if you can give us an idea, that you only had five people in your team?---Oh, that's 2001/2002 when the whole program kicked off.

40 All right. And when, roughly, was it that you began, that began to increase in number, the staff numbers?---Look, it was sequential. It, it, was, it might have started off with one or two units, three or four, as each individual area started to come on, for example, if you had point-to-point, there might have been an area that was then required to deal with that area of business and a unit would be, would be sort of established and a manager established for that sub-role. For example, in the area we, the subject of this matter, which would be heavy vehicle enforcement, I kind of inherited that from another area. That was heavy vehicle system maintenance which dealt with the inspection stations and, and the technology around point-to-point. So they were sort of accumulated together and, and then handed to me and said take care of it, that's it.

So when was that?---I don't have an exact date but I would imagine it would be the best part of eight years ago. I, you know, I don't have a date that I can recall. I was trying to look stuff up like that but I haven't got an exact date.

Sensitive

So was 2010 - - -?---Oh, that would quite reasonable, yes.

Quite reasonable. And was Mr Soliman in that unit at the beginning?---He would have been there from fairly early in the piece but whether it was there just when it was handed over, I'm not absolute, I don't recall. It was, I think, some of his team was but I'm not sure whether he was. The reason I, I say that was, I do recall the, the recruitment of the manager for that unit and I just don't remember the chronology unit, you know what I mean? The, I, I do remember that, who went for that application and the selection process and that would have been fairly early in the piece too, sort of, structure that area.

And who ended up being the manager of that unit?---Samer Soliman did at that time.

Do you remember the recruitment process?---Absolutely.

Well, I'll ask you about that in a minute. In your last role at RMS, the senior manager role, who did you report to?---I reported to the general manager, Paul Endycott, and sorry, just before I left, probably six months or so before I left, maybe up to a year, it was Roger Weeks, he had taken over that role.

And did you have a particular financial delegation associated with your management role?---Absolutely. There were sort of strict financial delegations for each individual grade, which was not terribly consistent but it was when you got the role you were given a delegation in terms of how much you were allowed to sign-off on. I, I think I was a seven but I have no idea, I, I'd have to look at the scale even to look at, look at, it's not something that we were sort of, when you came into the role, they go, oh, well here's your delegation. It was more that, that you would get advice about what delegation you had and how much you were allowed to, you know, authorise.

So how much were you allowed to authorise?---Look, if I remember correctly, somewhere in the region of 500,000 but again, I don't think it was ever a situation where the, a question in regard to authorisation in that space came. There were, obviously, a lot of, you know, larger contracts, for example, the mobile enforcement contract, where I wouldn't have been the signatory because that contract value would have been substantially well beyond my delegation.

Is it the case that whenever a contract was above 500,000, you would need to seek somebody with the higher delegation?---Absolutely.

And that would be the general manager.---It would have been the general manager as the next step above that. I, I wouldn't just off the top of my

Sensitive

head know what his delegation was but it was, you know, a million to 5 million I would assume.

So with the seven sub-units under you, was there a manager in each of those sub-units?---There was, yes.

Did they have a consistent or uniform level of delegation?---No, they didn't.

10 So are you aware of Mr Soliman's delegation?---Not off the top of my head but I'm, I, I think it was very similar to what I had.

Similar to yours?---Yes. But that's only in hindsight. It's not in, 'cause there was, as I say, there seems to be, a role was created, for example, within the administrative part of Roads and Maritime, and a delegation was given to that role. The exact reason or logic behind it, or was there any consultation in regard to that, no, there wasn't. So it, a role was there and a delegation was allocated to it but there was no discussion about the subject.

20 Would it be unusual that you would be the manager of somebody who had the same level of delegation as you do?---Within the way Roads and Maritime worked, no.

Okay.---You know what I mean? There was no, there was, there was, it was not an area for discussion. It wasn't an area for negotiation. It was just the way it was. It was like a mechanism, if you want to put it that way.

All right. We'll come to that when we talk about oversight of spending.
---Sure.

30 In the period from now roughly mid-2015 to your departure, were there particular projects or programs in the division that you had oversight of and responsibility for.---Pretty well everything I had oversight of. There was, and that's one of the reasons, as I mentioned, I was, I was looking through my records to even recall how many were involved, but there were multiple parallel programs going on, and, you know, program expectation and deliverables in that period. I could raft off some of them but I probably won't cover them all.

40 And they were your responsibility as the senior manager ultimately?
---That's correct. In other words, the delivery of them was, without doubt, yeah.

And was there a particular strategic direction in this period that you could articulate for the Commission?---Direction? Sorry, could you just - - -

A strategic direction for the division. Was there something that was being aimed for by your seven sub-units working together that you could articulate or is that too difficult?---Delivery of, delivery of government announced

Sensitive

road safety programs which, like, point-to-point or Galston Gorge, overwidth or, you know, I can go through probably a whole raft of them, but it was really delivering all of the programs in accordance with, you know, government expectations or organisational expectations, and it was trying to keep up with that was probably the biggest challenge.

10 How were you accountable for the deliverables?---Well, ultimately as one of the senior managers, we had, every area that I had, I had to report on that, say, on a monthly basis to a general managers' meeting and in, in, in his case that he would, he would report them further up. Look, different programs had different level of priorities at different times. So, for example, if there was an announcement, government announcement, with regard to point-to-point or renewal of the mobile enforcement program or an expansion of that program, that would sort of take a lot of attention because you really needed to make sure that that was delivered on time, et cetera, and so it sort of moved around in terms of what the priorities were, but you really had to keep all of the balls in the air at the same time, which was a challenge.

20 So were you working to particular KPIs around timelines or timeliness?
---Yes, in terms of times to deliver particular programs, absolutely. So, you know, we would have expansion of red light programs, 20 sites to be delivered within the year. You know, point-to-point, if that was something that had been funded. It might be, as, as happened I think in 2017 somewhere, an announcement of an expansion of the point-to-point program. The, as I mentioned before, the mobile enforcement program contract renewal. There was, all that was sort of going on in parallel.

30 So as well as deadlines for deliverables, were there budgetary constraints that you had to meet?---There was absolutely, well, if we just keep it over that two-year period of time, there were budgetary nightmares is the best way I can describe it, in terms of your, your expectation in terms of delivering programs versus the budget that you are given to try and achieve that. One of the things that I spent most of my last two years doing there was trying to get clarity about how you were supposed to keep programs on, operating while the requirement for major budget cuts were occurring at the same time, and actually the budget allocations were being removed from the area but, but the workload remained the same or the deliverables remained the same.

40 So are you saying that you felt that squeeze where you were expected to do more and more with less money?---Yes, but, and it's the reason why I left the organisation. Eventually that became to, got to a degree where I go, I can't do this anymore. I can't, I can't deliver and keep the integrity of these programs together and the delivery time frames and the public, meet the public expectation here while the budgets being allocated just don't meet that need anymore.

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

362PT

Were you responsible for budget efficiencies and streamlining the budget of the area so that you - - -?---It became more and more of a subject and, yes, I was asked to obviously look for efficiencies, and we did deliver efficiencies and make, what did they call it, recommendations in terms of how that might happen while keeping the integrity and keeping the programs rolling. But that was a challenging conversation as in, you know, the expectation was way higher than your ability to, again, deliver while you kept integrity about what you were doing.

- 10 Are you able to tell us some of the efficiencies you were able to deliver in a financial sense?---Well, for example, we put the, in terms of certification of sites, for example, we had a, we had a 30-day certification interval, for example, for, for all of our cameras, 250 or 300, sorry, 450 sites throughout the state, and the logistics of actually doing that on a monthly basis was a very challenging one. And as the reliability of those devices became more and more over the years, the logic of that didn't make sense anymore, so one of the recommendations I put forward was about changing that interval to 90 days so that we didn't need as many personnel, we could actually reduce that area while not compromising the way things worked. The other
- 20 issue was with regard to obviously not using vehicles where they were not necessary. There was a reduction of where people were resigned or otherwise, whether it was possible to keep the things running. You know, that was kind of an acceptable reduction in staff, if you know what I mean, but there wasn't a substantive one. There, there wasn't, again because there was so many programs with particularly public expectations about how precisely they needed to be run, there wasn't a lot of latitude in my opinion – let's be fair, it was in my opinion – because I'd run this from the very start and I understood the oversight, the public expectations in terms of absolute integrity in these programs, and I didn't feel that I could compromise too
- 30 much. That was my personal view on things.

You've just alluded to the fact that one of the reasons you left, or if not the reason you left, was because of that sense of compromise that you were feeling.---Beyond a point, it wasn't acceptable to me and, and just before I left, certain budgetary reductions without any change in program size, program concentration, it was put to me and said you've got to deliver that, and I said, sorry, I can't do that. I can't in good faith do that and I must resign.

- 40 So this is August 2017 you said you gave notice.---That's correct. Yeah.

And stayed on until November.---I stayed on for two reasons. There was two programs coming up. One had to do with NATA accreditation, which I had achieved over a long period of time in terms - - -

Can you give us that acronym, sorry?---Sorry. The National Association of Testing Authorities. So in terms of the very precise testing of cameras, for example, we had achieved that both for bus lanes, for the speed cameras,

Sensitive

for, you know, all of those. And it's quite complex to, what do they call it, to renew that accreditation and it's a national accreditation, so I said, well, I'll stay on till that is done, for eight weeks, and I will also stay on until the mobile enforcement contract renewal is delivered because I would, it would have been substantially disruptive for me to just pull out and leave them with that and I, I didn't want to do that, as simple as that. I wanted to be professional till the time I left.

10 You said you did recall Mr Soliman being recruited to RMS.---Not the recruiting but I do remember the, the, he, the application for, for the manager's role, okay? Just, I just, there is obviously a period before that but I just don't, I looked in to see do I have a date or anything about when he was taken on. I didn't but I did, I do remember the recruitment process because I remember why we made the decision about who got the role, if you understand.

So you were involved obviously in that recruitment process.---Absolutely. Correct.

20 So can you tell us why you did take him on for the role?---Okay. Well, nearly all of the members of the staff there had put an application in for the manager's role. If I remember, Alex Dubois applied, Craig Steyn applied, sorry, Theepan Thevasathan applied and Samer applied. Now, knowing the dynamic of all four, the manager's role had a combined responsibility, that was obviously to oversight the delivery of all of the programs that were under their area of responsibility, and the second thing was obviously the temperament and his ability to interact with, you know, all the managers and his ability to interact with clients, to interact with, you know, other parts of the agency. And having had a look at the applicants I had, Theepan was out of university, quite really well-qualified, but didn't really have the maturity for the role, in my opinion. Okay. Alex, who was the, was very competent engineer and, and what do you call it, program deliverer, if you want to put it that way, had a very, he had an abrasive, he was very good on a building site if you want to put it that way, but he wasn't necessarily the most diplomatic politician in the place. Samer had that, that combination between being technically competent, being sort of very good at interacting with people et cetera, et cetera, and that was really the, the reason, if I put it in a very simple manner, why he was picked over the other applicants.

30

40 So there were only internal applicants?---Only internal applicants.

And how long had you had a supervisory role in relation to Mr Soliman before he was promoted to this management role?---I don't really have a clear recollection of that. It could have been a couple of years, but it's really hard for me to, I'd really need to be able to dig up every, you know, email et cetera before I could actually get that, and I don't have my, I wasn't able to get my backed-up emails for 2015, so I'd have to go further back and literally go through it bit by bit to get exactly - - -

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

364PT

But what you are talking about is the recruitment process whereby Mr Soliman was promoted essentially to a grade 11. Is that right?---Correct.

And is it around, could I prompt you, around the early part of 2014, would that make sense?---Somewhere about that would be pretty well spot-on. Again I just don't have a specific date or record where I can, you know, refer to and say, yeah, that was the date when we did the interviews.

10 Were you aware at all of how he performed in his earlier role? You said that you'd had an opportunity to observe him, but - - -?---Yeah, all of the, all of the, all of the officers at that time, in terms of all of the work that had been put to them and all of the work responsibilities they were given, were, were very good, they delivered the programs or the works that they were asked to do. I didn't have anybody in there who weren't pretty good performers, so it was a kind of a bit of a difficult choice in terms of who was going to be the manager and it was, it was a difficult choice not only from the point of view of who was just slightly better than the others and why, but also about managing that team, which were a challenging team to
20 manage anyway.

Why were they challenging?---They were very independent and very, you know, they'd all got competent and capable roles before they ever took it. For example, I think Craig had roles with Woolworths building their stores et cetera, so they weren't, you know, it's not as if they didn't have experienced capability. Alex had come from another area of Roads and Maritime where he'd deliver a lot of large infrastructure for roadsides for different areas. Samer probably didn't have as big a, you know, a
30 background as far as that's concerned, but he did, he had delivered any pieces of work in that heavy vehicle space that he was requested to do while he was, from the time he had been taken on. Theepan for example, the other person, had more of a focus and a capability in analysis in the sort of software/systems development side of business, so he was a little bit of a pigeon-hole area, if you know what I mean.

So when you describe the team as independent were you able to leave them pretty much to their own devices?---I had to with, you know, with the amount of things going on, it was important to keep an eye on what was happening and whether it was being delivered, but you know, the ability to
40 spend – we would have a meeting once a month with all of the managers and just go over what was on the table and what had to be delivered et cetera, but you know, I wasn't micro-managing anybody, it was just impossible.

So that monthly meeting, was that a formalised process?---Absolutely.

And when you said all the managers, are you talking about the managers in your seven sub-units?---That's correct, yes.

Sensitive

So were these lengthy meetings or were they just snapshots?---No, they would be an hour to an hour and a half and we, everybody would get the opportunity, each manager would say, look, what's on my table at the moment, what am I delivering, where are we, are there problems or challenges, et cetera, et cetera. That would be the nature of them. And of course I would take notes and then report up to my meeting in terms of what was happening and how things were progressing, on the basis of the key deliverables that were the subject of focus at that time.

10

THE COMMISSIONER: And sorry, when you talk about the key deliverables are they kind of mandated from above and then in a sense imposed or on the, on the particular manager or the manager is directed, your team has to deliver or produce this deliverable? Is that how it worked?---Yes, it was, because we'd start off with like, I'm trying to, trying to find a good example, but you know, if, if, if for example, the first thing was a particular project would be funded, then it would be handed to us to go, look, get this delivered, and then we would have to pull together the different parties that would be required to do so. Now, for example, if it, if you think about the heavy vehicle area, which we're talking about here, it might be for example that there, there was a big vacuum in terms of a funding in that space, and that's a story in itself, but the, for example, most of the activity that was involved there was the maintenance of the existing systems that existed and one of the other managers, Brett Patterson, who was responsible for all the inspectors throughout the state and the vehicle inspection sites, would, would put priorities back onto me and say, look, you know, they're having difficulties there or that weighbridge is not working or whatever, can you get your people to make sure that that's a focus and it gets delivered because it's affecting our ability to inspect heavy vehicles. So it may not necessarily always come from very senior management, there would be a general, that would be more about the very large projects which really weren't in this space. The only one that was of that scale would have been the expansion of the point-to-point program which would have come from the Centre for Road Safety, and there was quite a direct interface between Craig Steyn for example who was responsible for that area and the Centre for Road Safety in terms of giving them budgetary advice about how much are these going to cost if we put them in those locations and then of course once the word came down and the budget was available, then it had to be tracked about what's the time frame, what have we got to get in there, how are we going with that, you know.

20

30

40

The example you gave that Brett Patterson, who was a manager of another sub-unit, was he?---Right, yeah.

If there was a problem with a weighbridge would he raise that with you and would you then raise it with Mr Soliman - - ?---Absolutely. Yeah.

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

366PT

- - - and say, look, this issue has arisen, or was there direct communication between the different sub-units?---Look, at times there could be, yes, but, and sometimes, one of the issues for example was waste counts, particularly around that period of time, and that related to the fact that that equipment was 20 years old. And it also referred to a lot of other equipment including Safe-T-Cam components et cetera at the same time, which were way beyond their useable life to a degree and, and CSIRO had pulled their support from it. So a lot of the focus was around, these were really important devices to make sure that heavy vehicles were, were, you know, inspected, as they
10 needed to be, but spare parts were becoming impossible to get, the, the funding for any replacement was being refused and also there was a problem if I recall with the providers, there was bad, there was bad, the people who originally supplied them, there was a change in management, they had no interest in, in providing spares and there was, well, the people out on the roadway still needed these things sorted out, so there was a lot of discussions, particularly about that space.

And that would have been at this monthly meeting between for example that Brett Patterson and - - -?---Correct. At the more senior meeting he would
20 go, we still have a problem with that, that hasn't been sorted out, what are you doing with the, the, you know, the support of these systems, and I would then have to go to, to Samer and go, who are you negotiating with, what's going on at the moment, are we finding a solution, you know, can you get spare parts, and my role then was to report that further up the food chain going, look, we need to buy new systems here because the ongoing maintenance of these is becoming a problem. So it was quite a dynamic interaction, it wasn't, you know, very, just purely hierarchical, it was quite a, but at times for example if he had a specific problem, sorry, Brett would
30 maybe go directly to Samer and give him a call or whatever it might be and go, can you sort this specific part of our problem out, or there was issues like, even in the maintenance of it, where's those seven scales that I wanted fixed, they've got lost somewhere, and there was all that sort of stuff going on. That's just within that area of space. And remember I had seven others with this sort of thing going on as well.

MS HOOK: So were you responsible in your role for allocating or setting the priorities and allocating certain budgets to Mr Soliman in that role?
---I was, I was responsible for setting priorities, yes, and communicating priorities, but I had no control over the availability of budget. My, most of
40 my time was spent what we call advocating for appropriate budgets, but, and most of the, most of the time getting – although you were highlighting the issues that we needed to be addressed here, which was again, as I pointed out before, my opinion was it was important to make sure that that regulatory activity was being conducted. Tools to do so were not being funded and I was really putting business cases forward and the same applied to Safe-T-Cam, for example, you can't let these things fail, please give us the money. And I think in one of the records I just looked back at we put six or seven individual applications forward going, you can't leave this, it's

Sensitive

getting worse and worse and worse and we can't fix it, we just don't have the tools, we don't have the equipment and we don't have the funding. Please help us to sort it out. Okay.

Did Mr Soliman know in a formalised way what the priorities were for the team that he managed?---Absolutely, yes.

10 And how - - -?---Well, he knew what they, for, if you put it into each individual sub-unit person, to a degree, because they weren't units but they had different areas of responsibility. For example, Theepan, who we haven't mentioned about first, his role, the National Heavy Vehicle Regulator were attempting to get, to start building up their national, what would you call it, national compliance information system, which was data about heavy vehicle compliance, and he was working on a project to facilitate that, if you understand what I mean, so that was a software development role specifying what was required, working with them, et cetera, et cetera. Complex and lengthy process. And the other point was, the other thing that was going on which was an interesting dynamic was, somewhere about that time as well the, the discussion about the move of
20 that whole area to the National Heavy Vehicle Regulator was also, you know, I won't say, it was complicating things, as in it was complicating the dynamic rather than the things we had to do right now.

So that was potential, that was on the cards as a possibility?---No, it wasn't a possibility, it was definitely, this is what is going to happen. The director had - - -

30 What was the time line?--- - - - come in and said, "Look, guys, we're not doing heavy vehicle stuff anymore, that is all going to the National Heavy Vehicle Regulator," and the understanding was that the personnel would move to the regulator, as they had done in other jurisdictions.

So what was the time line for that?---I'd have to look at the, the memo in respect to that, but it was around 2015/2016. That's when it had been announced that that transition would occur.

And that was hanging over the team's head, if you like - - -?---That's correct, yeah.

40 You don't recall what - - -?---I remember on one occasion in fact, but I don't remember where it was in the dynamics of things, I think it would have been later, where there was a kind of a bit reluctance in helping the National Heavy Vehicle Regulator and I had to go to them, look, guys, as much as I might like it to be different, they're your new bosses, they're the people you're going to be working for, I would be trying to keep them satisfied, purely because sooner or later, and I think it's now going on for another year yet, but you will transition and you will have to deliver

Sensitive

services to them, so I would, you know, get into the, get into that, you know, mindset if you want to put it, as soon as you can.

10 So your understanding is that that whole heavy vehicles team, that one of the seven sub-units you managed will actually move to a national organisation in maybe 2020?---It will, yes. So the, at the moment the infrastructure, as in the cameras we have out there, point-to-point sites et cetera, wherever else they might be which is part of that, my understanding is that the, in fact I think the National Heavy Vehicle Regulator from a
10 funding point of view pay for those people already, okay, that's how the funding is, is delivered, or it was for about the last year at the time I left, but the actual management transition hadn't yet occurred, but the actual funding was coming through to RMS and they were paying for that area of business. And also my adjudication area as well, which did most of their work for the, associated with heavy vehicle activity, do you understand what I mean, so -
--

20 So the funding for the programs run by the heavy vehicles unit for the year prior to your departure was coming from - - -?---That, that is my understanding of how that funding got to us. Now, it was of course a totally, you know, owned programs from Road and Maritime in the first place, but they were, they were, they were moving out of that area of business and wanted to move out of it because they seen it as a cost. I won't say, that's probably not fair, but they were moving out of it because (a) the National Heavy Vehicle Regulator was consolidating that nationally or intended to, but also, and of course the inspectors as well, which was not part of my area, but they were also transitioned to the National Heavy Vehicle Regulator as well. So anything to do with heavy vehicle regulation
30 was moving to them, including the technical support and the system delivery, which was the heavy vehicle group.

THE COMMISSIONER: Did you just say you didn't have - - -?---Sorry?

- - -you didn't look after the inspectors?---No, no, I don't, I didn't look after the inspectors.

I thought Brett Patterson looked after the inspectors?---He does, yes, that's correct.

40 But wasn't he manager of one of the sub-units that you looked after?---No, no, no, he was a parallel manager to myself.

Oh, okay. Sorry, I missed that.---Sorry if I've miscommunicated that, but he was a, he was a senior manager just like myself and he had about 500, well, 300 eventually, sub inspectors on the road, on the roadway.

So he's your level of senior manager dealing with the inspectors and the different sites?---Ah hmm. Correct. He would deal with the inspection sites

Sensitive

in particular. And again, the heavy vehicle group that we talk about that I had management of was kind of a technical support group for that.

MS HOOK: Was there any formalised performance management of your, the managers underneath you? Did they meet you for one-on-ones?---There was an end-of-year performance review and that was mandatory within the organisation, and part of that would be a review obviously of their performance in that particular year, it would be a review of the, and, and there would be records there in regard to that, of you know, what was
10 required to be delivered during the year, how they managed to deliver that, there would be a personnel, you know, how you've personally interacted with people in there, and then there would be a set of goals for the next year coming forward, based on what we understood, that there would be then a training component, what do you need to, that was, that was a standard yearly deliverable, probably for at least the last four or five years before I left.

How much visibility did you have over what Mr Soliman was doing on a day-to-day basis, who he was meeting, where he was going?---Unless for
20 some reason one of the issues around what he was doing was the subject of immediate discussion or review, not a lot, not a lot. Again, like every other manager that I had, I had to really, what do you call them, trust them or depend upon them to take care of their area of business, and there was areas where I would focus on that area and then I would have to put my focus on another area, depending on what was the hot subject or the hot deliverable at that particular point of time. But did I, you know, did I check, did I know what he was doing on a daily basis? Absolutely not, no.

Were you physically located in the same office as him?---We were, we were
30 on the same, there was two floors dedicated to my team, sorry, sorry, not two, two pods within the Octagon and I was on one, I was around, I wasn't far away, I was around the corner from him, but no, I didn't sit, sit next door or anything like that.

Would you be able to observe whether he was in the office a lot or out of the office a lot?---I didn't spend a lot of time doing that, no, and look, I have a recollection of him being, in fact most of that team being out of the office a lot. The reason being, and it wasn't understandable, for example if they were out looking at sites, they were interacting with, maybe he was out with
40 Brett on-site looking at problems that he was trying to address, so it wasn't my expectation they were sitting there all the time.

And he wasn't necessarily obliged to keep you apprised of his movement on a daily basis certainly?---No, no, he wasn't.

Did he have a work-from-home arrangement that you're aware of?---Not formal, not formal, but would I have objected if he'd put it, probably not, you know what I mean, because there needed to be a, well, there was a

Sensitive

constant flux about availability and spaces and we were constantly moving, not necessarily just during that year, two years, but the other that, it was, no, there was no formal arrangement and, and, and I wouldn't have had if he'd have asked me. If he'd have said, look, I want four days a week out there, I would have, but if, if he had worked from home a couple of times I probably wouldn't have been aware, and secondly I wouldn't have particularly objected, as long as things were continuing to get done.

10 So there was no issue about remote access for him? He could get that set up?---No. Everybody had remote keyboards, they could log straight into the system, they could do whatever they needed to do on any mobile arrangement, and it really was essential because we, we could end up being anywhere at any time or, either in any building or in any meeting otherwise. It was essential to be able to be very flexible.

20 So other than the monthly meetings with his fellow managers, was he required to give you any sort of written briefing or reports?---No. Again, unless it was a particularly hot subject, where I would ask him specifically for memos, and having had a look back over the records at that time I didn't, there was a number of issues but they were fairly straightforward, where I'd ask him what's happening with that and there was a number of memos, but if I compare it to the communications with other areas, it was really quite small.

30 His communication with you?---Yeah, the communication backwards and forwards. He wasn't constantly reporting to me, oh, we've got that done and we've got that done and we've got that done, but there was, when something, you know, a milestone issue was delivered, I would get a memo in respect of that but - - -

So when you say you looked back over the records, did you access a database where you could look at the teams?---I backed up all of my emails. I'd done it since 2009 or 1999.

40 So backed up your emails, does that mean you put them onto a record management database in - - -?---No, I, I've kept them myself. I've kept them on a hard drive so I could look back and go over the last couple of years, but I haven't got them sorted so I couldn't go every individual item. I didn't, but I had, I had, for example, I think, to about 2016 on the last back-up and I just was able to look back and go when did I last, what did I, you know, a year and a half ago, I kind don't, what was going on, what was I, what was I doing, what were the priorities, what communications was I having. It was just to prompt myself in advance of this and be able to provide as much information as I could.

The issue there for me, Mr Hayes, is that I'm aware that you haven't worked there for over a year so you have access to your emails that contain all of your RMS business?---Yes.

Sensitive

You still have access to that?---Yes, yes. I didn't think it was any breach of confidence. Those, most of those issues were out of the way and it was more coincidental that, you know, do I trawl through them every day to find something, no, I don't, but was it, was it on, was the drive still there to look back on, yes, it was.

10 And were there databases that you could have looked at to see particular projects and programs and how they were tracking if you couldn't speak to Mr Soliman directly, person to person?---In that area there wasn't anything terribly transparent that I could look at. There were, for example, other things in other areas, for example, in our network management side of things for cameras, I could.

20 What, would you, what would you look at there?---Well, I could look at the, there was availability of the, the network management system, CES, it's called. There was a number of, you know, very sophisticated, they, well, they weren't contract management, they were more about performance, you know, any cameras are up, what's, how many are down at the moment. That sort of thing, you know what I mean?

So in your position, were you accountable for a particular budget?---I, I was accountable for all of the allocated funds for that particular period of time and that was a variable but if you wanted to put a round figure on that, it was somewhere in the region of \$40 million a year of expenditure.

30 And was that allocated at the beginning of the financial year?---As close to the financial year as they could deliver it. So it would come in in July or August or somewhere around that. Usually one of the problems was, it was delayed therefore all the work had to be sort of delayed, associated with it as well, but you know, it was around July, around July is the best way to put it.

And would it be divvied up between specific buckets, if you like?---Yes.

40 Is it too onerous to tell us the buckets that you managed?---Well, because it changed quite dramatically depending on the workload and the, the particular projects that had, had been put in there, I, I couldn't give you a breakdown, not off the top of my head. The, the, how would I put it, sorry, the, was the heavy vehicle area, was there a lot of money being allocated, in general, no, the only areas, again, somewhere in 2017 was the allocation of funding towards the point-to-point program because that was a, a, a program expansion. Other than that, I was spending most of my time asking for budgets but not necessarily getting a lot. There was a substantial cut in budgets over that period of time. But if you ask me the exact figures, I, I, I can't give them to you, I'm sorry.

Did you, you have seven sub-units?---Yes.

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

372PT

You have about \$40 million annually to play with?---Yes.

Are you dividing up your 40 million loosely into your seven programs?

---No, no, it wasn't. It, the 40 million was based on, was, was kind of, for example if, I'll give it to you this way. Mobile enforcement was \$21 million a year alone, okay, so that took a big chunk out of it and the other areas of activity would have, you know, a proportion of that \$40 million, depending on their, what their workload and what their deliverable was at that time. For example, if you, if at that particular time, Galston Gorge was on the table, would there, obviously that would have been decided, the money had already been put aside for it and second, you know, the budgets went up and down depending on what was, was required.

So some of the budget's obviously tied to specific projects.---Yep.

Do you have a discretionary budget as well?---Not really, no. They were always pretty well tied to, you know, a specific, sorry, no. I'll take that back, I'll take that back. What I'm saying is, there was, there was a kind of a maintenance related budget provided kind of regularly. So it was, you know, as I say, for, for repairing scales or otherwise, whatever it may be, the, the general wear and tear kind of maintenance budget.

THE COMMISSIONER: Was that separate to the \$40 million or in addition?---No, it would be part of that overall allocation but it was, it was kind of a nominated amount based on, you know, okay, and, and that could be caught, it was caught over the last, the last period of time. Again, I can't get numbers but I know it was being, it was being reduced and when you had no discussion about that, you know, there was no discussion about budgets.

MS HOOK: So who's imposing those cuts or imposing the allocation of the maintenance budget?---Well, it was organisational but the directions were coming from the, what do you call it, the, the director. You know, I, no, I don't, I wasn't in on those conversations in terms of budgetary allocation but I did, for example, on regular occasions, go to our finance manager, Paul, I can't remember off the top of my head. I'd have to look it up. He was the person who actually developed those budgets for the given area. I'd have discussions with him about where can we find money or is there any way we can move money out of that to put it in here because I need to do things or whatever it might be. Yeah, there was those type of discussions and, but it was more about moving the bucket of money around for different priorities rather than the size of the, that bucket changing or being able to say, look, I'll -- the, the one thing that, in, in terms of adding, asking for more money, that was a really formal, hey, here's a problem can you give us money, and, and, and boost our budget to allow that to happen.

That maintenance budget, is that set across your seven sub-units or it's a maintenance budget for each unit?---No, it would be across all of the units a

Sensitive

bit like the adjudication area which was one of them. They would, they would have a very stable, because it was all about personnel. But the camera area would have a change, it would be very stable based on the actual amount of sites that they had to cover. It wouldn't change dramatically on a year-by-year basis.

10 What about heavy vehicles?---Again, no, it didn't change over that period of time. It would have been relatively stable. There was one exception to that if I might say, that was in the area that, and it was an area of budgetary allocation that I didn't have any control over, and that was in, Alex Dubois would, was responsible for the installation of roadside inspection facilities. Some of the money that, that, that was in our standard budget was, was allocated to that but it was quite limited. Except, for example, our Western Australia, ah, sorry, Western Sydney new site would have been allocated and that would have come down through to us. But I was aware though that, for example, there was new roads being replaced. for example, there was bypasses being put in or otherwise and they were allocating money to this, this type of work and they were allocating it directly without
20 consultation. In other words, they were, they were saying we want, we, we understand we're bypassing your inspection station, we will put it in here, give us a design. This was directed to Alex, he would give them a design and they would allocate money to get that work done. It didn't come through the normal channels of budgetary allocation. That was the only exception to the normal budget.

That was outside your fixed budget?---Correct.

30 That was another funding source, if you like?---Yes, yes, yes. In fact there, there was no conversation with me at all about that. There was a, there was, it was just a convenient, - okay, the, the team there had sort of particular expertise and they would go, okay, we need to, we accept and we put that out of the way, we need you to fix it up and the discussions were purely between their management team and, you know, the, the quotations and budgets and all that was put forward would be something that they would examine in terms of whether it was reasonable or, or otherwise but I, I never received any complaints or anything but it was an area that I, I, I, I did have a feel that I, I've got no control or access to this. Did it concern me? Not particularly because nobody was saying that they had any concerns in the area but - - -

40 THE COMMISSIONER: Was that a one-off or did that occur on a number of occasions?---No, it happened, like, for example, Golden Highway, Newell Highway were being improved, and part of that overall budget was to have inspection facilities, et cetera, out there. In fact we were - - -

And, sorry, what years are we looking at with that? Is that recent?---I'd say 2015-2016, but it was all around that time, but it was more a case of can we, we were actually thinking, because we needed to refurbish sites, can we, is

Sensitive

there any way we can get money out of those budgets to help some of the budgetary deficiencies we had, but there was no, I had no formal discussions, nor did I have time to chase money. So it probably would have been something we could have talked about, but I know the, what they were happy to do was to say we recognise you need facilities on the new bit of road, we will fund that as part of the road-building exercise, and again that was more of a direct interface.

10 MS HOOK: Aside from that separate source of funding if you like, the maintenance budget- - -? - - -Yeah.

- - - was that available to the managers in your sub-units to use as they chose?---I wouldn't, I wouldn't express it like that, "to use as they chose", but it was available to obviously maintain the equipment based on the, the, what they call it, the required work that we assumed needed to be done. Was there a lot of flesh in it, as in a lot of extra money that they could discretionary use for things, I didn't think so.

20 And you're struggling to give us a number for these budgets, but is there a percentage of the overall budget?---There, there, there, look, there would be records with regards to how that was broken, broken down. Do I remember off the top of my head? Maybe it was \$2 million but I, I, I'd be guessing.

On an annual basis?---On an annual basis, you know what I mean?

30 Okay. And were there any guidelines or policies or mandated procedures that your area was obliged to follow if it wanted to use that maintenance budget to procure goods and services?---It was, there was the normal procurement rules, you know, as in the, the normal procurement procedures, et cetera, which everybody had to follow anyway, which was about, for example, the establishment of what we used to call panel contracts. So we obviously put a specification out there, we looked at the providers that could provide those services, and they had to be then, they had to respond to, to requests for quotation or otherwise, and they would then – assuming that they were qualified – in order to keep competition in that space, there might be four or five people allocated on that panel saying, yes, you're qualified to do the work. Then further from that there might be a request based on that panel to quote on a particular piece of work. So it remained competitive, as far as I understood, and I was aware of the two items that were the subject
40 of I think panel contracts at that time – or in, within that period of a couple of years – related to the provision of services for scales services, and that's just one where I think they put a panel together or at least they requested it. And the other one was in regard to a professional services for testing, and I remember asking a question or so about that before I left, and subsequently I asked questions well, who, who got on the panel and who was there. And I had a, I'll be honest, I had a fairly, since I left I had a commercial reason to ask the question, which was who's doing that and, and is there any business opportunities in there. That was it.

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

375PT

We, we will get to that panel process shortly.---Sure. Sorry, can I just have a drink in the meantime.

Yes, of course.---Thank you.

10 That's all right. Still on budget, we have this nominal figure of 40 million annually as a rough guide, within which is a maintenance budget as well to be spread across the units. Did you also have the benefit of a budget for innovation or new projects or continuous improvement?---Very little, but I drove that. I'll be honest with you I was, because that was the nature of what I did all the way through my, my career, which was looking at opportunities in terms of how inspections or otherwise could be conducted by introducing – because I, I spent, at my own expense, a lot of time travelling overseas to see how things were done different or better. So one of the things that I remember somewhere along the line, and it was about the same period of time, and I'm sorry if I forgot about it, but there was the procurement of under, under, under-vehicle cameras, so that's had, had, had the opportunity of inspecting vehicles when you didn't have a pit to do it.

20 That was, that improved the, the, the safety, and I'd, I'd seen them overseas and sort of I think I talked to Samer about maybe that'd be a good idea to pursue. Not, not a lot. Not buy for everybody. Let's find out, get a few. Let's look at whether the operators can use them and where they're of value. That was one. The other one was - - -

Sorry, just to stop you there.---Sorry.

30 With that particular example that you've given us, did you drive that innovation?---I, I, I was involved in discussing it being as a good idea and some of those ideas that might be, might be fruitful, particularly in terms of the, the efficient and effective inspection of heavy vehicles, because on the roadside there's a limited amount of things you can do. We have scales, yeah, you could check a weight, but there was major issues with regard to maintenance and brakes and leakage of oil and all sort of stuff like that.

THE COMMISSIONER: So is your recollection about, with that under-vehicle camera, that you had either seen or heard of it when you were overseas, thought this has got potential?---Correct.

40 You then raised it with Mr Soliman?---Correct. Well, look, again, I don't remember the details of the conversation.

No, no.---But it was by that nature, as in we talked about it and - - -

But after you spoke to Mr Soliman about it, was your expectation that he or members of his team may then look into that? Was that your expectation? ---Yes. Yeah.

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

376PT

All right.---There wasn't, there wasn't a formal allocation of any budgetary amount to it, but - - -

No, no, no. But, number one, that type of innovation that Ms Hook's asking you about, is that how you anticipated it would occur? You might hear about an innovation with a piece of equipment and you would raise it with, for example, Mr Soliman and then anticipate that he would look at it in some way?---He would, and create a report in terms of (a) two aspects of it. Does the technology work, is it of value, and what is the reaction of the individual operators in terms of how it, is it of value to them.

So whether the inspectors liked it.---Correct, yeah. It wasn't about liking, I suppose. To a degree it was about was it effective, did it add value to their inspections, because there was certain things they would adopt and be happy to adopt.

All right. Now, those are two things that you had an expectation that Mr Soliman would look at.---Yeah.

20 Did you have an expectation that he would look – he or delegate it to a member of his team – would look at it and then report back to you?
---Correct, yes. For example, I remember – but again, it wasn't about that particular issue, but it was about, there was two other checking systems that I'd asked about. One was about alternative ways of looking at number plates, which was bluetooth as an alternative vehicle identification system, purely because we had issues about, with older systems looking at all the changes in number plates that we have across the state. So I said, well, let's have a look into that, do some testing, and see whether the, what our options are, whether they be tag systems or whether it be something else that would give us a backup, a way to track heavy vehicles. The second one was, as we say here, under-body cameras, and the third one was thermal cameras. They were the ones that were kind of, from an innovative point of view, something that made sense to look into, okay?

MS HOOK: That innovative program, if you like, that was something you needed to seek separate funding for?---Absolutely. And the purpose of, of this very modest and small investigative process was to create a paper that you would put forward to seek funding should, in that investigative process, it was found to be of value. Do you understand what I mean? But on the other hand if the technology was then proven to be, you know, a waste of time or it wouldn't be operated, then you wouldn't put a business case forward.

Would you see the results of the testing, say with the under-vehicle camera example? Would you expect to see a report, even if it was "This is unsuccessful. This didn't work"?---Yes, but in the case of the under-body cameras I don't remember one, okay? I remember there was four or five procured, if I'm not mistaken, and they weren't a very expensive thing as far

Sensitive

as I understood, but with my knowledge of camera costs in general – although I don't, I didn't interact with the actual cost of them – but I went, oh, yeah, okay, there's a small screen, there's a small camera, there's a power supply. That's not going to cost a fortune and it's in, you know, it's, it's worth looking at. But did I get a report? No. I don't remember one. But the second thing, was there a general maybe variable feedback about how the thing was? There might have been, but I don't remember. I think there might have been an issue about they weren't happy about how they operated or how they were designed or something like that, and that was the last part I remember. On the other hand, for example, the, the thermal, the thermal camera and the tag related alternative number plate, there was actual small reports generated on that, and that's exactly what I wanted because then I could have pinned that to a report and send it through and would seek funding if, if that was something of use, but it had to be the basis, there had to be a report on it. Just the, the under-body cameras, I don't remember one.

THE COMMISSIONER: And your understanding of those was that, as you said, four or five would be procured.---Correct.

20 And that Mr Soliman or members of his team, what, would organise with the inspectors for a trial or - - -?---Absolutely. Yeah. And my understanding was they did. They actually went to some sites and, you know, obviously gave it to the inspectors. I don't know whether they just gave it to the inspector to say, hey, try these or whether they actually went out to site. I would imagine they went to site and at least demonstrated what they were supposed to do, but - - -

And then was your anticipation that if the inspectors said, look, it's terrific, helping us, working well, that that would then lead on the track to a report being produced which, as you said, you could pin to a - - -?---Business case, yeah.

- - - business case and hopefully get money?---Correct. Because we needed, not only needed a report that said the technology worked, but we also needed an endorsement from the inspectors to say, "And this is really helpful and improves our safety ability." That's a really good way to put a business case forward, but I - - -

40 But from what you're saying there's anticipated that there's kind of this initial stage which is going to be done rather informally and cheaply, you know.---Absolutely, cheaply.

Buy four or five, get it out to the inspectors, see if it's got any promise, and if it does, then we're going to take it further.---We will, we will request the funding to take it further.

Yes. Sorry, yes.---Purely because it's a good road safety initiative, right? And, and that was, that was the, that was both the, the logic and the process.

Sensitive

MS HOOK: So if you were – just to return, sorry, to be banging on ad nauseam about under-body cameras.---That’s okay.

10 But if, as an example, there was some merit in, in this equipment, would you expect or require an independent evaluation of that technology?---It was, it was a preferred option. It was a preferred option. I remember the last conversation I had on the subject, which was about, there was something about the way the system was designed, it wouldn’t fit
10 underneath. I mean, that, that’s literally how vague the, the conversation was. I knew the trials were continuing, but that was the last thing I remember about it. But in terms of, for example, there was, I think there was a tender – sorry, and again, just as you raise things it comes up – I think a tender did go out for the provision of testing services, and that related to the very issue you’re talking about, which is rather than, there’s very little credibility given to public service in terms of what their reports say, so regularly it is of value to go and get an independent tester to actually come up with a report that hopefully endorses what you’ve just said or what
20 you’ve actually done in your initial investigations. The only, the only complication to that was it’s an expensive exercise to get external consultants, but I think a panel was put together so if we were in a position to do that, we could call on key people. In fact, I remember asking how did that panel go, and I remember two people were mentioned on it. One was CIC, which is a test house out of Victoria, which does testing of our speed measurement systems – a very, very reputable company – and the other one that was mentioned was JYW, which is a, a, a Sydney ITS consultancy company who had put their name forward. But I don’t remember the full panel, nor was I involved in, in looking at it.

30 So these companies that independently test, if you like - - -?---Well, I think they had put their name forward to do that testing. I don’t, I don’t remember seeing the brief on what was in there, but it was around what you’re talking about, which was the, the testing of, of, of potential technologies to create a report that would recommend their, their use or not use, whichever it might be.

40 All right. Was it mandatory that if you were going to proceed with a funding submission - - -?---It wasn’t mandatory, no, no. But it was probably, just the way the organisation worked, better to have an, an external opinion, if you wanted to put it that way.

But would you, is it the case that you would wait to see what the internal RMS feedback was about something - - -?---Yeah, correct.

- - - before you went ahead and got an external consultant to test - - -?
---Generally speaking, yes. You would, you would do your preliminary investigation, find out, look, is this beginning to fly? Do we need a complex, you know, external report on this before we put our

Sensitive

recommendation forward? Again, the catch here was always the issue of money. You would like to do it the right way and probably get somebody in to get an independent view on this. Because there was always a, there was always an inherent bias towards, well, this is something you want to play with yourself. It wasn't, but that gave you more credibility about the argument you were trying to put forward.

But money was tight, as you've said.---Absolutely.

10 And it was something you needed to have an eye to managing.---Yeah. There was, it was something that it was a, the, the mechanism stifled innovation. Do you understand what I mean? Because there was no budget given to let's look into, what do they call it, innovative ideas. But that was something that we by nature got into. But they, there was no budget for it, therefore you had to just go let's spend a little bit of money here or a little bit of money there to do a small investigation, find, prove concept, and then see whether, you know, roll it up the flagpole and see if it flies. That's it.

20 THE COMMISSIONER: Sorry, I know we're obsessing on under-vehicle cameras.---Sorry, that's okay.

Your recollection is it's a piece of equipment you came across and had a discussion with Mr Soliman?---Look, again, I had seen it. I had seen the potential as far as that is concerned. I think, though, you know, did I leave that or otherwise? I know it was part of conversations with him saying, in terms of the innovative areas.

30 Did you have an expectation that Mr Soliman of his own initiative might see some piece of equipment or some innovation and think we should have a look at that and independently start investigating it? Was that part of his job description?---It wasn't outside his job description but not specific, but the way I, I interacted with my team was – and this didn't only go for equipment – was that if you've got, if you've got a good idea, put it at the table. Now, it might have been in our monthly meetings, for example. If you've come up with, if you've seen something useful, if you, sorry, if you've, if you've, if you've – I think actually the last time, now that you mention it, he was at the last Inter-traffic conference in Amsterdam that I had attended, and I don't think there was anything picked up about that, but if you don't go to these conferences, you don't see where the ideas are. So,
40 but I was very, I would, if he'd have put a good idea on the table, I would be the first one to go, look, let's see if we can put a bit of money aside and, and give a, give a look at that.

But it was your expectation that at least at the monthly meetings if he had come across a good idea and had started internally doing some investigation into it, you know, that initial or preliminary investigation, you would have been told about it?---I would expect to be consulted about it, as in, you know, informed at the very least. And, for example, I was going to have a,

Sensitive

for example, if it was, it was a financially major issue, I would have, well, that's a nice idea, but leave it there because we don't have, simply have the money for it.

10 All right. And the yearly performance appraisal of Mr Soliman, exercising or displaying his initiative in that way, is that something that he would have raised or you would have raised during the performance - - -?---Absolutely. It's part of, you know, the, the, you know, the overall manager's role was not only about, you know, delivering things as they are from a machine point of view, it's can we do this better, can we do it cheaper, can we put in new ideas, and that was absolutely it was, it was a big measureable from my point of view, if you understand what I mean.

Within this process, if a manager had engaged an independent consultant to come in and do tests or assist in tests, and they were paid to do that and paid to produce a report, would you expect to be given a copy of that report?
---Absolutely.

20 And (b) as a part of the kind of, it would form part of an intellectual resource for the organisation, where would it be recorded or kept so that the organisation as a whole had access to it?---Well, that's an interesting one. You've put an interesting – there were formal RMS documents and places to put that. Was there a, was there a, was there an easy mechanism to get it into that environment? I'm not aware. The, the, I don't think any of the reports in that context actually were put on, on RMS sort of websites or otherwise for general availability, because again it didn't progress further than the initial investigative stage as far as I understood it.

30 But surely it would be a resource at a minimum for the heavy vehicle sub-unit. You know, for example, if there was an investigation into under-vehicle cameras and there was a report saying they're hopeless.- - - Yeah.

40 Mr Soliman then leaves the employment of RMS. Somebody else comes in. You would have an expectation that within that unit if that piece of equipment was raised subsequently they could say, oh, we've checked the database. We actually looked at that two years ago and there were these problems with it?---Yeah, look, there's two parts to that. One is I would have expected to see it, first of all, and secondly, if it was a, if it was a report of value there were methodologies to, to get it registered within the, within the system. Don't ask me off the top of my head how that was done but it was there. Was it religiously followed? No.

And when you say registered within the system, is that the RMS document management system?---I, yes, I would imagine so. But look, for example, in the RMS documents management system – and you mention it as an item – was I even efficient at using that? No. For example, they moved from, we used to always run from a, what do you call it, a kind of a D:drive where all of the information was stored for a very, very long time and then they

Sensitive

moved into a better documents management system. But was there a prescriptive if you've got reports you should also register them or put them in that directory so at least we know where they are? No, there wasn't. That I'm aware of, okay. Nor was there any directive or incentive to do so, if you know what I mean.

All right.---But I, but I see your point. It would, it, it's totally relevant and appropriate.

10 MS HOOK: You alluded to the fact that engaging external consultants to do this testing work was very expensive.---Yeah.

20 So did you have to give approval before external consultants were used in that way?---I, yeah, I would expect to have been, okay. There's two things that, that I, I, I was aware of and have no objection to the creating of a panel of people or organisations to do so and I would have expected if anybody was then specifically engaged that I would have sign-off on that or awareness of it. And I would also have expected to see a, a tender outcome document. So here's the panel. This is what they've quoted. This is why they've put them on the panel. And I do recall that with regard to other issues I did get responses like that but not necessarily from the heavy vehicle area because it wasn't a normal, it wasn't a regular occurrence. But I do remember as I mentioned before somebody in a casual conversation going yes, yes, we've got the panel organised, but remember the, the organisation of the panel did not mean the allocation of any funds whatsoever, just it selected suitable organisations. That was it.

30 All right. So when you said it wasn't a regular thing for the heavy vehicle unit to utilise these external consultants, I know this is a somewhat artificial idea, but can you think of how many times would be a normal number in a year for such projects to be initiated and investigated in a preliminary sense? ---Very rare. It would be very rare. Now, one area where a lot of consultants were employed was not around the area we're discussing here at the moment. It was around the say, for example, the inspection station I was talking about. So it would have, I've definitely seen but didn't go into in great detail independent reports about the, the inspections on, on your roadways, the safety of those, you know, independent reports in terms of the safety, for example, of gantries, redesign of gantries.

40 THE COMMISSIONER: Sorry, is this when there were the bypasses and - - -?---Yeah. Well, there was - - -

- - - you talked about a particular project?---There was an appropriate level of diligence about. If you're going to build an overhead gantry that had to go over three lanes and it had to, obviously it had to have structural integrity, it'd have to have mechanical integrity, so independent reports were essential there so - - -

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

382PT

But that's a particular project isn't it?---Yeah. But it, but it was - - -

10 And as you said you were getting particular funding for that, weren't you?
---It was, it was normal practice to request those analysis, right. That's all
I'm saying. And I had seen, though not gone into detail, reports that came
through particularly from Alex in terms of we've looked into that and, it
also may be design of an inspection station like at, down at the airport. One
of the roads down there they were putting one in. So they might get a
consultant to look at best access and egress and safety and things like that
around it. And that was totally appropriate but it was part of that project
cost. It wasn't a, we didn't regularly just say we'll call people in and we'll
get them to give an independent report.

20 MS HOOK: But it was rare by your terminology in other areas of heavy
vehicle compliance?---Yes. There was, there was no motivation for it, for
want of a better word, okay. The areas that mostly would use external
consultants would be the inspection facilities and the, in regard to custom or
boutique gantry development for point-to-point. They would be the areas
where most of that work would be done.

THE COMMISSIONER: The under-vehicle camera, I'll call it a project,
did you have any understanding or expectation that an external consultant
would have been involved in that?---There was no discussion on that
subject.

30 So to your knowledge - - -?---Would I, would I, would I have advocated
based on the budget? Probably not purely because it wasn't, it hadn't got
that level of momentum. You know, the, the trial which, which is, the
limited trial that I understood was purely to go let's see what, how this looks
and, and how it is. Then, for example, if I put a case forward and, and the
organisation had said, well, that's not good enough, get me a proper report
on it, I would have asked for the funds to engage these people but I
wouldn't by default just engage somebody.

And I think you said to your knowledge four or five cameras were
purchased.---I recall seeing a number of cameras I think just after purchase
in their area which they were about to allocate and do some, some
evaluation on.

40 And I take it they were just obtained by somebody within the team going
out and buying them or buying them over the Internet?---My understanding
was that they would have investigated where appropriate technology could
be procured locally and, and bought a number of them for the purpose of
that and I think, my understanding would have been that the overall cost of
that would be fairly modest, maybe 4 or \$5,000 worth of equipment. But
again that was a mental, you know, calculation of what these things might
have cost and there was a little bit of customisation of the handles and stuff
like that. But again it was not, not something that you would say well, that

Sensitive

should cost 10 grand or, sorry, the, the whole, whole cost of the project might have been 10 grand in my, my mind.

And you wouldn't need a third party to go out on behalf of RMS to buy the equipment, RMS could have done it?---It would not be normal practice.

MS HOOK: I'm going to ask you to have a look at some documents, Mr Hayes, and there's a folder that the associate will give you.---Sure.

10 If I can just as you to turn to the document under tab 1 only at this stage. ---Sorry, tab 1?

Yes.---Yeah. Just bear with me a second. Thank you.

That's fine. All right. This is an email from Mr Soliman to Theresa Jabson, you're cc'd into it, dated the 19th of May, 2016 and it's headed Emergency Works that Require Funding.---Yeah.

20 Just take your time to review it. Have you got your head across it?---Yes, I have, yeah.

Is this something compiled with your input and knowledge?---No, it was not directed by me but obviously one item on the list there is sticking out like a sore thumb.

30 And that is?---And I'm not even sure whether I've actually seen, read the document before, I'm not saying I didn't, but the procurement of successful technology trials has a very large number in there I would have asked some questions about if it had in any way come to my attention. But again I think, let me just have a look at the top. Just bear with me a second. Yeah, see that, that wouldn't have fit into the first part of it which is, that's not emergency, sorry, remediation works and, yeah, I was well used to the, the allocation of funding again under pressure from Brett in terms of areas that needed urgent works and the, they need to shuffle money around in order to facilitate that. So that, the generality of the amount was not, was not something that would have raised any, what do you call it, surprises for me, but that number with regard to \$150,000 for trials would have been way beyond anything I had expected, except if you start taking into account the under-body tests, the, what would they call it, the, the bluetooth test, the
40 what would you call it, the - - -

THE COMMISSIONER: The thermal?---Sorry, the, the tag tests and then combined maybe the, the costs could have got to that level, but it wouldn't be for one, it wouldn't for one, but even at the same time I would have probably had a reason to say, look, that seems like a large number.

So you have an issue about the large number.---Ah hmm.

Sensitive

Also I think you - - -?---In hindsight, sorry, you know, looking at it now.

The context of this is emergency remediation works.---Correct, yeah.

And if you look at everything bar item 5, it's pieces of equipment that have failed - - -?---Correct.

- - - and are not being able to perform necessary functions. So, you know, the weighbridge at Darwool Garby has broken down.---Yeah, absolutely.
10 Totally legitimate requests and that. That's why that particular one stands out because it's not the subject of the email, which is that it, it shouldn't, if you were asking for that funding, it wouldn't be in that context. Now, do I remember looking at this before? I'm afraid I don't, but as it was a cc, while I looked at most of my cc's, the volume of those over time became quite onerous and I had a, I had a subdirectory of cc's where I put them in and they were the last thing I got to look at. So I don't excuse the fact that obviously this had a degree of direction towards me, but that in itself would have stepped, would have at least in hindsight stepped out a little bit because it's not part of the rest of it. It's not a maintenance related issue.
20 And again, there was no specific funds allocated for that work. So it had reason to stand out there but I, I don't remember seeing this before. I don't doubt I have received it as a cc but, again, that, that clearly stands out as something that probably should not be in the category. Would, on the other hand, though, in fairness, and I'm, I'm, would Theresa have reason to look at it from a, in any sort of, what would you call it, quizzical way? No. Because - - -

Could I ask you, who, what is her role?---Theresa Jabson who it's directed to, who was in the finance area, and it was, one of the problems here was
30 that the finance area had broken up halfway through this. You know, during this period, the whole, the whole business branch was abolished. Originally most contracts and all that sort of stuff went through them, both finance coming in and, and tenders, et cetera, would have been managed by that area or at least there would have been a substantial involvement. As of course they disappeared, there was consultation with, with staff members. Let me just look at the date on that. The 19th of May. It was somewhere around that time that that area was decided organisationally that it wasn't needed anymore, it was going to be centralised. And Theresa would have been helped, asked to assist to, to move money around to facilitate these
40 maintenance works, because they're important. But again, that sticks out like a sore thumb in, in hindsight.

So is the idea of this that Theresa, because she's been requested to fill in the WBS bucket field, which I, I think my understanding is that is an identification of the particular bucket from where the, the funds will be drawn.---Yeah. Where, where, where should these, where, let's have a look in the very limited budget we have here and find out where we can find

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

385PT

some money, where you, have you got a W with some money in it that can justifiably support that.

So is this within, the money that he is seeking would be within the 40 million that was allocated at the beginning?---It would be, yeah, yeah. There were quite a, there were, there were sometimes areas that, whether they'd moved on from or otherwise, that there would be some money still left, and if there, if you had, I remember that there was discussions about obviously, sorry, regularly running out of the money allocated for
10 maintenance work, for example, and then they would try and say, well, okay, we know you need to do the maintenance. Let's see if we can find it from some other source. And it was, it wasn't unusual for people to try and move money around to facilitate that. Okay?

MS HOOK: Can I ask, with you being cc'd into this email to Theresa, the impression is given that you as a senior manager have supported, if not directed, this email that Mr Soliman is sending to finance, that you are approving effectively the, the release of funds in the way tabulated.---Well,
20 from Theresa's point of view, she would know, have no reason to question it on that basis, I agree. You know what I mean? My, I've been cc'd in, I know what's going on, et cetera, et cetera. And with regard to the great majority of it, absolutely, I wouldn't have had, I wouldn't have blinked an eye on it. I was going, yeah, that's work. And, and in my understanding of, of maintenance related issues, though not specifically, that's exactly the way that area would have been expected to, to do it.

So assuming that the funding was released by the finance area, where would it have gone to be accessed by Mr Soliman? How would he have accessed that for the procurement of technology for successful trials?---Well, once
30 the WBS had been established for that, as that would, would be what Theresa would have responded with, what would have happened is that that then gave a, a kind of a licence, for want of a better word, to create a, a purchase order under that WBS number. So then he had the opportunity obviously at that point to create a WBS, to – well one would imagine – whether it was the procurement of, of the equipment or the engagement of services. Like, for example, if it was the tagging system, I think somebody provided those readers, put the stuff in. So there was costs in there and, and again, while that's a high number, when I look at multiple projects all at once that were happening about the same time, it wasn't totally off the
40 Richter scale either.

All right. The table says that the works that can be completed for financial year 14-15, that doesn't make sense given the date of this email.---Ah hmm.

Do you think it probably meant the forward financial year 16-17 or, no, the current financial year 16-17 or the, the one after that, 17-18, given how close this is to the end of the financial year?---Let me see the date on it May? 2016. It, it, we should have been, yeah so normally if, we'd have

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

386PT

taken a template and popped it in there. So it would have been for the, the, the year going forward, so it would be the 16-17 period rather than 14-15. You know, this is, you're asking for work, sorry, you're asking for money here to, to complete some works.

Yes.---So it hasn't happened yet.

No, that's right. But we're in the financial year 16-17 when the email is sent, so - - -

10

THE COMMISSIONER: And you've basically got six weeks to spend it in.

MS HOOK: That's right.---Yeah, well, I hadn't noticed that but you're, well, sorry, this is another standard practice here, was at the end of the financial year, and this was, this is historical within public agencies, there was, there was don't spend money, don't spend money, don't spend money, don't spend money till about two months before the end of it, and then somebody, in fact, the, the, the finance area might have put their head up and, "Look, there's a bit of money here if you've got some really important work you need done," and that might have been the response to that. Do you know, I, I can't, I can't, but that was very normal practice. All of a sudden there was, there was, what would they call it, all year there was a, you know, unavailability of money and then they suddenly went, oh, budget for the end of the year, and sometimes it was really substantial amounts of money, and they kind of go, "Can somebody spend this?" Yeah.

20

Okay. So one would anticipate if this funding became available that it would need to be spent on the procurement of technology for successful trials within a six-week period.---Not necessarily. No. What you could do and what the budgetary system allowed to happen was that you could engage the services of it being done and it could be, it's not rollover but it was called, there was a mechanism where if it was, once the money was allocated and a contractor, a, an order was put forward, it could be delivered after July but it was taken out of that financial year's budget and for the budgetary purposes at the end of year, that money had been spent.

30

But you needed to engage your contractors before the end of financial year?---Correct. You need to get a purchase order out of there, and then when they did their accounts they would say, oh, look, all that money has been spent but the actual delivery is still another couple of months down.

40

THE COMMISSIONER: In the, his request to Theresa he says, "We will submit the purchase order, PO.---Yeah.

To COB finance." Sorry, what's COB?---Compliance operation branch finance. So again that would have been the, there was a, a finance unit, again I, because I don't remember this transition about the business area, there was a finance area that took care of all of the directorate's financing and allocated funding, so he would have put the purchase orders into them

Sensitive

as soon as he got an, an appropriate work, WBS number to allow him to do so.

MS HOOK: And the capitalisation of successful at number 5, does that have a special meaning? He's done it twice so - - -?---Sorry, what was that? Say that one again.

10 The capitalisation of the word successful he's repeated in both columns which suggests it's not a mistake. Does it have a special meaning? Why has he capitalised successful?---I, I have no idea. Absolutely no idea. I'd be telling a lie if I did but, and I don't see how that adds to it because that suggests it's been done. Do you understand what I mean? That, that the trials have been conducted. Now, that might suggest though on the other hand if you want to sort of to, to suggest that we've done a test there is, if it's been a successful test and they want more things whether it be under-vehicle cameras or whatever it might be. But, and maybe that's something to sort of put the case forward to Theresa for example. Yeah, this is fine because we've, we've now done the testing and we're going to buy some stuff. But it's, that's the only way I can interpret it, okay.

20

THE COMMISSIONER: If we wanted to follow up on this assuming that 150,000 was identified by Theresa that could be allocated to that item, if we wanted to follow up what that money was actually used for we would need the purchase order. Is that our starting point?---You would need first of all the WBS that was allocated to it from Theresa. Then from the WBS there would be a cross-connection to any purchase orders put forward that would have been, you know, put against that charge and it would be in the system without question.

30 MS HOOK: I'll tender that email, Commissioner.

THE COMMISSIONER: Yes. Right the email from Mr Soliman to Theresa Jabson, Mr Hayes copied into, dated the 19th of May, 2016 dealing with the topic of emergency works that require funding will be Exhibit 26.

#EXH-026 – AN EMAIL FROM SAMER SOLIMAN TO THERESA JABSON RE: EMERGENCY WORKS THAT REQUIRE FUNDING DATED 19 MAY 2016

40

MS HOOK: Mr Hayes, was the potential for conflict of interest in procurement of goods and services in the heavy vehicles area for instance a risk that you took seriously?---I took it seriously in every context, in regard to every area of the branch that I worked with. One of the, and particularly when, when any contract of any value was being put out there that I was kind of really aware of I would be involved in the tender process whether it be the development of the specifications or the actual tender process. Now,

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

388PT

it would be normal practice as well once the figure got above a certain number, and there wasn't a specifically prescriptive one, to involve a probity adviser on those panels as well. So it would be normal if there was any substantive amounts of money in there to, you know, (a) be aware and (b) be involved.

10 So what is your definition of a substantive amount of money?---If any contract probably went over \$1 million, just, just off the top of my head, I would suggest that there would be appropriate clear scrutiny in regard to any contract of that value in terms of (a) are the people approved, what was the evaluation process, et cetera, et cetera. And I had a look back when I did my reviews over the last week or so since I got the request to attend and I, I found a number of those where I've got a clear report about here's, here are the people who put the name forward, here is the numbers they put in, this is why they decided and here was the outcome and that, that was great. But again as far as this particular matter there wasn't anything on that. But it was a bit of a difficult area because there was some large amounts of projects et cetera going on there as business as usual stuff, not so much in just this particular area where it's a maintenance-related activity. But the numbers around, and again because I didn't, wasn't really too involved in it, 20 the tendering for the roadside-related infrastructure et cetera well, those, those numbers were really big. But was I involved in any tenders or was I invited to be a part of that? No, I wasn't. I suppose that was an area where in hindsight I probably put, could have put a lot more attention.

And what is your - - -?---But not here. Not in that area because it just didn't generally involve the, you know, the allocation or the, of any substantial amounts of money first of all or the involvement of new contractors other than, because in, when you talk about the maintenance activities we're 30 talking about here there was a, it's a boutique area of business to a degree. Weigh scales are (not transcribable) business, you know, so there was only a few fairly dedicated suppliers and they had standard rates and they were on other existing panels et cetera so it wasn't an area I had a particular area of concern.

40 So what is your understanding of a conflict of interest?---Well, in terms of anything that, well first of all any activity that you're, you're conducting on behalf of the agency that would benefit yourself for example, that's just one sort of interpretation of it, where you were, you were, either you were benefiting yourself, benefiting anybody else or you were getting any sort of personal return for it where the normal procurement, you know, on behalf of the organisation was not being followed. That would be, they were some of the, you know, conflicts of interest that I would sort of clearly interpret. I mean even, for example, it was a clear rule within the organisation. There was plenty of, what do you call it, probity-related, you know, courses et cetera conducted for everybody and it was clear that you, in any way there was no, not only not an authority, there wasn't any exception to the fact of accepting any gratuity whatever that might mean that exceeded \$10, and my

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

389PT

normal rule was personally I didn't accept a coffee from a contractor purely because that, once that, you know, the process – and the, that applied to all of my managers as well and they well knew it, you know, the standards were there – that there is a clear, you know, process in place that, and a very high standard that needs to be kept and for, for everything that we do and it wasn't about whether you would be, you know, audited about it or otherwise but it was just a proper standard. You were being trusted to do the job and you were expected to keep those standards as high as possible. Not as high as possible. Never sort of flinch from them to be honest with you.

What would your attitude be if there was no particular kickback or benefit but you were giving a job to a friend?---Absolutely not acceptable.

So that would fall - - ?---Absolutely not acceptable.

- - - within the definition?---No, no. And I was, in all of the 26 years I was there I neither endorsed – I, I have on occasion way back even dismissed a contractor for the very simple reason that he took advantage of maintenance equipment because there was just no, you know, there was no latitude whatsoever in that area. If there was anything that, that would be benefiting somebody else for example or whatever it may be, or you can't even get to that level of doing somebody a favour. That's, that's not acceptable either.

So there's a sort of zero tolerance for it?---Zero tolerance. Absolutely. Absolutely.

And is it your view that your staff were adequately appraised of their obligations in regards to that area?---You could say, an area of the organisation we're quite diligent about training in. Again I couldn't, but I think if you had looked through the, the training parts of the organisations you could see where every year or two years people were brought in and reminded of their responsibilities and they went through a probity training and, you know, funnily enough there wasn't a due diligence related training funnily enough but that's, you know, as a manager you should have had that by default. But was there a regular repeat of it? No, but for all of the general staff and, and managers although they, they were regularly repeated about what their responsibilities were.

When you point out that there wasn't a due diligence training course, where does due diligence apply in the procurement process?---What I'm, what I'm saying is I suppose there wasn't a formal audit requirement training, let's put it that way, and in, in hindsight if you had audited these things and, you know, if you had a regular thing, at the end of every year you go through and you go through all the purchases and you say well, where did that go and why did it go there et cetera, just in a, an exercise, in hindsight that probably would have been a good idea. Was there a mechanism or was there training in that space or was there a requirement? No, there wasn't,

Sensitive

but it would have been a good idea probably, you know what I mean, so that you could review and, and, and these kind of occurrences would become either apparent or not apparent. But while everybody was, was, was, was, you know, obviously fully aware of what their responsibilities were, were there a lot of mechanisms to, to audits and, you know, alert you to the thing? Probably not.

10 Okay. Did you ever have any reason in your role to have contact with the contractors and vendors on panels used by your areas?---Only in respect to discussions about deliverables, you know. They would come in at the beginning of a contract sometimes if I was involved in discussions about that and talk about, you know, okay, so how do you intend to approach this, you know. It really was a bit of a sales exercise from their point of view. Okay, we've got the contract and here's what we're going to do for you. So we'd talk through that and maybe adapt what, what they were intending to do versus what you think the organisation required whether it be a report or otherwise. But that was the general interaction.

20 And this wouldn't have been all contracts. This would have been contracts of a certain value?---It would have been, it would have been contracts of, of note, for want of a better word, ones that you were really trying to keep a close eye on. You know, ones where again this was a deliverable by the, the government or something that was going to have a very high profile. Definitely you would, would be involved in those, and particularly if they're high value too, yeah.

30 And that's a subjective view on your part of what's of note? There wasn't a sort of minimum spend or a maximum spend that you would have to be involved in, you'd have to meet the contractors.---No. No, there wasn't. No, there was nothing formalised on paper.

So you pretty much left your staff to deal with these business relationships with the smaller contractors?---I left my managers to, to do that and I, for, for the great majority of the period I worked, I had managers that, that I had never a reason to doubt their integrity.

40 Did you have expectations about a minimum level of due diligence to be conducted on a potential contract or a potential consultant or vendor before they were added to an RMS database?---(inaudible) yes in the context of obviously, first of all the issue with, for example, if it's a service you're looking for, you would have to be confident that that contractor had the capability to deliver it and had some record of doing so. I mean, the whole evaluation process was about them submitting information about what they've done, you know, what their competency were, what accreditation they might have had, et cetera. That was normal practice. So one would expect that that would be normal practice for everybody across the board, because the different managers sometimes were involved in, in tender evaluation with myself and that would be normal practice. Let's go

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

391PT

through, let's look at the cost of what their services are and how competent they would be to deliver something useful for us. That would be normal.

Do you have any knowledge of the contractor Novation Engineering?---No. But I've actually looked through my email records to see whether that name had cropped up based within the limitations of my search abilities. I can't find it.

10 Stephen Thammiah, its director?---Name doesn't ring a bell.

Do you know anything about the company?---The only thing I know about the company, and that's only because of my, the, the, the request to attend, I just looked at its ASIC registration and the date. That was it.

20 Did Mr Soliman ever make representations about Novation Engineering to you?---No. Not, nothing whatsoever. Just, when the, the testing contractors, now, it's not, and it wasn't the Novation Engineering, I kind of asked a question about, well, who got on the panel, and I remember SGS and I remember JYW, two entities I knew, and there might have been another consultant in there but I took no mental note of who that was. But, and one would expect that other people might have put their name forward that I wasn't aware of, but I was pretty well familiar with most of the people in the industry and that, that name would not have come up as somebody I'd been aware of doing any other work anywhere.

30 Would you have any awareness of the number and value of the contracts awarded to Novation with the approval of Mr Soliman between the end of 2015 and your departure from RMS?---No. I, I was not aware, nor was anything put forward to me in regard to, you know, any contract values or otherwise nobody raised an issue, nor documents came on my table mentioning the, the name to my knowledge. And I wouldn't have expected a company like that, based on what I understood about budgets, to actually have much work. In fact, just in that context, but it was more after I left, one of the other tenderers came to me, talk to me and sort of said, oh, that, that panel we went on, we never got any work out of it. And I went, oh well, probably because there'd be no budget to actually allocate any work. But, so, but Novation was not, I'd never heard of it before, no.

40 Mr Soliman never disclosed to you that he knew Mr Thammiah personally? ---I'm sorry?

Mr Soliman never disclosed to you - - -?---There was never a conversation about the Novation Engineering at all.

If Mr Soliman had come to you and said that he had known Mr Thammiah since school, Mr Thammiah being the director of Novation - - -?---It would have been a clear conflict of interest.

Sensitive

Clear conflict of interest?---Absolutely.

And how would you have managed it?---Well, it depended on exactly what contracts or otherwise had been actually allocated in that regard. First of all, you know, I would go straight into finding out what contracts were there and, yeah, looking at the competitive process. It didn't necessarily preclude somebody from, you know, from getting a contract just because they happened to know somebody, but at the same time it, it would be a reason to flag, you know, a concern and, and have a reason to look into things.

10

And was there a formal way of flagging concern? Was there a formal declaration of conflict of interest process that you - - -?---There was, yeah, yes. I mean, and every time you'd go to a panel you would have to actually stipulate very clearly that here's the four people who are actually putting the thing forward here. You have to clearly make out that I have no conflict of interest, I don't know these, well, not so much you don't know these companies - you will because they've been on a panel before - but that I have no financial or other, you know, interest in regard to them.

20 Do you have any knowledge of the contractor AZH Consulting?---No.

Or its director Ali Hamidi?---No.

Have you ever heard of that company?---No.

You haven't?---No. I have only in the context of the, the, the summons, but that's it. I'd never heard of the name before.

30 Did you look them up as well?---Yes, I did.

And you've not had any representations made to you by Mr Soliman about this company at all?---No. There was never a discussion about it. But I think if you note, one of the things I did have a look there, that the registration of that company was after I had resigned from, from the organisation or very, very much around the point at which I had left.

40

So are you saying the registration of AZH happened post-November 2017? ---Yeah, it was close to that period. I don't, I haven't got the dates particularly in front of me because that's one of the questions I was probably sort of thinking about. When do these companies even get work? Novation, of course, was there from 2015 again in terms of registration relative to when I left, but AZH or whatever it is was either just at the point of me leaving or afterwards, you know what I mean? I'd have to just look at that closely.

So I take it you would have no awareness of the number and value of the contracts awarded to AZH with the approval of Mr Soliman---?---No.

Sensitive

--- between the end of 2015 - - -?---There would be no reason to because I wasn't there at the time, nor was I responsible at that point for any contracts that were being awarded.

If contracts were awarded during 2016---?---Yeah.

10 --- to AZH, would you expect to be made aware of the number and value of those contracts?---If they were associated with a piece of work that I was expecting to have done, yes, absolutely, because, you know, for example, if there was a, if there was any substantive amount of work for any reason, you know, and added value to those contracts, I would expect to know about it, particularly if it was out of left field. This wasn't just general, you know, they were a company that constantly provided services to it where you don't really blink an eyelid because we'll, I'll give you, CIC Engineering, for example, is a company that puts a lot of stuff on the roadside and they quote on individual jobs and you hear about them all the time, but if it's a company that you haven't heard of before, you're going, you would kind of twig and go, who are they? If it isn't any more than that, not about necessarily the cost, but, and, and, and if it was substantive, then you're
20 going to go, well, okay, why, why are they, how, how did they manage to win that? Not necessarily assuming any problem, but you would, you would question it.

If it wasn't a substantive contract but more of a consultancy project along the lines of a testing, independent testing so to speak, but it was a company used a number of times to provide these independent reports following trials or in the course scoping studies, would you expect to be appraised of the existence of this testing company that was being used regularly?---I think it should have been a subject for conversation at the very least. In other
30 words, if there was substantive work being done, if it was substantive funds being allocated or expended, because it impacted everything else, I would have, for example, if a lot of money was done on testing for which we really didn't have money allocated, I would be going, hold on, that's all very fine but don't start spending that sort of money. We don't have approval for it. I didn't have approval for it, never mind the manager, you know what I mean? You can't just go rogue and kind of decide suddenly, well, I'm a champion for this particular technology. Let's just bung it in there. You really, once it gets above, it's okay to be innovative but you just can't go off on your own accord and sort of decide to engage people and, you know,
40 spend money that you have no authority whatsoever to spend.

THE COMMISSIONER: But if somebody did, if one of your managers in the sub-unit did go rogue, how would you find out about it? Or would you find out about it?---It, it would only, it would only, only become apparent to some degree if the, the, first of all, if there was, if it came up in the budgetary review which we, you understand what I mean? And when I said earlier budgetary review, I think that there, there wasn't an, an, you know, every month saying here's all the money that's been spent, have a look

Sensitive

through that and see if you're comfortable with it, but if there was a, here's what the money was spent on last year and here's how we're going to allocate our budget next year, if it came up in that and it was sort apparent I might have, have, what would they call it, then it might have flagged something for me but there probably wouldn't be any other reason why it would flag.

10 And that budgetary review where you look at what the money was spent on during that financial year and what you expected to pay or spend it on in the next year, that was just done annually, was it?---There was a review but again, the involvement of the senior managements or their ability to give substantial feedback was, was not substantive. It was just kind of, there's where your money went last year and, yeah, you're within budget or you're over budget or whatever it might be and here's how much money you're getting for next year, so you've got to, you've got deal with it but it was more generic. We didn't go through it line by line and it would have been a very long list, do you know what I mean, considering the amount of parallel pieces of work were going on. So again, in the grand scheme of, of,
20 different pieces of the money to be allocated, look, it could have cropped up and I could have noticed something but did we go through it forensically and have a look, no we didn't.

MS HOOK: Just turning to the document under tab 2 in the folder in front of you, Mr Hayes. This is an email from Rish Malhotra of - - -?---Sorry, it was number 2 we're talking about?

Under number 2 in your folder.---Oh, under number 2. Sorry about that. Sorry, under the page or - - -

30 Under the tab, under the second tab in your folder.---Yeah. Oh, sorry, okay. My apologies.

That's all right. So there's an email from Rish Malhotra of IRD to you and Samer Soliman that you're forwarding on to Samer Soliman on the 3rd of May---?---Yeah.

--- and it's a note you received when you got back from Amsterdam and you're alerting Mr Soliman to its existence. So he thanks you both for visiting the IRD booth at Intertraffic the week before. So tell us about that
40 conference.

---Well, IRD were one of the suppliers of the, the scales, the weighing scale system. They were one of the largest international providers and as a, a, what would you call it, a standard procedure, we just go, out of interest go to those particular areas and find out whether there are new innovative systems, whether they've got, you know, more cost effective, and so it wouldn't be normal for us to, abnormal for us to visit. So, and at about that time, the, there was a number of different scale, scale related, that's the small scale, related problems in terms of support and supply. So the nature

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

395PT

of that visit was they would have had scales there and I think the nature, and again, I just haven't read it in particular detail, so it was about passing on the contacts from them, and in the context of potentially getting some money for replacement scales, here was a company that we needed to get not necessarily on the panel but we needed to look at their product and see whether it was suitable for our application.

So the Intertraffic conference, is that an annual conference?---It's biannual.

10 Biannual. And did you go, during the time that you worked at RMS, did you go every two years to the conference?---I went, I think for about four conferences in succession at my own expense.

And did Mr Soliman travel with you to that conference?---No, he didn't. He, he travelled independent and he, I believe that he, by some miracle or otherwise, got some funding from the organisation to attend but I could be wrong but I think so.

20 So you met up with him there?---Yes. Absolutely because we said we, we'd have a look around and, you know, go, because it's such a large conference. We went, well, let's sort of, not necessarily spread out but let's have a look at the, you know, what's available, whether this technology is, or otherwise, the innovations that might be of value to us and we can go back and report accordingly.

Did anyone else from your area attend the conference, the 2016 - - -?---Jai, I think, went on the same conference as well.

30 THE COMMISSIONER: Sorry, who?---Jai, Jai Singh, that we're, who is the other subject, I remember that, or subject of this, what's his name, he's, sorry, I'd have to look at the - - -

MS HOOK: He was at the same conference as you and Mr Soliman that year, 2016?---Correct, he was, yes.

40 THE COMMISSIONER: And did he obtain funding from RMS to attend? ---I, I don't know in that particular case. I've got a funny feeling Samer got some allocation but it was like pulling teeth and, to be honest with you, I didn't, I didn't seek it at all because it was just too hard and I used it as a tax deduction at the end of the year, to be honest with you, because it was very relevant to my, my, you know, skill and, or otherwise, so I, I approached it that way because it was too hard.

Did you have many dealings with Mr Singh?---Only in the context of meeting him at that conference. I might have met him at time, one time before it though because I, I kind of, but not in any other context. I think I met him once after that. As in he, he visited Australia and went around the other jurisdictions as well.

Sensitive

Hold on. Sorry, Mr Singh?---Singh, which Singh. Oh, Jai was, was, sorry, I'm, maybe I'm, well, we had a short version of the, who's the second person on the, the summons?

10 MS HOOK: Jai Singh, Jai Singh.---Yeah, so I, we used to call him Jai, J-a-i. So that was the name so he was, he was, again, we were just a group of people from RMS who, who at times met up and had a bit of lunch and then went and had a look around and then we would compare what we'd seen, that was about it.

20 THE COMMISSIONER: And when you were back in Australia working on, during your day-to-day working, did you have many dealings with Mr Singh?---Oh, I, in as much, to the little degree that he was a member of that team and again I thought, I was of the impression of Jai, Jai was a, what do you call it, a graduate engineer who had moved into that team. I thought, I understood his, most of his role related to the development of technical specifications and documentation and he had no, to my knowledge, capability or, or otherwise of, of raising, he might have been asked to raise purchase orders but he, he, he was not, he didn't drive anything in that context, you know what I mean? He would have been instructed to do so. That, that was my understanding of, of his responsibilities and role within the group because when he came along it was impossible to get personnel so when, but there was an allocation of training engineers et cetera and he was part of that group and obviously we, we, as whole group of people, we might have got one or two engineers and he got into the heavy vehicle area where there was substantive work and we might have had another one as well that were allocated to our area.

30 MS HOOK: Just going back to the Intertraffic conference in Amsterdam in 2016. Were any of the other vendors or contractors used by heavy vehicles there as well, that you can remember?---They would all have been there.

40 They would have all been there?---All of the major, major manufacturers are at that conference and again, that's the, that's the reason for going there because, look, if you're, locally you look at the local agent regularly, you won't necessarily see any innovation. You get an opportunity to talk to other countries or jurisdictions that use their equipment and get a bit, a bit of a better view of how that all works. So it's valuable from a, an intelligence gathering point of view. Is any contract signed or otherwise? No. Nothing's done over there. It's purely an observation of technology, where things are at the moment and where new innovative approaches to things might be demonstrated.

Do you recall meeting Stephen Thammiah from Novation Engineering at Intertraffic at any time?---From who? No, absolutely not.

Did you know that he was there too, at that time?---No.

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

397PT

Now, in his email to you, Mr Malhotra, the vice president of IRD, he refers to some challenges that you may have encountered. That's the first paragraph, the second last line.---This had, this had, it related to the local support agency for IRD if I remember now correctly.

10 And who was that?---The name escapes me but it might have been AccuWeigh or something like that. There was two companies involved in the provision of service. One was AccuWeigh and I think that might have been it. Now, in the context of, and again, sorry if I get the, my wires crossed slightly here, but there was a major issue with regard to the support of weighbridges as well and that had to do, and the certification of them, and that had to do with the fact that the company who was originally supporting them had lost, sorry, the, the, the owner had retired, the son had taken over.

All right, I'm going to help you here and tell you that it's ELWC.---Sorry?

20 ELWC.---ELWC and that, that would not be wrong. But my understanding and my, in conversations on the subject, which was again, causing problems for us, the son had taken over, that, we were not getting the service from the company in terms of the scales et cetera that we needed and I think part of the discussion with Rish was about the fact that his local support was turning into a basket case and could he do anything to improve that. So there would have been a relevant conversation in that, concern, from my point of view because it was holistically looking at we've got kit out there we can't get support for anymore, and it was about can you find another agent that will, can provide an alternative service.

30 So do you recall Mr Malhotra actually asking that RMS finds another agent in Australia?---It, it would have been part of the general conversation about you need, from my point of view, you need to find reliable local support because what you've got there at the moment is not good, but not about any specific alternative provider.

40 And why would it have been RMS's job to find local support for this international company? Why couldn't they find their own?---It would, it would have been their job. It had nothing to do with us. We were just saying your, your local support is causing us a problem.

You were telling Mr Malhotra he had to find locals?---Absolutely. Well, no, I didn't tell him he had to find anything. I said you need to talk to your local agents so we can just maintain the equipment we've got out there and, you know, we're not going to buy equipment from you going forward. And this is not, it wasn't a threat, but why would we continue to buy equipment from IRD, which was good equipment, when you can't support it, you can't maintain it, you can't certify it? We can't use any of your equipment unless it can be certified. And there was a whole issue about, again, because of

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

398PT

the, the change in the organisation in terms of the support that they could provide. So it was in that context.

So did Mr Malhotra to your recollection say that they were looking to find another local support?---I think there was a general conversation about I'm hearing you, can you, yeah, we need to do something, but it wasn't, there was nothing specific that I, that I recall.

10 Did you see Mr Malhotra again when he came to Australia in October of that year?---I remember meeting him next door at the coffee shop next to the thing, and having a coffee with him, and I, I think I met him more by coincidence than, than arrangement, and said hello and are you coming around (not transcribable) he might have said, "I'm seeing Samer," I can't remember, but, and I went, "Oh, okay. How's things going? Have you," I think I might have said, "Have you, have you sorted that agency thing out?" And, I mean, that would be the limitation. But we just, as again from someone you're just familiar with, "Oh, you're here to, to obviously check out and, and discuss things with Samer?" and he might have said yes or
20 otherwise but it was not a conversation of any great consequence, you know what I mean?

Were you in any way involved in the performance management of the local support, that is ELWC?---No, I, I was, I was, I was listening to the concerns of Brett and the teams out on the road about getting these things sorted because they couldn't do their job, and I was obviously representing that to Samer and he was giving me feedback about what they were trying to do to, you know, fix that. And, and that was, in terms of representation, to the, the providers, IRD, and also in regard to looking into alternative service providers, and that was the limitation.

30 Commissioner, can I tender that email chain starting the 15th of April, 2016?

THE COMMISSIONER: With the attachment?

MS HOOK: No, that – yes, with the attachment, sorry.

THE COMMISSIONER: The email exchange between Rish Malhotra, M-a-l-h-o-t-r-a, and Mr Hayes and then Mr Hayes and Mr Soliman, dated 15 April and 13 May, 2016, with the attachment dealing with the SAW Series
40 II portable wheel weigher, will be Exhibit 27.

#EXH-027 – EMAIL CHAIN BETWEEN RISH MALHOTRA, PAUL HAYES & SAMER SOLIMAN RE: FOLLOW UP FROM INTERTRAFFIC ATTACHING SAW SERIES III METRIC BROCHURE INITIALLY DATED 15 APRIL 2016

Sensitive

THE COMMISSIONER: Mr Hayes - - -?---Now, now, sorry, now that I look at the, the attachments here, I can see the, the, obviously I got a copy of their, their technical documentation and just passed it on.

Mr Hayes, in the email you receive from Mr Malhotra, he says in the final sentence, “As, as we discussed, I look forward to receiving specifics from you that I can address and ensure these are corrected and fixed.” So he’s seeking details of some of the matters you raised with him in Amsterdam. Did you provide him with those specifics?---Not directly.

10

Did you request, when you say not directly, indirectly were they provided?--
-No, as I say, I, I referred this through to Samer and, and expected that he would – because it was a, a subject matter of interest – that he would then go into the details of the problems he was having, so we raised it in a general term at that particular point in time and I expected that Samer at that point in time, I, I passed it on to him (a) because it was material, you know, it was obviously a follow-up contact, and second was on the basis of that, well, you’d better give him now the details of, of what our problems are and how, how we need to address them.

20

Do you know if Mr Soliman did that?---I don’t remember specifics, no. I would have expected him to because it continued to be a, a, a, an issue to address.

MS HOOK: Can you tell us anything about a multi-vendor approach to procurement in your area?---Absolutely. It was about, there was two aspects to that. One was from the time I started the whole speed camera program, in order to, there was, there was, there was a tendency in most jurisdictions to actually pick one vendor and go with that, but then you became somewhat captured by the fact that then they were your singular supplier, you had systems set up based on that, and ultimately there was gouging. You know, for example, in the (not transcribable) arrangement, a company that had the exclusive use of that, the cost of spare parts just clearly ridiculous. So when I started to start the procurement of equipment and cameras for the fixed camera program very early in the piece, it was normal practice for me to say get a panel of suppliers, keep that competition up. You know, obviously make sure that they’ve got equipment that meets all its specifications, but make sure there is competition in there between them. Now, there was usually fairly known parties in that because there’s only certain people with that type of equipment, but that was to apply across the board. That was my expectation. So always a case of whatever it is, if there’s any substantial value, you put it out there, you get your quotes on the basis of that panel of approved personnel, and you take the best value for money for the organisation.

30

40

So if Mr Soliman told Glen Doherty of ELWC that there was a new requirement for a multi-vendor approach in heavy vehicles, for instance, which meant that ELWC shouldn’t be the sole provider of IRD PAT scales

Sensitive

any longer, and there needed to be another provider in New South Wales, another, sorry, distributor in New South Wales - - -?---No, no, it wouldn't be in that context, I'm sorry, because if it was a provider, if, if it was the provider of this particular scale type, for example, and again I think we're looking back at the historical scales that we use rather than new ones, if it was the procurement of new scales, we would have made sure that IRD were not the only company we looked at scales from, but if it was the provision of services and maintenance related contracts that was an issue for them about who did their service in New South Wales. I didn't think that, you know, I wouldn't have put to them, say, well, you need three providers in New South Wales to provide your thing. It wouldn't have been a, a viable, first of all it wouldn't have been, I couldn't have mandated that, but secondly it wouldn't have been, it wouldn't necessarily have returned a, a, an improved efficiency from the organisational point of view because they would have said, well, if it costs 40, there might have been marginal difference but it would have been a lot of procurement complexity to probably end up at the same outcome, you know what I mean? But, so, no, that's not an area we would have mandated. It would be more about if you want scales, if you're going to get new scales, if we're going to replace scales, I want to look at multiple scales. Okay. And that, maybe in that context, so, for example, three or four people had put scales on the, on the, on the table and say, yeah, they can all do the same thing, I, I would have normally expected that we'd got somebody like CIC, which are a test house, to check those scales, all of them, before their claimed integrity. That would be normal practice, but it's only in that context of procuring new, new equipment.

So the multi-vendor approach doesn't apply to a situation where you have an international company and you've had a sole distributor in New South Wales and you want another distributor of the same product?---No, you wouldn't be able to mandate that. But the nature of this conversation related to the one you've got is a waste of space. It wasn't about - - -

THE COMMISSIONER: But that was dealing more with maintenance of the scales and the certification.---Correct.

And are you now saying if it's a matter of replacing scales that you already had, would you just go back to IRD or would you had, try and introduce the multi-vendor approach then?---If, if it was only a small amount. For example, and that's the problem, that it was only a very small amount of a budget available. In other words, we really needed to replace, I don't know how many scales there was but something like 300. I'm, I'm guessing, don't quote me on that number, but it was a large number of scales. They were very expensive but they were essential. You needed six scales, I think, to do any heavy vehicle measurements, so six for each individual they had, and there was 100 vehicles out there, so I don't think they necessarily were all populated. But, so we needed very serious batches of, of, of rollover to have spare parts even, because there was no spare parts available for these

Sensitive

things anymore, so we would have, if it was a case of it being, if was four of them, because we needed to just keep our, keep the wheels turning while a couple of things were being fixed, well, we wouldn't necessarily go out to the market in that case, but if there was any way of a substantive contract or if there was any money for a substantive contract, it would have to offer that multi-vendor solution.

10 MS HOOK: Do you know anything about the circumstances by which Novation Engineering came to be awarded the sole distributorship of IRD scales and parts in New South Wales?---No.

Did you know that it happened?---Sorry, did you say Novation Engineering?

Yes.---No, not, not in any sort of a, as in, you mentioned it, but no, I wasn't aware of it. I didn't know they became the, the, the nominated alternative provider, or it didn't, it hasn't registered in my head is the best way to put it.

20 So Mr Soliman has never told you that subsequent to ELWC terminating its relationship with IRD, Novation took up that distributorship in New South Wales?---Look, the name could have been mentioned but it wouldn't have been an issue of concern, of, of, of, a, a concern to me or of interest to me, purely because that was an issue for the provider on who he got as his agent, you know what I mean, there was no linking. If he had stated it was XYZ company that's going to be a new thing and they'll take care of you, I would have went, okay, thanks, it's about I'm glad you've got somebody new to take care of it. But not, not in the context of, you know, in hindsight it would have been something to look into.

30 But the somebody who's now taking care of the supplier of RMS scales is Novation Engineering - - -?---Ah hmm.

- - - as of the end of 2016. That's not something you became aware of?
---It, it, was I, did it come to my attention? Absolutely not. I knew it had changed, I knew that the procurement of services in that space had improved, as far as I understood, but not who was doing it or who they were.

40 Can you turn to the document now under tab 3 in the folder in front of you. This is an email from Mr Soliman to yourself and Alex Dubois, dated the 12th of December, 2016 concerning the issue of an RFQ that would, that had been issued that day to all parties capable of supplying portable weigh scales.---Yes, all right, I, I only noted it, yes.

At the end of that email Mr Soliman says that he's been copping abuse from inspectors - - -?---Correct.

- - - during this messy transition.---Yep.

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

402PT

Can you recall what the issue was here that he's referring to?---The unavailability of scales.

Pardon?---The unavailability of scales so that they could do their job. He was copping it because the, when the scales went faulty they were being sent to that team to have them repaired and there was either major delays with the original provider doing that service, the servicing and, and, and certification work and it was absolutely understood that that environment and the need to find a solution to that. So this was, would have been part of
10 that RFQ to try and find another way to do this.

So do you recall whether the RFQ was for maintenance or for spare parts or for the scales themselves?---I don't remember delving deeply into the details but my expectation would have been, was for the provision of service, sorry, what do we call services, maintenance services, right, and maybe the provision of replacement equipment if they couldn't be repaired. That would be the limitation, but it would be on a, you know, individual request thing. And, and they were coming through to us in batches I think
20 of four or six items which they urgently needed repaired, and I think one of the issues, and correct me if I'm wrong here, but there was also an issue with regard to the collection of delivery time frame for those because it was, you know, once you had no scales it would be the inspectors were limited by what they could do, and, and they got, they were dedicated to what they do and they were quite, got quite irate and were quite vocal about that and got in my ear a few times about when are you going to fix the scale issue, okay, we're working on it.

So that RFQ, does that presuppose a panel exists?---It does.

30 Okay. And - - -?---An RFQ from my point of view is asking multiple vendors to, to give us options on how we're going to A, maintain, B, certify and C, replace if necessary on that case, in that case.

But to known vendors, to vendors on a panel.---Absolutely.

Yeah. You, do you have any recollection of who the parties capable might have been at that time?---I thought they would have been limited because if you're doing maintenance on existing product, then it would have been quite restricted in terms of who might have put their hand up in regard to
40 that. I think at some stage there was, there was people manufacturing spare parts locally for - - -

For the Canadian scales?---For, for the scales, purely because spare parts were no longer available. I just, that's, you know, a vague recollection of conversations. But, and, and maybe they had a capability of doing maintenance work on them on the basis of the kind of things that fail, because they were manufacturing them. So there might have been one or two people possibly able to get in there, but again, did I delve deeply into it?

Sensitive

No. At least there was an RFQ going out, as far as I was concerned at least there was some progress here in trying to get a solution.

So you have a vague recollection that there were no spare parts available. ---There was great difficulty, there was, there was, there was cannibalisation of, of existing scales in order to try and fix them, and of course as a result, the numbers available for the inspectors were getting lower and lower, and that's why the appeal to IRD was coming up, you know, we really need to fix this, and I suppose their view was, well, it's about time you replaced them, these are systems we don't even support anymore. But that was the complexity.

Do you know which company was manufacturing the spare parts locally? ---No. It was just a, it was just a comment, which was, we have to or we are able to pick up some spare parts to, to keep them, but it's really borderline, you know, us being able to keep them together at all. And, and again, what I was working on most of the time was seeking funding so that we could get a batch replacement on that which I constantly kept getting knocked back on.

If it was the case that as at the 12th of December, 2016 - - -?---Ah hmm.

- - - Novation had the IRD distributorship and the sole distributorship for New South Wales of spare parts and scales, would it be the case that there was really only one so-called capable party?---Absolutely.

Absolutely?---Yeah, absolutely it would. In other words, if I was aware of that, why would you put out an RFQ? You wouldn't put it out, because that's a bit fabricated in terms of putting out an RFQ for, where you're in a situation where there's only a single provider. Did I ask? No, I didn't.

Were you aware that on the 16th of November, 2016, Novation were awarded a contract by RMS for the reactive operational maintenance of RMS enforcement portable weigh scale fleet until the end of the 16/17 financial year?---I don't remember it being highlighted, if you understand what I mean. Did, did I have a conversation on the subject of the outcome of the RFQ? No. But, and, but, is there an email in here somewhere that might have, you know, sent me a cc version of it? I don't, don't recall.

If you can take from me that it was awarded such a contract on the 16th of November, 2016, so a month before this email from Mr Soliman.---Yeah. A month before it?

Yes.---Okay.

Why would it be necessary for Mr Soliman that day, the 12th of December, 2016, to issue an RFQ?---I would have no idea. It would not make any sense whatsoever. Simple as that. If the, if it had been allocated before,

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

404PT

take Novation Engineering as being the new vendor for or provider for the services, there would have been no logic to putting an RFQ if he was the only, the singular provider and if then he had been nominated by IRD for example, there were no, they've no reason to question that, that was a discussion as a thing, I'm sure you know, in hindsight there must have been just, would, there would be other part, parts of it, but from how I was looking at it, there was nothing to it, nothing to see here.

10 Mr Soliman says that it's his goal to have a vendor signed up and operating 1st of January, 2017.---Ah hmm.

“At which time the program is handed over to Alex for BAW management.”
---Sorry, Alex? Oh, business as usual management, yeah.

Oh, business as usual.---Yeah.

20 Okay.---No, Alex is of course the, Alex was dealing with the inspection stations generally and their – he was dealing more about their development rather than their maintenance. So, but again he had a team, he had the team there, so he wasn't going to be in on a day-by-day basis, so that wouldn't be unusual, Alex, you take care of that, you take care of the maintenance and responding to those and making sure they get their scales.

Okay. But that's something that Mr Soliman is handing over to somebody else at that - - -?---To, to one of the staff members, yeah.

30 THE COMMISSIONER: And he uses the term at which time the program is handed over. Do you know what he's referring to when he says the program?---Okay. Well, then, he's saying basically so I've been dealing with the management of finding an alternative reliable provider for this but at that point I'm spending, now that I've got, that's been sorted out I'm now handing it over to, to Alex which is one of the staff members to now take care of the day by day, you know, receipt of scales, maintenance of scales through this, this company or whoever wins.

MS HOOK: Commissioner, can I tender that email.

40 THE COMMISSIONER: Yes. The email from Samer Soliman to Mr Hayes and others about the portable weigh scales tender RFQ dated the 12th of December, 2016 will be Exhibit 28.

#EXH-028 – EMAIL FROM SAMER SOLIMAN TO PAUL HAYES & ALEXANDRE DUBOIS RE: PORTABLE WEIGH SCALES TENDER RFQ DATED 12 DECEMBER 2016

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

405PT

MS HOOK: The next document, Mr Hayes, under tab 4 is a draft document. It's a draft memo dated the 12th of October, 2017. It's addressed to Samer Soliman. It has WSP logo or letterhead and its subject is the Tender Evaluation of a Contract for the Panel for Maintenance of Heavy Vehicle Enforcement Programs.---Yeah, I, yeah.

If you go to page 4 of that memo.---Yeah.

10 There are four signature block areas that haven't been, well, three of them haven't been completed. One has already been signed by a Nathan Chehoud. Who is Mr Chehoud?---I have no idea.

20 You don't know?---No. I'm not aware of this, this, I'm aware of WSP generally as a consultancy company but I'm not aware of the, anybody else being involved in a Tender Evaluation Committee and what the nature of that tender process was. I'd have to reread it. But, yeah, Mr Nathan Chehoud. No, it doesn't ring a bell for me. I don't know why he would be part of the signatory list here. Let me just have a look. Now, the only, the only thing I could suggest he might be purely because, he might have been some independent observer or person on the evaluation panel. That's just a piece of, in terms of the way the documentation and the recommendations are made out here, that, we've got Alex, Craig and, and Jai, one would imagine that that was part of an overall evaluation panel, just looking at what, as it's presented here, and then once that, that had been signed off, it suggests here that Samer on the surface was not necessarily part of the panel but again I'm doing a bit of guesswork here.

30 The estimate of cost here is that the panel would serve approximately \$6 million worth of work over the term of the contract covering multiple heavy vehicle enforcement programs. That's the bottom of page 1.---So let's have a look at the, there's civil works, electrical works, steel fabrication, installation signage, weighing motion systems, portable weigh scales, bay scales and brake testing systems. That number, I don't know how, what's the duration of the contract?

40 It's an initial period of three years with the option to extend for an additional two years immediately above the estimated cost.---Okay. What, what I would suggest here is when you asked me before about the, you know, how much of a budget did they have per year, I think they had approximately \$2 million per year.

2 million?---2 million per year. That's just now that that 6 million has come up and that would represent, because there's such a wide range of services incorporated in this that, that that would just represent that over that period of time the overall expenditure in this space would have been \$6 million. That, that kind of, that box would tick okay for me. And because this is such a broad range of services I find it a little bit surprising that it was done on one tender because it's a little bit, for example, those, it all depends on

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

406PT

what, the whole range. I'd have to read through it in detail but, and so it's safety cams, average speed and over-height detection sites. So that's, and the inspection stations. That, that represents all of the services but they would come from a number of different places. They'd be from people putting concrete down to putting posts up to repairing scales. So some of it's technical, some of it's mechanical, so a bit surprising it's all lumped into one contract. So that would, that's what I'd say.

10 So is it something you would have expected to see or been involved in given your position?---October, 2017.

Oh, you've left or you're about to leave?---Just about to leave. Now, under normal circumstances would I? The signatory down there should not have been if I was still there but remember once I'd left there was nobody sitting in the chair and it would not normally have been, that's where my signature would have been and I would have looked at this but I didn't look at it.

20 Before you go on I will in fairness tell you that behind the document under tab, the document at tab 5, at the very back of that document, pages 47 to 50 is the finalised memo.---Yeah. Sorry, where are we looking at, sorry?

So I want you to turn to the document under tab 5 and go to the back of that document, the very last four pages of that.---Okay.

You should see a finalised memo. There are tiny, tiny, tiny page numbers down the bottom and I'm looking for page 47.---Sorry, is it under, still under section 4?

30 Tab 5.

THE COMMISSIONER: No, 5.---Oh, tab 5.

MS HOOK: Yes.---My apologies. So, okay.

The very back of that document.

THE COMMISSIONER: Go right to the back of the document.---Sorry about that. Yeah.

40 MS HOOK: The last five, four or five pages, the last four pages I beg your pardon. Now, this time the memo is addressed to you.---Right.

And the signature blocks include both your name and Mr Soliman's name. ---Okay.

So do you recollect this panel and the tender evaluation - - -?---Not in great detail now that you mention it but going back to what I just mentioned before, but there's a lot, seems to be a lot more detail in this, this version.

Sensitive

Let me have a look. Do I have a deep recollection of it? No, I don't but that's no excuse. The point being is that when we look at the, let me see, on the previous one where they had the panel of people that were on that list of providing services. I think it's on the previous. Just bear with me a second.

It's on the previous version of that memo that there's a list of the people who tendered at page 5.---Just bear with me.

10 THE COMMISSIONER: I don't know if you've got the right page there.
---Oh sorry, am I looking at the wrong place?

If you look at page 5 there's a list of 13, sorry, now we're behind tab 4.
---Behind tab 4. Yeah.

Page 5 of that document. Appendix A, Schedule of Tenders Received and you'll see – oh, it's in front of you on the screen.---Okay. Oh, sorry, that's a, that looks like an invoice rather than a – it's okay. Novation is on the top. AccuWeigh is in there. Lancomm I'm not familiar with. CBF Projects. WeighPack and Electrical Services. EuroCivil. CIC Engineering. Yeah.
20 So there, there's known parties in there that I'd be aware of and expect to put names forward but as I say the, the things you've just mentioned, which I mentioned is this is very broad so it's everything from, you know, fixing electrical services to putting concrete down. So there would be a broad, broad range of, of people putting their names forward for that and as far as I can make out, as far as this whole document's concerned, that a, a, a, an appropriate, what would they call it, sorry, an evaluation process would come through in terms of their pitch. Now, in hindsight when you ask me who that, that person is, that that other thing, it, I'm just guessing that it
30 might have been a WSP representative on the panel in the evaluation process.

MS HOOK: Yes, I don't think there's a mystery about that. I just, I wondered - - -?---Oh, sorry, but, yeah, I just, I, I'm not familiar who the person is but, okay, sorry, I'll let you ask your question.

That's all right.---So what's presented to me now, while I didn't have a recollection about it, it would normal, again, there's two issues there, is would it be normal for, for a lot of these people to be on, on the panel and put their names forward? Yes. Does this represent the allocation of a
40 specifically, you know, amount of work to them? No. Does it, does, does the amount of money nominated for that period of time make sense, as in \$6 million over three? Yes. And I would, even if I was given it now, I would probably have no reason not to sign it.

So you weren't part of this process?---No.

But you were a signatory, as we've just seen, to that finalised memo.---And, and my role there would be to, does this look like a process that had been

Sensitive

followed properly and particularly in the context of an independent, you know, WSP, I don't quite know what their role is but they're an independent sort of consultancy company, either for the purpose of the, the evaluation process or overseeing it.

You were the most senior person from RMS of the six names that are on the finalised memo.---Correct.

10 Is it not you who has requested WSP's involvement in this evaluation?
---No. It would be, it would be unusual to have a, an independent involvement in this but it would particularly have been flagged? No. But would, you know, would, when, when I look at the other tenders put forward to me, was there involvement of other people? Generally not. But that would only add more credibility to the process to me if there's somebody independent there looking at it. But because, when you look at Alex, when you look at the people involved in that, this is about such a broad range of services for, for different areas of the, what they do. There's nothing in here to sort of, either, the involvement at WSP would probably give me more confidence – oh, there you go, WSP consultant – rather than
20 less. But as I say, look, at that particular point in time I probably had my mind other, other ways rather than digging into this and again I had no reason at that point in time for any suspicions about processes or otherwise. Everything in front of me looked okay.

Who would have engaged WSP to be an external partner in this tender evaluation?---I would suggest Samer or Alex because WSP is one of those independent consultants that I have, you know, come across a number of times, being involved in the, not so much in the procurement process but rather in the delivery of services process in, for the works Alex did and he
30 had a tendency to engage a number of different consultants. But again, not normally true for, for projects that, that we had a budget for.

It would have given you comfort to see the involvement of WSP, I think you just told us?---Yeah, well, the point is that the external consultancy, being involved in the process, their role to some degree would have been to, to be independent observer and they, part of the, part of the evaluation process too. So the understanding of why Jai, Craig and Alex were there, and again, other than that list we've got, I don't know, it does go into, unless I read the document from beginning to end again, it doesn't go into what that
40 evaluation process was. The only bit that looks a bit strange to me here is that there was a technical bit and a mechanical or a, a, a service delivery bit. When, again, when I look at some of the providers, they're the, the usual suspects and, fine, I would expect them to be there. There are a list of other people that I don't know but there's a lot of people out there providing those type of services so it's not like anything strange issue or anything.

Sensitive

Novation Engineering was one of the tenderers for category B maintenance.---Yep. Therefore, in the context of, yes, it's there with a list of a lot of other names so it didn't stick out to me.

Just tell us how it could be that Novation is able to tender for a maintenance panel when it's only an authorised supplier and doesn't have a maintenance capacity at all?---No, but there're, they're a supplier and a maintenance organisation.

10 Are you aware that they are a maintenance organisation?---No, what I'm saying is that the provider of the IRD systems which you now point out to me is, is, was the, Novation Engineering, where the, the, inherited the ownership of that, there would be the supply of equipment and most of the work would be associated with the maintenance so it doesn't misfit this at all.

Do you know that Novation has a capacity to maintain the scales it supplies?---If they had the agency from IRD, one would assume that that is the case.

20 What if the distributorship was only in relation to sales and parts?---That, that would be unusual. That would be every unusual. You know, the, you normally don't deal with two, two, two groups, one about supply and one about service. That, I find that strange.

And if that was the case, would you find it strange that they were considered for the tender panel at all?---Shouldn't have been.

30 Shouldn't have been?---If, if they are not the authorised maintenance agency for that equipment or some other equipment within the list, I would, I would find it quite, really unusual that they should be part of it at all. There would be, there would be no justification simply.

Can I just ask you now to turn to the version of this memo under tab 4 and that's got some coloured appendices at the back. Page 8 is what I want you to go to, category B tenderer scores against assessment criteria.---Yes, okay.

40 So the category B tenderers are obviously Novation, AccuWeigh - - -?
---Sorry, Category B, I'm just making sure I'm on the right scale here.

Page 8.---Sorry.

THE COMMISSIONER: Double check it against the screen.---Sorry, I'm at the wrong page, my apologies. Okay, yep.

MS HOOK: You have that now?---Category B, yep.

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

410PT

So we have, we have Novation, AccuWeigh, WeighPack and Electrical, CRC Engineering and NEPEAN.---Yeah.

And you would be familiar with most of those?---I've definitely got a great familiarity with AccuWeigh, WeighPack, CRC Engineering and NEPEAN, are the ones that really stand out to me as people I've, that we've dealt with, yeah.

10 But not Novation?---Novation is not necessarily one I'm, you know, at, at that stage, I had any great familiarity with.

This is just before you leave RMS?---Ah hmm.

Novation has scored a zero against the criterion of responsiveness in carrying out the specified work.---I, I'm looking - - -

20 We're on the same page. We're on the same, we're on the table - - -?---Oh, responsiveness in carrying out, okay, fine, yeah, okay, I see what we're talking about. Yep.

That's a criterion weighted 30 per cent in the assessment of these tenders and it's, it's scored zero. Does that concern you, that it, it was a successful tenderer?---Well, that would indicate to me, the only reason why that particularly would be put out, and if we've got somebody else looking at it independently, they have no history. That's my guess here. You can't have a - AccuWeigh, for example, and the other two of the partners here were the main people providing these services, have a clear rating. The responsiveness can't be demonstrated if you've never done it before or you've not been involved in the maintenance of the systems before and in this particular case, now that we know, that is you have described to me who, who Novation are, that, that would, that would make sense that it would be a zero.

30 If you come down to the line that says, "PAT And HAENNI portable scales," you'll see an asterisk saying, "Novation is only authorised supplier, not maintainer."---Where is that, sorry? In this, one the same page?

40 Yes. So criteria is the first column and it's a criteria about midway down that column. It say, "PAT and HAENNI portable scales."

THE COMMISSIONER: It's next to the coloured section.---Yes, I see it now. I can clearly see it, yep.

MS HOOK: So that tells you that Novation is only an authorised supplier, not a maintainer and that that's known to the Tender Evaluation Committee. Is that surprising to you?---Absolutely.

Sensitive

Do, would you think that that would invalidate its ability to even tender for this panel?---Yeah, it's, it's, it makes no sense whatsoever because it's contradictory to what's been asked for in the tender.

There are a number of vendors here that score very low, particularly CIC Engineering and NEPEAN.---Ah hmm. Yeah.

10 In fact, those two companies score zero on two out of three criteria, so it's an outright fail.---Well, again, I can only put that into context. They're, they're, they're not service agents. Well, they are a service provider, an engineering service provider providing electrical, communications, all that sort of stuff, and of, of, of, of note to me because I, I, I recognise the name over a considerable period of time. Why they got zero, I would assume only in this case – and this is again just reading the paperwork – it would relate to their specific work on weigh scales. Do you know, understand what I mean? So in terms of weigh-in-motion systems, weighbridges and, and that range of products that are in there, it would not be surprising to me they'd got that sort of a rating.

20 THE COMMISSIONER: But they got that rating also for category A. I know we're not concentrating on the category A, but the previous page – oh, sorry, it's only CIC. NEPEAN isn't there. But CIC again scores zero. ---Based on the reputation of the companies, CIC in particular, because I've interacted with them over a considerable period of time, they had a very, very good reputation, so this doesn't really line up with my normal understanding. But, again, I haven't been, I, I didn't interact with them regularly but I know about their general, what they call it, reputation and that was a good one. But, so if I was sitting on the panel, again I don't know what material they were doing this evaluation on, but in general
30 opinion, that wouldn't seem to be consistent with my understanding of it.

MS HOOK: So if we go back to the signed memo, which is under tab 5 at the back of that document, the last four pages.---Yep. Sorry, sorry, the signs memo you said, (not transcribable)

Yes, which you've signed.---Oh, sorry, yes the, very fine, (not transcribable) yeah.

40 And it's recommended by the Tender Evaluation Committee that approval be given in accordance with the RMS delegation manual to include all 13 tenderers on the panel. You've signed that. Would you have looked at the assessment criteria and the way the tender was evaluated before you signed?---I have no recollection of looking at that level of detail before. But would I under normal circumstances have a look at that evaluation criteria? Yes. So without making excuses or anything like that, I don't, I don't particularly remember going into the contract in detail. I, I, again, in terms of what is the tender about, in terms of the cost of that tender, in terms of the people tendering for it, that would not have raised any flags for me. Did I

Sensitive

go into detail about the tender evaluation process? I had a whole team of people here who were supposed to do that properly, including an independent, and I don't, I don't recall going through it in detail myself.

If you look at page 3 of that signed memo, Mr Hayes.---Page 3.

Yes.---Okay.

10 THE COMMISSIONER: No, no.

MS HOOK: The one, the document you were just looking at, your signed -
- -

THE COMMISSIONER: Which has got 49 page down the bottom.

THE WITNESS: So it's part of the, the, the sort of fairly lengthy document?

20 MS HOOK: Yes, that's right.

THE COMMISSIONER: Yes.

MS HOOK: Right at the back.

THE COMMISSIONER: Go to page 49.---Okay, yeah okay, 47, 49. Okay, yes. I've got that in front of me.

30 MS HOOK: Can you find conflict of interest on that page?---That's just a normal clause, yes, that, that is to be understood.

And that's been signed by Mr Soliman.---Correct.

And Novation is one of the successful tenderers.---Yeah.

And I have told you that Novation is direct, is directed by one of Mr Soliman's closest friends.---Ah hmm.

40 Would you have concerns with Mr Soliman signing - - -?---It's a direct conflict of interest in my interpretation.

A direct conflict of interest?---Yeah.

And if you look at the performance against assessment criteria summary at 8.3 on that same page, it says, "All 13 tenderers have the capacity to complete works within the contract period based on similar works successfully completed for the RMS." Given that three out of the five tenderers scored a zero for responsiveness - - -?---Yeah.

Sensitive

THE COMMISSIONER: And indeed one isn't even a maintainer.---That, that, that outcome is, that outcome is, is, is, now having looked into the details of the tender evaluation process, there's an inconsistency there, absolutely. Performance against assessment, "The 13 have the capacity to complete the work within the contracted period based on similar works successfully (not transcribable)." I suppose the complexity here, again without making any, is that it's such a broad range of works. I would say that that is kind of right for some of the works that are outlined there but not all. So if you were to look at CIC's capability and their ability to - - -

10

Let's just focus on Novation.---Yeah, sorry. Yeah, yeah, yeah.

Novation is only going for category B.---Yeah.

All right? Not looking at category A.---Well, that's in, correct.

And in that document that you were taken to of category B tenderer scores against assessment criteria, this is a tender for people to provide maintenance services and it expressly says, "Novation is only authorised supplier – not maintainer."---Yeah.

20

So in black and white it's saying they can't provide these services and then we say all 13 tenderers, including Novation Engineering, have the capacity to complete works within the contract period based on similar works successfully completed for the RMS.---Clearly - - -

It seems a complete fabrication.---It is a completely, yeah, it is a completely incorrect statement, particularly when applied to Novation. You know, having looked now through in detail of what's put, the evaluation process, and now knowing that, you know, they have no previous record of actually providing any services to, at that point, to RMS.

30

Now, I know it's around the time that you're about to leave but have you got, could you provide me with any explanation as to how this has occurred?---Well, again, without having gone through that, that table in detail of the evaluation process, and having had a look at all of the providers, and I'll be honest with you, I was deficient or, sorry, yeah, I was deficient in looking at that statement with regard to they're only a provider of, of, of equipment, not services, so I failed in that case fairly clearly not to notice that. But having not noticed that, the group of, the group of 13 groups that were there still seemed to be a legitimate group to be put on a panel to provide services. The, again, that, that was my failure without question.

40

But moving away from your role, you've got four – who have you got? You've got Mr Dubois, Mr, is it Steyn, Mr Singh and then an independent consultant who all sign up to it.---And that's what I find, that's what I find surprising. And, when you're making those, those, the spreadsheet out in

Sensitive

terms of what you're evaluating, et cetera, and the process is correct, the outcome doesn't seem to be appropriate. There should have been at least, in the case of Novation they shouldn't have been part of the panel, they just clearly shouldn't, on the basis of standard evaluation of tender documentation. The, the bit that disappoints me is I didn't (a) first of all, whether that information was included with the memo as I received it, I'm not sure, but I, I, if I was part of that panel, they would, they're people you have to take off them, I mean, that you have to take off and say, no, they're just not suitable. And part of that is about previous experience. In some cases, depending on what the nature of the work is, it doesn't totally preclude, but for this purpose it does. In other words, if you've never had a history of providing services, and part of the selection criteria is about do you know what you're doing and can you deliver services in this phase, that, that's, doesn't make sense at the very least. It's a bit surprising considering all of those people on the panel that that didn't flag in somewhere. Know what I mean?

MS HOOK: After you left RMS, did you stay in contact with anyone from your team?---I stayed in contact with, I've just, I've got a very good relationship with all of my managers, and nearly every individual (not transcribable)

So that's a yes? You did stay in contact - - -?---That's absolutely, yes. And I, I still have contact. I still work with them. Not directly in the same thing. I work for Transport and I interact with them on a fairly regular basis.

THE COMMISSIONER: Through your consultancy for Transport NSW? ---Correct. To, I'm working on the current mobile phone evaluation process based on my experience, et cetera, on previous work of the same type.

Is that the one where photographs can be taken - - -?---Correct.

- - - of people on their mobile phones while they're driving? Is it that - - -? ---Correct. Yeah. So I was a technical adviser to the evaluation panel on that, for example, as well. That's part of my current, current responsibilities. I'm not involved and I don't make, make selections, but I do highlight issues that they might want to consider. But that's what I'm doing at the moment, but as a result the, the delivery arm of that, those, you know, facilitating putting the stuff up on signs or whatever it may be, or doing the testing, are still that same, not this heavy vehicle group but another part of it.

This, sorry, with this tender, the panel, this is to provide maintenance. ---Yeah.

If subsequently funds were provided, for example, to buy X number of new scales, would have your expectation been that a new panel of potential providers of those scales would have been developed?---Absolutely. That's

Sensitive

25/01/2019
E18/0281

HAYES
(HOOK)

415PT

now, that's now a, a, a replacement of product, systems or services. This doesn't cover that. This is only about providing, so when a – for example, scales or, or otherwise, but even the large ones, the concrete around them breaks up and, and people have to come in and fix that, and that's what this is about. It's not about providing any new services or any new systems or any new electronic equipment.

10 And just assuming when you were still there you get \$2 million special allocation to buy new scales, would have you had to have signed off on that?---Oh absolutely. Well, I don't know whether, because if it's, if it was \$2 million I wouldn't be the signatory but it would have to, I would have to be (a) aware of the procurement process and (b) I would feel personal responsibility that I, I'd looked over who was putting the names forward and all the rest of it.

And who would have signed off on it?---That would need to be at least at the, the, the managing director. Sorry, the general manager, which would be the next - - -

20 And that was Mr, was it Endycott when you were there?---Mr Endycott, yes, yeah.

MS HOOK: I have nothing further for My Hayes.

THE COMMISSIONER: Can I just ask a couple of other questions. Some of them might sound a bit bizarre.---That's okay.

30 The Amsterdam conference, is it expensive?---There's no cost to go to the conference itself.

So you can just walk in off the street?---It's a trade conference, it's a trade show, but it's a trade show of all new technology in, in the safety and transport space, including parking. It's massive. It's over about, yeah, it's huge.

So the cost would be flying over, accommodation, things like that?---That's right.

40 Were you surprised Mr Singh went in 2016?---Not really, no, because again I actually would have encouraged my staff to go there purely because they get a more holistic international view on, on what's going on. But a lot of people don't either have the funds to, to do it themselves and again, as I mentioned, it's very complex to get money from the agency or otherwise to actually attend.

Your recollection was that for that conference Mr Soliman did get some funding from RMS to attend.---Look, that's my recollection. I couldn't swear on it. I, I think there was some sort of competition, there's something

Sensitive

weird in the back of my head about him winning some sort of an award or something like that.

What, internally?---Yeah, yeah. But I could be wrong but I may be mixing up my recollections here, you know, what happened two years ago and specific details. But he, he definitely, I had the impression he was provided with some funding. My impression was that Mr Singh didn't, but again I could be wrong, could be wrong.

10 You spoke about the annual performance appraisal by you of your managers, and you said that if any of the managers, for example, had started to develop projects dealing with possible innovation or new equipment, your expectation is that would have been raised and discussed during that performance appraisal.---No, it wouldn't have occurred in that circumstance. It would have, it would have in the context of, it might have been raised in the context of, you know, so what new ideas have you got? What innovations have you come up with and discussed? It would be only in that context.

20 And, sorry, would that occur during the annual performance appraisal?---It could be part of that discussion, yes.

All right. Were there notes or some kind of documentation made of that annual performance appraisal?---There is. There is actually, there was a mandatory storage of all of those. The organisation was very prescriptive about making sure (a) that the evaluations were done, and that went from everybody of the 77 staff I had, so each manager had to make sure all their people did that. So there would be records in each individual case, yes. They exist and I'm sure that they would be accessible somewhere.

30 Just one final point, do we need to tender the signed?

MS HOOK: We do, we do. Thank you. The final document to tender is the full email - - -

THE COMMISSIONER: With attachments.

MS HOOK: - - - with attachments, dated the 30th of July, 2018.

40 THE COMMISSIONER: Right. The email from Alex Lee to Donna Willis, dated the 30th of July, 2018, with attachments including the signed memo of the 12th of October, 2017, will be Exhibit 29.

#EXH-029 - EMAIL CHAIN BETWEEN ALEX LEE, DONNA WILLIS, SAMER SOLIMAN, ALBERT BASS & MARK CHIU RE: REVISED PROCUREMENT STRATEGY INITIALLY DATED 27

Sensitive

25/01/2019	HAYES	417PT
E18/0281	(HOOK)	

JULY 2018 ATTACHING MINOR PHYSICAL WORKS AND SERVICES – REQUEST FOR TENDER

THE COMMISSIONER: And that's everything?

MS HOOK: Nothing further, Commissioner.

10 THE COMMISSIONER: Now, Mr Hayes, thank you very much for coming in. I'll just emphasise once again to you that I made a specific order under section 112 that you are not to speak to anybody about even the fact that you've come here today for a compulsory examination, let alone the contents of what you have been asked in your evidence today.--I understand.

Right.--Okay.

All right. This compulsory examination is adjourned.

20

THE WITNESS EXCUSED [1.17pm]

AT 1.17PM THE MATTER WAS ADJOURNED ACCORDINGLY
[1.17pm]

Sensitive