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CORRUPTION AND CRIME COMMISSION

OF WESTERN AUSTRALIA

COMMISSIONER JOHN MCKECHNIE AO KC

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON THURSDAY, 11 APRIL 2024, AT 9.49 AM

COUNSEL ASSISTING:

MS KIRSTEN NELSON

COUNSEL ASSISTING THE WITNESS:

MR CHRISTIAN PORTER

WITNESS:

CHRISTOPHER JAMES FIELD PSM

1 **THE COMMISSIONER:** Please be seated. Sorry for the short
2 delay. Whenever is convenient, Mr Porter.

3
4 **CHRISTOPHER JAMES FIELD RECALLED AT 09.48 AM:**

5
6 **PORTER, MR:** Thank you, Commissioner. Mr Field, yesterday
7 I indicated that I was moving onto the OECD contract. Just
8 before I do that, I'm going to close out two matters that
9 pertain to the streamline budget process. The first is an
10 issue of approvals, and the second is an issue of timing.
11 With respect to the issue of approval, Mr Associate, if I
12 can have some transcripts from 15 February, which I think
13 is 0741^ at transcript page 88.

14
15 0741^

16
17 **PORTER, MR:** Now, before you read that, you'll recall
18 evidence and exchanges about the correspondence between you
19 and the Treasurer after the publications of the article?
20 ---Yes, I do.

21
22 And counsel assisting at page 88 was putting some questions
23 to you in the context of the fact that that correspondence
24 had used the words in it that the streamlined budget
25 process had been a process of seeking approval for
26 projects, and Ms Nelson put at line 12 there, page 88:

27
28 The reason why this funding request was made through
29 the 2023-24 streamline budget process was so that
30 specific approval for the agreement from the ERC
31 would be obtained?---Oh, yes, approval for the
32 funding, correct.

33
34 Okay?---Yes. Not approval for the project, approval
35 for the funding.

36
37 And that is your evidence?---Yes.

38
39 Can I just ask you then, with respect to each of these two
40 projects as they are put at this point in time in the
41 streamline budget process document, and in that document it
42 says:

43
44 Two projects related to the ongoing travel, subject
45 to well advanced negotiations, one for a major OECD
46 project in the Asian region and one for a sister
47 state relationship with Graz.

48
49 With respect to the two projects as they're described
50 there, at this point in time, that is to say, when the
51 streamline budget process application is made, what do you

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1 consider is, if any, the approval process for first of all,
 2 the Styrian MoU?---Principally I considered the approval
 3 process for the Styrian MoU to be the approval of the
 4 Premier and his agreement to the - - -

5
 6 **THE COMMISSIONER:** Sorry, your voice is dropping?---Oh,
 7 I'm so sorry, Commissioner.

8
 9 Feel free to look at Mr Porter, but I need to hear you?
 10 ---Yes. Sorry, Commissioner. I was in that quandary of
 11 looking at (inaudible). I - I was of the view that the
 12 Styrian approval - whilst of course there were multiple
 13 component parts of that approval, um, that I required the
 14 Premier himself to be prepared to sign and enter into that
 15 MoU.

16
 17 **PORTER, MR:** And that was the process that you were
 18 engaging in through Daniel Pastorelli - - -?---That's
 19 exactly correct.

20
 21 - - - in February of 2023 through to about May of 2023?
 22 ---Correct.

23
 24 Okay. Now, you've said a number of times that because of
 25 the independence of your office as it is set out under your
 26 act that there were many things - in fact, most things that
 27 were processes or outcomes that you considered you did not
 28 need to seek any form of ministerial or approval of a
 29 Premier. That's correct?---Yes. There were many well
 30 beyond travel approvals, uh, and leave approvals. That's
 31 correct. There were - there were numerous ones.

32
 33 So why were you seeking the Premier's approval for the
 34 Styrian agreement? Is that because that is just a
 35 necessary part of having such an agreement concluded? Is
 36 it because it was a practical requirement? Is it because
 37 in negotiating this, you weren't acting - - -

38
 39 **THE COMMISSIONER:** Well, hang on.

40
 41 **PORTER, MR:** - - - as the Ombudsman?

42
 43 **THE COMMISSIONER:** We're now up to four questions, I
 44 think.

45
 46 **PORTER, MR:** Trying to keep the answers as short as
 47 possible, but why is it that you are seeking approval for
 48 this?---Well, ultimately that is an agreement between
 49 the State of Western Australia and the State of Styria.
 50 And it seemed to me that, um, whilst an Ombudsman might, um
 51 - and in my view did, for example, have the capacity to

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1 sign their own cabinet submissions without ministerial
2 approval, which indeed I have and I have for 17 years - um,
3 it wasn't my per view to be signing on behalf of the state
4 to enter into an agreement with another state.

5
6 Okay. So previously I think you had given evidence that
7 there was an inter-office agreement if you like - an MoU
8 between the West Australian State Ombudsman Office and
9 another international Ombudsman's office?---Correct. The
10 office of the Ombudsman of Thailand.

11
12 And what year did that occur in?---Ah, it'd be searching my
13 memory, but it does go back a few years now.

14
15 Okay. Did you engage in any process of seeking anyone's
16 approval for entering into that arrangement?---No. I think
17 at the time we - we might have informed - potentially
18 informed JTSI and - and - and others. I'm not sure. What
19 I can say is I saw that as a wholly different
20 characterisation. That was an Ombudsman-to-Ombudsman MoU,
21 not a state to state, ah, agreement.

22
23 And you would accept, I take it, that you are clearly not
24 acting under any legislative or statutory authority or
25 power under your act in the process of negotiating a
26 memorandum of understanding between Western Australia and
27 the Austrian province of Styria?---No, absolutely. And -
28 and - and - and it was for that very reason that at every
29 single point I sought approval, consent, support,
30 imprimatur to do so because I did not think I had that.

31
32 And what was in your mind at this time of the application
33 for the streamline budget process funds as to what would
34 constitute approval of - or if any was needed with respect
35 to the OECD project?---Oh, that was a - that was a
36 different characterisation for me. Ah, the OECD project
37 could not, ah, progress, um, without, uh, the appropriate
38 funding being available because ultimately it was proposed
39 that we would contract out a service, and that service
40 would cost a quantum of money. And so, the approval that
41 was being sought for the SBP was indeed that quantum of
42 money, um, and if that hadn't been provided we wouldn't
43 have gone ahead with the OECD project.

44
45 The procurement process that you engage in for the OECD
46 project, do you characterise that as an approval process or
47 something distinct?---Ah, it's distinct. Ah, it is, uh -
48 well, it's - it's exactly as it is under the
49 Procurement Act. It is the lawful way that an agency such
50 as mine and any other government agency in the state, uh,
51 can obtain goods and/or services.

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(Public Hearing)

1
2 Mr Associate, if I can get document 0156 which is the
3 streamline budget process application document.

4
5 0156^

6
7 And if we could go to the second page of that document and
8 if we could go down to the panel at the bottom. Now, I
9 want to confirm some matters of timing if you're able. We
10 set out yesterday that the decision maker who must have
11 approved this \$203,000 funding was at a minimum the then
12 Premier and treasurer Mr McGowan, correct?---Correct.

13
14 And that the information before him was services and
15 contracts expenses specifically for project and travel
16 expenses but the project and travel expenses arise from the
17 Ombudsman's election as President of the IOI in
18 circumstances where the President is travelling in a global
19 organisation of more than 205 institutions representing
20 more than 100 countries.

21
22 **THE COMMISSIONER:** You probably don't need to go through
23 it again - - -

24
25 **PORTER, MR:** Yes.

26
27 **THE COMMISSIONER:** - - - Mr Porter. We've read it
28 publicly.

29
30 **PORTER, MR:** It is all signed by you, 1 February 2023?
31 ---Correct.

32
33 Do you know when the approval notification or decision is
34 communicated to you?---Ah, I don't. I mean, obviously,
35 Commissioner, we can provide that date to you, but I don't
36 off the top of my head know that date. It would have been
37 some weeks, uh, later than that of course.

38
39 And then perhaps if, Mr Associate, we can go back to a
40 document in bundle 0664 which is at page 159.

41
42 0664^

43
44 So, there are two parallel processes, Mr Field. One is the
45 streamline budget process which comes for decision at least
46 before the Premier and treasurer. Having taken that
47 document down now, I can't recall the date. It was early
48 February - 1 February?---1 February. Correct.

49
50 1 February. And we rationally presume that the decision
51 comes after that time of 1 February. We've set out what

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1 the decision was with respect to. And then another
2 parallel - the other process that's running parallel is
3 that on - emails are being sent to Philippa Robinson for
4 the attention of the Premier's chief of staff,
5 Daniel Pastorelli. And we have there 31 January 2023. And
6 if we scroll down, Mr Associate, that is the email chain -
7 a little bit further, thank you, to the next page. That is
8 the email chain where you're seeking at this date - I think
9 slightly earlier, 29 January 2023 - to bring to
10 Mr Pastorelli's attention the advanced status of the
11 negotiations for this MoU. We've gone through that passage
12 before. That occurs on 29 January, so literally days
13 before your streamline budget process application?---Yes.

14
15 And then if we can go to 161. And then all this is
16 followed up on 16 February 2023 with the next letter, which
17 is slightly further down the page, Mr Associate, which is
18 this longer letter setting out further information about
19 the Styrian MoU that you are negotiating?---Correct.

20
21 The final paragraph talks about your appreciating the
22 support of the Premier for your term as President. And
23 then - and this is all directed at achieving a date in the
24 Premier's calendar or diary for the signing of the MoU.
25 And if I can go back to page 159, you'll see there that the
26 31 January 2023 response from Pip Robinson says:

27
28 Daniel asked me to pass on that the July/August time
29 is fine. We just need to find the right dates.
30 We're checking these at the moment and we'll come
31 back to you with a suitable date as soon as we can.

32
33 Now, I put to you that you're - you're likely operating
34 under the presumption then that the Premier is aware of the
35 agreement and that he's been informed of it by
36 Mr Pastorelli, and that he's authorised that a date will
37 become available for him to sign the agreement?---Ah, yes,
38 and something more than that, ah, counsel. What was in my
39 mind, ah, at that time - some time before that, certainly
40 at that time and that time thereafter, um, the - each of
41 the matters in the SBP. The OECD, the SBP and the travel
42 were all exceptionally well known to its key - its key
43 decision maker in government, so the answer to your
44 question you've put is yes.

45
46 Can I just - in your 17-year experience, it would be a
47 brave chief of staff to either senior public servant or a
48 minister, let alone a Premier who would commit someone to
49 the signing of the subnational agreement without letting
50 them know?---I think they may describe that in public
51 service terms as career limiting.

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(Public Hearing)

1
2 **THE COMMISSIONER:** Well, do you know?---I do know.
3
4 Have you dealt with chiefs of staff before?---Extensively.
5 Extensively throughout my career. Extensively during my
6 time as Ombudsman, and the answer to the, um - ah,
7 counsel's question is yes, categorically.
8
9 **PORTER, MR:** Certainly, you're operating under the
10 expectation that what you're informing Mr Pastorelli is
11 being passed onto the Premier?---Ah - ah - oh - - -
12
13 Just yes or no?---Ah, well, yes, without question, and if I
14 wasn't confident with that, I would have sought the meeting
15 with the Premier myself.
16
17 And - so you're operating under the assumption in your mind
18 that when you're told the Premier is going to be free for a
19 date for signing in that date range, that that is because
20 he has made that commitment?---Ah, without question. I had
21 not a scintilla of doubt that that time frame was one that
22 had been discussed with the Premier, was in the Premier's
23 calendar. I'd been told it was in the Premier's calendar.
24 I had not a single reason to doubt it based on my previous
25 experience with either Daniel Pastorelli or any chief of
26 staff, and, Commissioner, I've dealt with seven or eight,
27 nine or 10 Premier's chief of staff, ah - ah, during my
28 time as Ombudsman alone, ah, before that in other roles. I
29 had not a single reason to doubt it.
30
31 And if we go, Mr Associate, to page 164?
32
33 Philippa Robinson is emailing you on 3 May 2023, so - and
34 that's the final confirmation of the Premier being
35 available for the signing with the delegation of the
36 Styrian MOU agreement on Monday, 17 July 2023?---Um, and
37 those - - -
38
39 Well, just - - -?---Oh - - -
40
41 - - - that's not the - - -?--- - - - sorry.
42
43 The question - - -?---I - - -
44
45 - - - is - - -?--- - - - ah, apologise.
46
47 - - - you - you are not, as you sit here, aware whether or
48 not the - the \$203,000 appropriation pursuant to the
49 streamline budget process was approved before or after this
50 date of 3 May 2023?---Ah, my understanding is it had been,

1 but that is something I would - I could not say that under
2 oath to the Commissioner. I would have to check.

3
4 But, in any event, you would accept a description that
5 there are two parallel processes on foot here where
6 information about projects is being relayed to the Premier.
7 One through the streamline budget process and one through
8 his chief of staff with respect to Styria and dates for
9 signing of that agreement?---Ah, yes, and not only is that
10 unambiguously correct, but I was aware of the parallel
11 processes and my confidence in the both of them as
12 complementarity.

13
14 And whilst from time-to-time subnational agreements between
15 Western Australia and other province or state of another
16 jurisdiction occur, they are irregular and fairly rare
17 events. Is that correct?---That was my understanding. In
18 fact, um, Rebecca Brown had informed me that they were
19 becoming increasingly rare.

20
21 Were you aware of any other sister state agreements in
22 advanced negotiation or any form of negotiation around this
23 time in February, March, April, May of 2023?---I personally
24 was not.

25
26 I just want to - in the interest of narrowing issues, you
27 said something yesterday which, I think, was to the affect
28 that having acknowledged that you were unaware and should
29 have been aware, or should have made yourself aware, of the
30 Premier's approval provision in the final two notices of
31 appointment, you made a - a comment that had you been
32 aware, that you would have sought for - for it to be
33 removed, or you would have - you would have argues that
34 issue with someone. Is that correct?---That is correct.

35
36 Just in the interest of limiting issues, another issue that
37 has been canvassed in some of the questioning is whether or
38 not there might - there might be different interpretations
39 of that Premier's approval clause in the final two notices
40 of appointment. You're aware of that issue about whether
41 it's discretionary or mandatory language or how it might be
42 read?---Yes, I am aware of that.

43
44 But you weren't - you weren't obviously aware as you
45 (indistinct) - - -

46
47 **THE COMMISSIONER:** Well, the answer to that's in the
48 Interpretation Act, isn't it?

49
50 **PORTER, MR:** I - I think that - that's right, but the -
51 the point is that your - your instinct now or your

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1 impression now upon seeing that is that, had you known at
2 the time, you would have argued against it because you
3 considered it as appearing to require your seeking approval
4 from the Premier?---Ah, for my travel approval?

5
6 Yes?---Yes. Um, I wasn't aware that the (indistinct)
7 Interpretation Act applied to that, um, instrument, but
8 leaving that aside as a separate issue, um, I absolutely
9 would have, um, opposed that unambiguously and immediately.

10
11 Mr Associate, if I could - - -

12
13 **THE COMMISSIONER:** Just, Mr Porter, it leaves this
14 problem. I'm not a court, so do I construe the document?
15 Because really the only definitive construction can be a
16 court.

17
18 **PORTER, MR:** I - Commissioner, I - I think that there is
19 an interpretative issue inherent in - - -

20
21 **THE COMMISSIONER:** I accept - - -

22
23 **PORTER, MR:** In (indistinct) - - -

24
25 **THE COMMISSIONER:** - - - that there's an interpretive
26 issue.

27
28 **PORTER, MR:** - - - and I - - -

29
30 **THE COMMISSIONER:** That's why I'm raising it.

31
32 **PORTER, MR:** Yes. And I - I've not researched it
33 thoroughly enough at this point to be able to give a
34 concluded view. I - I think in many aspects, Commissioner,
35 that your role unenviably requires some form of legislative
36 interpretation at various points, so it may be something
37 that comes to be the subject of final witness submissions
38 or matters of that nature, but what I - what I think is a
39 matter of - - -

40
41 **THE COMMISSIONER:** Well, I don't want to put you on the
42 spot.

43
44 **PORTER, MR:** As a - - -

45
46 **THE COMMISSIONER:** All - - -

47
48 **PORTER, MR:** As a matter of - - -

1 **THE COMMISSIONER:** All I'm doing really is raising it so
2 that you can consider it in respect of submissions or, if
3 it gets to an 86 process, an 86 process.

4
5 **PORTER, MR:** Yes. As a matter of fact, it appears though,
6 based on Mr Field's evidence, is that not having seen it,
7 he certainly didn't form any - - -

8
9 **THE COMMISSIONER:** Any view.

10
11 **PORTER, MR:** - - - view about it because he - he - and -
12 and it seems that Mr Field's instinctive interpretive view
13 now is that he - he would have argued against it because of
14 an interpretation that he places upon it at this point.

15
16 **THE COMMISSIONER:** Yes. I understand that, but he
17 didn't - - -

18
19 **PORTER, MR:** No.

20
21 **THE COMMISSIONER:** - - - and - - -

22
23 **PORTER, MR:** And it still needs to be resolved.

24
25 **THE COMMISSIONER:** So, it needs to be resolved by me, I
26 suppose.

27
28 **PORTER, MR:** Mr Field, I just now want to close out on
29 some timing issues with respect to those notices of
30 appointment and the public sector commissioner and the
31 office of - of the Premier and the Premier's Department.

32
33 And, Mr Associate, if I could go to page number 172 in the
34 bundle, 0664?

35
36 0664^

37
38 **PORTER, MR:** So, what - what's important at this point is
39 the date of this correspondence, but this is the - the
40 correspondence where prior to the resolution and
41 finalisation of your third notice of appointment, you are
42 provided a draft of what you would have anticipated, on
43 your evidence, was going to be in it. As we have become
44 aware, that changes, and you do not make yourself aware of
45 that change by looking at the source document when it's
46 finalised. This is the third notice of appointment. So,
47 you recall all of that?---Ah, I recall all of that.

48
49 And this is on 13 December 2016. Now, you have clearly,
50 and your evidence is that you accept that you clearly
51 missed and - well, became unaware because you did not

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1 direct your attention to the two final notices of acting,
 2 the third and fourth, and the provision which I've just
 3 loosely called the "Premier's approval provision". You
 4 accept that?---Ah - ah - I - I - I, ah, indicated yesterday
 5 I was unambiguously - - -

6
 7 (Indistinct)?--- - - - ah - ah, correct about that, ah,
 8 counsel, with the only, of course, caveat that the
 9 Commissioner will give this what weight he wishes, I'd
 10 assume, is that for of course the first, ah, 10 years of -
 11 - -

12
 13 We've trodden this path?---That's right, it - it wasn't in
 14 - - -

15
 16 I'll just put to you that this obviously represents a
 17 significant change between notices of appointment 1 and 2,
 18 and notice of appointment 3, which carried onto notice of
 19 appointment 4. Now, the eventual notice of appointment 3
 20 at page 176 is signed by the Premier, and by the then-
 21 Governor Kerry Sanderson?---Ah, yes, correct.

22
 23 17 January 2017?---Yes, correct.

24
 25 Now, flipping back, sorry Mr Associate. The correspondents
 26 that send you the draft of the notice of appointment, as it
 27 was envisaged to be at that point, is from the Public
 28 Sector Commission's office, and from an Imogen Blair, who
 29 is the assistant director CEO recruitment. Now,
 30 Mr Wauchope was the Public Sector Commissioner at that
 31 point in time?---Yes.

32
 33 **THE COMMISSIONER:** I have to say, it's Wauchope.

34
 35 **PORTER, MR:** Wauchope.

36
 37 **THE COMMISSIONER:** I went to school with them, so it's
 38 Wauchope.

39
 40 **PORTER, MR:** Yes, we were afraid to talk to him when I was
 41 there, but Mr Wauchope was the Public Sector Commissioner
 42 at that point in time. I'll just put a proposition to you.
 43 There is obviously difficulties that arise with continuity
 44 of knowledge in the executives' offices in the state
 45 bureaucracy, when there are changes in the state
 46 bureaucracy, you would agree with that?---I would.

47
 48 However, this would all indicate as a proposition that the
 49 senior executive of the Public Sector Commission's office
 50 must have known that this clause had come to be inserted in
 51 your notice of appointment 3 and 4?---Agreed.

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(Public Hearing)

1 And Mr Wauchope leaves that office, he retires, I think,
2 and is replaced by Ms O'Neill. Do you know when that was?
3 ---It was, I think, around 2018, but I'd have to check that
4 date.

5
6 And as we've established, you are - go through
7 Parliamentary processes, but in direct briefings with
8 Ms O'Neill, making her aware that you are travelling
9 extensively?---Indeed.

10
11 And that that is at least in part coming out of your
12 domestic Ombudsman's office budget?---Yes, that was always
13 made abundantly clear.

14
15 And was there any indication in your dealings with Ms
16 O'Neill that she was aware of the existence of this
17 Premier's approval provision in your notice of appointment
18 3 and/or 4?---We certainly never discussed it.

19
20 It was never raised with you by her or anyone in the Public
21 Sector Commission's office?---Well, I have - can I say
22 this, to the best - I can say it wasn't. I have scoured my
23 emails to see if there was any email, I cannot find one, so
24 I'm not aware of anything.

25
26 And you would agree that that signature panel at 176
27 indicates, just as a matter of logic and process, that the
28 then-Premier in 2017, Mr Barnett, must have been aware of
29 the notice of appointment provision we're talking about in
30 the third notice of appointment?---Correct.

31
32 And between 17 January 2017 and - do you recall what date
33 it was that the election - the place Mr Barnett was?---Um,
34 I probably should know, but I don't have an exact date.

35
36 In any event, it stands to reason that you never went to
37 Premier Barnett to seek approval for any travel between
38 that date and - - -?---Oh, no, no.

39
40 **THE COMMISSIONER:** Well, it would have been about March,
41 wouldn't it? 2017?---It's on a four-yearly cycle, so I
42 think it's fixed-term, so that's March, correct.
43 Apologies, Commissioner, I spoke over you. Sorry counsel,
44 I might ask for that question again.

45
46 **PORTER, MR:** Between 17 January 2017 and the election
47 where Mr Barnett was removed as Premier?---Yes.

48
49 You obviously never sought approval. Did you travel in
50 that period that you recall?---Ah, I may have. I certainly
51 know that I didn't seek any approval from him for any form

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1 of leave during that period. Ah, and of course, I was
2 operating on the basis that no such approval was required.

3
4 Yes, I should have said leave.

5
6 **THE COMMISSIONER:** I'm just throwing this in, because I
7 don't think it probably has anything to do with the point,
8 because ultimately the witness didn't know about it. But
9 at some stage, probably shortly after January, the
10 government would have gone into caretaker mode, in any
11 event.

12
13 **PORTER, MR:** Yes. And I'm not sure how the Premier's
14 circular would work in caretaker mode, but - - -

15
16 **THE COMMISSIONER:** I have no idea.

17
18 **PORTER, MR:** It's also clear from the evidence, and your
19 evidence particularly, that after the election that sees
20 Mr McGowan become Premier, and then after Mr Wyatt's
21 retirement, he becomes Premier and Treasurer, that you are
22 during that period put in quiet long, descriptive forms
23 into the Department of Premier and Cabinet about your
24 travel, is that correct?---That is absolutely correct.

25
26 And by extension, we can say that the office, that is, the
27 Office of the Department of Premier and Cabinet, knew about
28 your travel, and that travel being very often on the
29 domestic budget?---Oh, without question.

30
31 Okay. So, they were aware that you were leaving the
32 jurisdiction?---They were.

33
34 And also, we know that you never went to Mr McGowan as
35 Premier for an approval of any period of leave?---No, I did
36 not at any stage.

37
38 Did you take periods of leave during the time period that
39 Mr McGowan was Premier?---Ah, I may have taken some time,
40 but that would also include sick leave, personal leave, it
41 would be any leave application which I would have made to
42 him. And indeed, if I'd - on one reading of that section,
43 if I'd taken two hours' sick leave to go to a medical
44 appointment I would have had to have sought his approval.
45 No, I did not.

46
47 Now, you've been a public servant at senior levels for 17
48 years, I'll put a proposition to you that in the modern
49 public service, leave isn't optional. That if people, even
50 very senior people, are not taking leave, generally they
51 get tapped on the shoulder to say you can't bank your leave

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13

Epiq

(Public Hearing)

1 up, if I put it that way?---That is correct, and that has
2 occurred to - to me, as it would have occurred to any
3 senior public servant.

4
5 How and when did it occur to you?---Um, we receive reports,
6 ah, that is, my office receive reports, and they're
7 provided to me in terms of leave owing and surplus leave
8 balances and the taking of leave.

9
10 Surplus leave balance attributable to you?---Correct.

11
12 And so has someone shown you a surplus leave balance and
13 said, 'You should take some leave'?---Oh, you're not asked
14 to take leave, you're asked to show an indication of how
15 you might take leave over the next 12-month period. And
16 that comes from within your office, in our - - -

17
18 **THE COMMISSIONER:** Comes from who?---Oh, from within our
19 office itself, our HR department.

20
21 Well, you're effectively the chief executive?---Yes.

22
23 So, it's your responsibility to manage the leave of the
24 whole of the office, your ultimate responsibility?---Oh,
25 without question, Commissioner.

26
27 Including your own leave?---There's no question about that.

28
29 And how much leave presently do you have?---Ah, I'd have to
30 check. I have long service leave and annual leave, I think
31 is the answer. The management of leave liability falls to
32 the CEO, you are absolutely correct, um, and we have
33 stringent, um, processes in place through my corporate
34 executive to manage leave liability.

35
36 And do you follow them personally?---I take leave whenever
37 I can possibly and appropriately can. And in the last
38 couple of years, it's been difficult because of the overall
39 workload of the office.

40
41 Because if - and I haven't formed any view, but if one
42 comes to the view that your travel overseas, all the
43 functions of the office devolve and you're travelling
44 purely on IOI business, the question might arise whether
45 that should be on your personal leave. Otherwise, there
46 may be a potential, as it were, for double-dipping. I
47 simply raise that, not for dealing with now, but so that
48 you can consider it in due course, Mr Porter. I don't want
49 to divert you?---I know you raised that Commissioner, I
50 would simply say this to you. That there wouldn't be, I

1 doubt, an Ombudsman in the entire world who would travel
2 for the IOI who would be doing so on their annual leave.

3
4 Well, I'm not actually concerned with any other
5 Ombudsmen - - -?---Well, Commissioner, I think in some ways
6 you should be.

7
8 **PORTER, MR:** Well, as the Commissioner has pointed out,
9 that's a matter for resolution potentially at a later
10 point. But, Mr Field, I suppose the point is that if you
11 have missed what may be a requirement to seek approval from
12 the Premier for leave, then potentially for many years the
13 Public Service Commissioner - Public Sector Commissioner's
14 Office have also missed the application of that requirement
15 to you. Would you agree with that?---Ah, yes. Correct.

16
17 As it appears has the Premier's office over many years?
18 ---Correct.

19
20 And I put that on the basis that it is very unlikely that
21 anyone in those offices would be under the assumption that
22 you had taken no leave for many years?---Ah, that's
23 correct.

24
25 Because that's not the practice of the civil service
26 generally in Western Australia?---Correct.

27
28 If I can go now to the OECD agreement hopefully briefly.
29 Mr Associate, I'm now seeking to go to the transcript for
30 19 March at page 3 - sorry, page 2 starting at line 46.
31 This was an exchange - an important one between counsel
32 assisting and yourself, Mr Field. And it begins:

33
34 Well, if I can put it another way, do you accept that
35 the OWA was first named in the project proposal and
36 next to the grant agreement received by you on
37 18 August? I showed it to you yesterday.

38
39 And your answer was:

40
41 Well, I know - I absolutely don't accept that either.

42
43 And then it continues:

44
45 Well, on the basis that the records do not show the
46 OWA to be on any version of the grant agreement until
47 18 August when the OWA was substituted for the IOI.
48 Remember I showed you that yesterday?

49
50 And there appears:

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15

1 Mm hmm.

2

3 Which I took at the time to be an agreement to that. Would
4 you - just first of all as a basic point, would you accept
5 now that the office of the West Australian Ombudsman does
6 not appear on any of the versions of the OECD agreement
7 actually until 18 August, leaving aside what was in your
8 mind or what you intended? It doesn't appear?---Leaving
9 that aside, I agree completely.

10

11 And then having accepted that now, it appears that further
12 suggestion at line 6 on page 3:

13

14 I want to suggest to you that because that was the
15 first time that the office of the WA - the Ombudsman
16 of WA appeared on the grant agreement it did not
17 occur to you to ensure compliance with any
18 obligations under the WA procurement legislation
19 until that point?

20

21 And you answer:

22

23 No. Not only is that profoundly wrong, it's provably
24 wrong.

25

26 That's obviously an unequivocal response from you. It
27 demonstrates, I think, that you understand the proposition
28 that was being put to you which was that because the OWA
29 doesn't appear on any of the draft documents - OECD
30 agreement documents until 18 August that that is indicative
31 or from that fact it can be inferred that you had never
32 considered this to be a procurement exercise for the office
33 of the Ombudsman of WA?---Yes. That is what I took the
34 question to say - - -

35

36 And you - - -?--- - - - and that was my answer.

37

38 You rejected that. I'm going to take you now to a document
39 which is number - page number 242 in bundle 0664.

40

41 0664^

42

43 Now, just by way of explanation, Commissioner, this - there
44 are pages here - 242 down to 251 - which is a 10-page odd
45 email chain. That is part of the annexes to the
46 procurement memo that was next to the letter to the
47 treasurer and it is duplicated in the larger number of
48 documents that starts from 252. But just for present
49 purposes, it's been lifted out of this for this line
50 of - - -

51

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16

1 **THE COMMISSIONER:** Right.

2

3 **PORTER, MR:** - - - questioning.

4

5 And this is an email chain, Mr Field. I'm not going to go
6 through the entire texts of the emails and the email chain,
7 but it essentially is toings and froings between you and
8 your office about potential content and costs of the OECD
9 agreement in the period leading up to February 2023 going
10 back some six months to around about June 2022. But the
11 email at the top there on page 242 dated Friday,
12 3 February 2023, 6.55 am is from you, Chris Field, to
13 Rebecca Poole and Kyle Heritage. And it reads:

14

15 Dear Kyle,

16

17 I think technically I'm not meant to say this, but
18 you are a bit of a star.

19

20 And then it goes:

21

22 Dear Becky,

23

24 We will need to set up a meeting time with the person
25 at the OECD. Let's wait until Kyle is back and it
26 can be you and Kyle. In short, I need to understand
27 what the OECD is actually contributing. (This just
28 looks like a charge for service contract and a
29 generous one at that). We would certainly need a lot
30 more granularity on the cost line items (because we
31 would be procuring this from the OECD as a sole
32 source supplier). I would then want reductions, but
33 I want this project done. So, if we can write down
34 the price, we should be able to get the IOI to
35 contribute half and us half and get this underway.

36

37 Now, before you say anything - - -

38

39 **THE COMMISSIONER:** I think it actually reads "We can get
40 the price down".

41

42 **PORTER, MR:** Get the price down.

43

44 **THE COMMISSIONER:** Doesn't matter, but - - -

45

46 **PORTER, MR:** Before you say anything, my question is you
47 used the term "we" at several points in this paragraph
48 under "Dear Becky". Who or what is "we" a reference to?---
49 The Ombudsman of Western Australia, our office.

50

1 So, when you have previously given evidence that a
2 proposition was demonstrably and provably wrong, I take it
3 that it's this correspondence that you are in part
4 referring to?---That is exactly what I'm referring to.

5
6 So, what was it that you were meaning therefore when you
7 said:

8
9 Because we would be procuring this from the OECD as a
10 sole source supplier.

11
12 ?---Oh, I was making very clear that, uh, uh, the project
13 itself would be done as, ah, a contract for services, um,
14 that that had to go and would be done through a lawful
15 procurement process. But the OECD, um, sole source
16 supplier, Commissioner, is not strictly speaking the - the
17 technical terms under the Procurement Act. It is a - a
18 jargon way of describing - - -

19
20 **THE COMMISSIONER:** Yes. But does it mean that as early as
21 3 February you had decided that it would be a sole source
22 supplier contract?---That is exactly what I mean. Um, I
23 had decided that, um, the - that - - -

24
25 Well, you've answered the question. That's exactly what it
26 means?---Yeah. I'm sorry. I was - I was trying to say the
27 minimum, um - define sole source supplier. Commissioner,
28 that is exactly what it means.

29
30 So, I can take it that on 3 February or no later than
31 3 February you had decided - subject obviously to cost and
32 reductions - that the OECD would be the contractor on the
33 sole source supplier as a sole source supplier?---Correct.
34 That the OECD and - the OECD would be exempt from the
35 minimum competitive requirements under the Procurement Act
36 and would undertake the project.

37
38 And you decided that by 3 February?---Ah, sometime earlier,
39 but that's one of the first times it's reduced to writing
40 as I recollect it.

41
42 **PORTER, MR:** So, the OECD at this point in writing is to
43 be a sole source provider, a contractor of services?---
44 Correct.

45
46 Again, who was this - in your evidence now represent was to
47 be the recipient of the provision of the service from
48 OECD?---Oh.

49
50 Who was to be the other party to the contract?---It was
51 unambiguously clear to me then as it was before then - one

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1 of the first times it's reduced to writing was then - um,
2 was the Ombudsman of Western Australia, my office.

3

4 Are you aware whether or not the IOI has any rules for
5 procurement that pertain to sole source providers?---No.
6 No.

7

8 You are not aware or - - -?---I'm not - - -

9

10 - - - they do not?---Well, I'm not aware that they have,
11 and I don't think they do.

12

13 With respect to the Procurement Act and Procurement Rules,
14 this is a question about your understanding of those Rules.
15 For the procurement memo to be finalised, is there a time
16 frame prescribed for that to occur?---Um, no. It has to be
17 reduced to writing, but there is not a time frame where
18 that has to occur, ah, and indeed, um, the - ah, the
19 procurement memo, ultimately, is a, ah - a - a reduction to
20 writing a whole stay - a whole raft of processes that
21 occur, um - ah, from the, ah, initial, ah, identification
22 of a project, ah, of value to undertake, ah, through to the
23 contract being finalised - ah, sorry, indeed to the project
24 being finalised.

25

26 In your experience or knowledge now, are you aware of
27 anything in the Procurement Act or Procurement Rules that
28 requires a procurement memo to be completed before a
29 contract is signed by the requesting party?---Ah, no, I am
30 not, and I'm aware that, um, there are occasions when they
31 certainly aren't.

32

33 **THE COMMISSIONER:** I am taking this series of questions -
34 Mr Porter, I'm putting this so you can correct me, that
35 this is on the basis of the witness' understanding?

36

37 **PORTER, MR:** Yes.

38

39 **THE COMMISSIONER:** Not necessarily of the actual position?

40

41 **PORTER, MR:** I'm - whether it is a correct assessment of
42 the law or the state of law, I - - -

43

44 **THE COMMISSIONER:** I just want to understand. Thank you.
45 I'm happy to allow the questioning on that basis.

46

47 **PORTER, MR:** And perhaps if we could go to, Mr Associate,
48 the transcript from 19 March at page 4?

49

50 About line 5, there's an exchange with counsel assisting:

51

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19

1 Do you accept then that ordinarily invoices received
2 by the OWA would be paid after whoever is the
3 certifying officer has seen some evidence of the
4 procurement that has preceded the invoice?---Yes.
5 There would need to be some form of evidence that
6 could be - well, yes. Now, what that form of
7 evidence will be will vary depending on, um, the
8 payment, but the answer to that would be yes.

9
10 And counsel assisting then went on to point out:

11
12 And, in fact, that's in your financial management
13 manual -

14
15 - and then asked to have up on screen 0421 at page 45.

16
17 And I might repeat that request, so document 0421 at
18 page 45.

19
20 0421^

21
22 **PORTER, MR:** There's a point there that counsel assisting
23 was pointing to, which says that a minimum:

24
25 At a minimum, documentation for processing of a
26 payment shall include evidence of authorisation of
27 purchase, compliance with GST, receipt of goods or
28 services and/or approval for payment.

29
30 ?---Yes. Correct.

31
32 Now, this is speaking to the requirement about what
33 information, according to your financial management manual,
34 should be before the authorising officer to allow for money
35 to leave your office to pay for a contract for goods or
36 services, in this case services. That's correct?---
37 Correct.

38
39 And it tends to indicate that there's a minimum
40 documentation for that type of processing authorisation to
41 occur?---Yes. Correct.

42
43 And that might be evidence of the receipt of the goods or
44 service or - or compliance with GST, but you would agree
45 that there's nothing in there that requires the person who
46 is authorising that - that payment out to the contract
47 service provider to see a finalised procurement memo?---Ah,
48 that is, ah - has always been my understanding.

49
50 Now, it appears beyond dispute that there were three -
51 three versions perhaps at least of the procurement

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20

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1 memorandum. There was a draft from Rebecca Poole dated
2 18 September 2023 - - -?---Yes.

3
4 - - - and that was Commission document number 0199. There
5 was a further draft from you dated 30 October 2023, and
6 that was Commission number 0114. Do you agree?---Correct.

7
8 And there was a final document - well, I might ask you.
9 There was a document appended to a letter to the treasurer.
10 The letter was dated 29 November 2023, and that was
11 document number 0158. Is that the final procurement
12 memorandum or intended - - -?---Yes. That is the final
13 procurement memorandum.

14
15 Perhaps, Mr Associate, if we could bring that document up,
16 which is 0158?

17
18 0158^

19
20 **THE COMMISSIONER:** What's the date of the memorandum?

21
22 **PORTER, MR:** I'll need to check as we bring it up,
23 Commissioner. I don't have that in my notes.

24
25 **THE COMMISSIONER:** That would be wise, because I wasn't
26 able to find a date on it - - -

27
28 **PORTER, MR:** No. I - - -

29
30 **THE COMMISSIONER:** - - - which is why I was asking.

31
32 **PORTER, MR:** - - - thought it was undated.

33
34 **THE COMMISSIONER:** Maybe Mr Field can tell us when it was
35 created?---Ah, I could give - I - I - off the top of my
36 head, I won't be able to give you that specific date,
37 Commissioner, but I absolutely can give it to you.

38
39 Well, for present purposes, the second memo was
40 20 October - - -?---Yes. It was.

41
42 - - - and you sent - - -?---I'm not sure - - -

43
44 - - - this to - - -?--- - - - here.

45
46 - - - the treasurer, so it was between that period, was
47 it?---I apologise for interrupting, Commissioner. Correct.

48
49 Why was it undated?---Ah, well, there was absolutely, ah -
50 ah - ah, I actually can't say at this stage. It certainly
51 wasn't an intent to, ah, in any way, ah - ah, hide the

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1 date. There was a very substantial chain of correspondence
2 in the office, files that had been created, showing the
3 iterations of the - of the documents, and this was clearly
4 the final and the last document in there, so it certainly
5 wasn't for any reason, Commissioner.

6
7 It's just that this is the document that went to the
8 treasurer, so I was just wondering why it was not dated?---
9 I think the only - the only reason, ah - if there was any
10 reason at the time, the only reason I can possibly think of
11 was because, um - ah, it was a procurement memo that in and
12 of itself doesn't, ah - there are so many component part of
13 a - a procurement memo that, um - that exercise itself over
14 so many different dates, and it goes back - they can go
15 back over years, potentially. Ah, that happens in - all
16 the time in our office. We'll have a (indistinct) - - -

17
18 Well, I've done what I promised I wouldn't do again and
19 interrupted Mr Porter. I'm - - -?---It wasn't - - -

20
21 - - - sorry about that?---It wasn't intended in any way to
22 be dishonest, Commissioner.

23
24 **PORTER, MR:** You've - you've certainly revisited and
25 redrafted earlier drafts?---Yes.

26
27 Did you have any intention at the time that you sent this
28 to the treasurer on 29 November 2023 to produce further
29 drafts - to amend this draft?---No. No. Absolutely not.

30
31 Now, there were a series of questions that were put to you
32 properly by counsel assisting, and they essentially, if I
33 can paraphrase them, put to you that in this procurement
34 memo, that in various ways you had or have sought to
35 misrepresent the OECD contract. Do you recall that line of
36 questioning?---I do.

37
38 And, Mr Associate, at the transcript from 19 March at
39 page 7 that line of questioning commences.

40
41 Now, I - I'm not going to read laboriously from the
42 transcript again, but in essence what was being put to you,
43 you will recall, is that there were certain insertions or
44 words that appeared in this procurement memo that goes to
45 the treasurer that did not appear in the contract with the
46 OECD itself. You - first of all, you recall that line of
47 questioning?---I do recall that.

48
49 And you accept that that is the case?---Yes, I do.

1 And then it was also put to you that there were certain
2 omissions by you, particularly that you misrepresented - you
3 made a - you engaged in a misrepresentation because you
4 omitted to refer to the IOI, and you added in the Ombudsman
5 of Western Australia, when in fact the proposal only
6 referred to generic Ombudsman's institutions. Do you
7 recall that line of questioning?---I do.

8
9 And you recall a line of questioning that you added
10 reference to the particular Western Australian communities,
11 such as the Aboriginal Western Australians, refugee
12 communities, LGBTQI communities, as a way of portraying a
13 nexus to your functions under the Parliamentary
14 Commissioner Act, do you recall that?---I do.

15
16 Now, the Commissioner put to you a rule of law, if I can
17 put it that way, which is called the four corners of a
18 contract rule, you recall that?---I do.

19
20 And I'll put to you my broad understanding of that rule.
21 Have you ever heard of it referred to or heard of the
22 patrol evidence rule?---I have.

23
24 So, as I understand it, that is a practical or evidentiary
25 rule applicable to litigation or potential litigation that
26 if two parties enter into a written agreement, they cannot
27 use oral or implied agreements in court to contradict the
28 clear written terms of the written agreement. Are you
29 familiar with that concept?---I am.

30
31 I think your response, in general terms, to the
32 Commissioner's putting of that four corners of the contract
33 rule, or patrol evidence rule, was that there are also
34 commercial issues at play here, that you spoke about
35 relationships and commerciality. I think you said you were
36 convinced that it was something that you could potentially
37 call Mr Cormann about, do you recall that?---I do recall
38 that, exactly.

39
40 So, what I want to put to you is that it appears there are
41 a whole range of things that are not explicitly provided
42 for in the written contract with the OECD, which on your
43 evidence, you nevertheless sought to achieve as outcomes of
44 that written contract?---That is correct.

45
46 Now, would you accept that if an outcome that you desire is
47 not expressed in the written terms of the contract, that
48 you place yourself at significant risk if you do not manage
49 to produce the outcome that you had in mind if it's not
50 stipulated in the contract?---Yes, I accept that.

1 How was it that you were intending to produce some - I'll
 2 use an example of an outcome. So, the OECD agreement - and
 3 I might just bring it up, I don't have the number to hand.

4
 5 **THE COMMISSIONER:** 1479^, I think. 154 is the agreement.

6
 7 **PORTER, MR:** Thank you, Commissioner.

8
 9 1479^

10
 11 **PORTER, MR:** And if we can just scroll down further,
 12 there's a section (indistinct) the potential case study of.
 13 Keep scrolling, thank you, Mr Associate. I'll just stop
 14 there. This is under a heading that appears on page 5 of
 15 outcomes, and the second to last dot point there you'll see
 16 is a case study on an Ombudsman's Institution's role in
 17 protecting new rights in the digital age. What was it that
 18 you had in mind, or intended, as the outcome in respect of
 19 that case study?---The particular case study I had in mind
 20 was one that would be examining, ah, what is now at the
 21 forefront of - one of the things at the forefront of, ah,
 22 Ombudsman, human rights commissions' work both globally and
 23 in this country. And that is both digital and civic
 24 engagement, particularly focused on vulnerable Western
 25 Australians, and I was considering in particular Aboriginal
 26 Western Australians, the LGBTQI+ community, and newly -
 27 those seeking refuge to our country. So, I had a very
 28 specific idea in mind for what I wanted to do with that
 29 case study.

30
 31 So, the words there are that an outcome will be a case
 32 study on an Ombudsman's Institution's role in protecting
 33 new rights in the digital age. Now, it doesn't - it's
 34 self-evident that it doesn't nominate which Ombudsman
 35 institution that is to be?---Yes.

36
 37 Now, the IOI represents how many?---About 210 members.

38
 39 It seems to represent there that the case study will be
 40 focused on a singular Ombudsman's institution, would you
 41 agree?---Yes, correct.

42
 43 Well, Mr Field, having not written into the contract the
 44 case study you had in mind, which appears to be one
 45 specific to the Western Australian Ombudsman's office, and
 46 then specific to certain service users of that specific
 47 office, how were you intending to achieve that final
 48 product through that general part of the contract?---Oh,
 49 well I consider that to be extremely straightforward. We
 50 were the, ah, the Office of the Western Australian
 51 Ombudsman, who I had intended to do that case study, were

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1 the drivers of, um, ah, of this particular project. We
2 were the - by far the significant and principal funder of
3 the project, and therefore have the leverage. If you talk
4 about commerciality, the leverage to achieve that. Ah, I
5 was also very confident, um, I don't suggest I know him
6 well, but I was very confident in my relationship with
7 Mathias Cormann if anything was to not proceed as I'd
8 proposed and planned to - - -

9
10 **THE COMMISSIONER:** How many times had you met him?---Once.

11
12 For how long?---Well, 45 minutes.

13
14 Thank you?---You asked me, Commissioner, about my
15 experience in commercial law.

16
17 Well, if Mr Porter wants to ask you that, he will?---Okay,
18 thank you.

19
20 Otherwise, he won't?---Commissioner, I apologise.

21
22 **PORTER, MR:** I'm sure it's more impressive than mine, but
23 it's not germane to what I'm seeking to have answers on?
24 ---Yes.

25
26 Pertaining to the Commissioner's question though in the
27 context of this OECD contract with the contracting party
28 being the Ombudsman's Office of WA?---Yes.

29
30 And funding also coming in from the IOI, are you aware
31 whether anyone from the IOI executive was corresponding in
32 any way directly with the OECD executives in charge of this
33 contract about the contract and its terms?---No, absolutely
34 not.

35
36 Well, no you weren't aware, or no - - -?---No, I don't
37 believe they were. I don't think there was any such
38 correspondence.

39
40 So, because you are the major funder, because you are the
41 body corresponding about the contract, that was the basis -
42 and the personal relationship, that you assert had been
43 established with Mr Cormann, that was the fundamental basis
44 that led you to a very firm belief that you could produce
45 the outcome in this respect with - on the example of a case
46 study - that you were intending in your mind to produce?
47 ---Correct.

48
49 Is that correct?---Correct. And if I can, uh, add one
50 thing in that answer - and I think it's germane to the
51 matter that the Commissioner raised. Um, my staff had also

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1 established, uh, an outstanding relationship with the OECD
2 staff and I was very confident that that relationship would
3 also allow us to have that leverage as well. Um, that
4 relationship being so strong that when the Public Sector
5 Commissioner took her trip to - to Paris with the OECD, um,
6 she called me from Paris and indicated that the OECD
7 thought, um, that my office was an outstanding office to
8 deal with.

9
10 Well, I put to you, Mr Field, that that obviously created a
11 risk position for, uh, your office as a contracting party
12 in terms of what they preside as an outcome in this
13 instance with respect to the case study?---Yes. Oh, yes.
14 I accept that.

15
16 And did it ever occur to you to have greater granularity -
17 as you put it other contexts - inside the contract?---Uh, I
18 didn't think that level of granularity was ultimately
19 required, particularly because that granularity has its own
20 risks. Um, if we are too specific in a contract, uh, with
21 something like that, um, uh, then it might ultimately limit
22 the sort of things that we also wish to do, uh, in terms of
23 ensuring that a particular project is worthwhile for both,
24 uh, Western Australians and - and parliament and the
25 broader Asia-Pacific colleagues which this was always
26 intended to work with. So, um, I didn't want to also have
27 excessive granularity in the contract either. That was a
28 very deliberate conscious decision. It might be wrong, it
29 might be right. Others might disagree. But it was a
30 conscious decision in good faith and a view that I had
31 about it.

32
33 Mr Associate, if I can go to page 45 of the transcript from
34 19 March. I will read a portion of this to you, Mr Field,
35 because it's in the manner of what was - been put against
36 you. Counsel assisting says at the top of the page:

37
38 So, I want to suggest to you, Mr Field, that in
39 drafting the bullet points that appear under the
40 heading "Considerations relevant to a view formed in
41 good faith of a need to procure service" -

42
43 I'll just pause there. That's a reference in my
44 recollection to the procurement memo in the form that went
45 to the treasurer?---Correct.

46
47 - you omitted to refer to the IOI and you focused the
48 intention on what you saw to be the benefits to
49 Western Australia?---It's just absolutely completely
50 not correct.

1 Then it goes on:

2

3 And in doing so, you misrepresented that the project
4 proposal with the OECD stated as contained in the
5 agreement that you signed - - -

6

7 You interspersed:

8

9 Absolutely completely incorrect.

10

11 It goes on:

12

13 You misrepresented it because you omitted to refer to
14 the IOI and you added in the Ombudsman of
15 Western Australia when in fact the proposal only
16 referred to generic Ombudsman institutions. And you
17 added in reference to particular West Australian
18 communities such as Aboriginal West Australians,
19 refugee communities, LGBTIA community as a way of
20 portraying the nexus to your functions under the
21 Parliamentary Commissioner Act?---I absolutely and
22 completely - absolutely and completely incorrect.

23

24 Now, it is beyond dispute that that portion with respect to
25 at least the case study is as counsel assisting said only a
26 reference to generic Ombudsman institution?---Mm.

27

28 And in the memorandum to - in the procurement memo that is
29 sent to the treasurer, it's quite clear that what is in
30 there goes beyond that - using that case study example
31 beyond the language in the contract?---Correct.

32

33 And you don't consider using that example for that - going
34 beyond what's in the contract to be misrepresentative?
35 ---Well, not in any possible way. The - the, um, uh - the
36 process of any project is iterative. This was a project
37 that was, um - had been at that point 18 months, two years
38 or more in the development. It was going to be 18 months
39 or so to its completion. And I had continued, uh, to
40 develop my views about how it could be of most benefit, um,
41 to Western Australians and the parliament. And I was
42 absolutely of the view, um, that the best possible case
43 study that could be undertaken, um, uh, as I continued to
44 think about this process was one that would be of benefit
45 to some of the most vulnerable Western Australians in my
46 service of the state and the parliament.

47

48 Mr Field - and, Mr Associate, sorry. If I could have up
49 document 0158.

50

1 **THE COMMISSIONER:** Is this a slightly different topic?
2 Because we'll take the break. But if it's not - - -

3
4 **PORTER, MR:** Commissioner - - -

5
6 **THE COMMISSIONER:** - - - we'll continue.

7
8 **PORTER, MR:** - - - I can probably deal with this issue in
9 four or five minutes.

10
11 **THE COMMISSIONER:** Go ahead.

12
13 **PORTER, MR:** And after that, I would need 10 or 15 to wrap
14 up - - -

15
16 **THE COMMISSIONER:** Sure.

17
18 **PORTER, MR:** - - - and make sure I have a stocktake of
19 what remains. But I would say another 45 minutes to half
20 an hour after the break.

21
22 **THE COMMISSIONER:** Take as much as you need on this.
23 We'll have the break after that.

24
25 0158^

26
27 **PORTER, MR:** Now, this was put to you during those lines
28 of questioning about a potential misrepresentation of the
29 OECD contract to the treasurer by virtue of the content of
30 this memorandum. This is the memorandum that was being put
31 to you?---Correct.

32
33 And if we can scroll to the end of the memorandum - so just
34 stop there. So, if we can go up to - a little bit further.
35 Right. So, this was the document that was being put to you
36 in this line of questioning that we've just traversed. It
37 indicates there that there were attachments to the
38 memorandum?---Yes.

39
40 Okay. And it indicates there that attachment 1 was an A4
41 folder of emails - the contemporaneous - that
42 contemporaneously documented the project negotiation and
43 contract negotiation of the procurement?---Yes.

44
45 Okay. And was there such an attachment sent to the
46 treasurer - - -?---Yes, there was.

47
48 - - - attached to this procurement memo?---Yes, there was.

49
50 And if we could scroll down to attachment 2, that says

1 "OECD standard form contract". Was there such an
2 attachment 2 sent to the treasurer - - -?---Yes, there was.

3
4 - - - under cover of the letter?---Yes, there was.

5
6 And that was the actual OECD contract document?---Yes,
7 counsel.

8
9 And if we could go further down again, attachment 3.
10 "Ombudsman Western Australia 2023/24 SBP". I take it that
11 was the streamline budget process documents that we have
12 traversed previously?---Exactly correct.

13
14 And were they attached to this document that went to the
15 treasurer?---Correct, counsel.

16
17 And we need to scroll further down. I think that's the
18 last one. Now, I'm not going to go through those
19 attachments because they have been the subject of a range
20 of other questions, but in - for the record, in the bundle
21 that we've provided to the Commission, which is bundle
22 0664, those attachments start at 252 and I think go to 362.
23 Now, I must warn the Commission they may be slightly out of
24 order to the - - -

25
26 **THE COMMISSIONER:** That's all right.

27
28 **PORTER, MR:** - - - order in which they appear in that
29 letter. But you will understand that a point properly put
30 to you was that you were both intending and in practical
31 terms had misrepresented the content of the actual OECD
32 contract to the treasurer by terms included and omitted
33 from the procurement memo. You understand that's - that's
34 been put to you?---Yes.

35
36 You reject that, obviously?---Absolutely.

37
38 But it is also the case that in the same bundle of
39 documents that go to the treasurer under cover of that
40 letter is both the procurement memo and the full and final
41 version of the very contract that is put to you that you
42 were misrepresenting?---That is exactly correct.

43
44 And that might be a convenient point, Commissioner.

45
46 **THE COMMISSIONER:** Very well, we'll take a 20-minute
47 break.

48
49 (Short adjournment)

50
51 **THE COMMISSIONER:** Please be seated.

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29

Epiq

(Public Hearing)

1
2 Mr Porter, just for the record, do you have a different
3 instructing solicitor?
4

5 **PORTER, MR:** I - I do, and that was about to be announced
6 to the Commission. It seemed it would be inappropriate
7 earlier, but it's Mr Parker from Hugo Law Group this
8 morning.
9

10 **THE COMMISSIONER:** Thank you.
11

12 **PORTER, MR:** Mr Field, just before that break we were on
13 the document which was the bundle of annexures that were
14 annexed to the procurement memo which were all sent on the
15 cover of the letter to the treasurer. I want to ask you
16 about the series of emails in that bundle of annexures.
17 What purpose did they intend to serve, and what was their
18 context in the procurement memo?---Ah, in relation to the
19 first part of that question, their context, ah, was to
20 provide, ah, as much, ah, transparency as possible, as much
21 context, as much history, ah, as much understanding as
22 possible in relation to the procurement, ah, particularly
23 because it was being provided to the treasurer, ah, but in
24 any event as a desirable thing. And in relation to the
25 second part of your question, they contained matters that
26 went to the negotiation stage of, ah, the, ah, procurement,
27 ah, both the value and terms, ah, of that procurement.
28

29 Now, we've gone at length over a range of meetings that you
30 had during the time of your presidency of the IOI with
31 senior members of public sector where the OECD at least
32 appeared as an agenda item but you recall that agenda item
33 being raised. Just for completeness, it was also the - the
34 case, do you recall, that you gave public announcements
35 about the OECD project or its development in other forums?--
36 --Ah, yes, I certainly did.
37

38 And was one of those LinkedIn?---Ah, yes, it was.
39

40 And, Mr Associate, if I can go to page 363 of the bundle of
41 0664?
42

43 0664^
44

45 **PORTER, MR:** Is that familiar to you?---Ah - ah - ah,
46 yeah, familiar and I wrote it.
47

48 Did you post it?---Yes, I did, personally.
49

50 Do you know when?---Ah, it says there eight - I think
51 six months ago. I - I - it would have been, ah - sorry.

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30

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Commissioner, I don't want to guess. Ah, I think it was in the middle to second half of last year.

And it says in the first paragraph:

Following my meeting in Paris last year with the secretary general of the Organisation for Economic Cooperation and Development OECD Mr Mathias Cormann, I was delighted to sign a formal agreement between the office of the West Australian Ombudsman and the OECD to undertake a major project on open government accountability, democratic governance and the protection of the civic space. The other partner to the project is the International Ombudsman Institute IOI.

Now, that's obviously something that you produced here through your counsel. Were there any other speeches or announcements about the OECD project that you recall?---I have - I recollect I mentioned the OECD project in a number of speeches actually, ah, during my time as - presidency, um, and during the term of my presidency, and they would have all been around from that period - yeah, well, it would have been during 2023 and around that period and onwards, I think.

And just also really for - for completeness, this is in the additional second bundle, Mr Associate, 0745.

0745^

PORTER, MR: And these are just further documents that you provided through your counsel, Mr Field. The first one is at page 27. Mr Field, this is a letter and it has the dual letterhead at the top, Office of The President and Western Australian Ombudsman and then the International Ombudsman Institute, dated 22 June 2022, to the Honourable Roger Cook, and it starts:

Dear Deputy Premier.

Do you remember this letter?---I do.

Did you draft it?---I did.

And if we go down to the end to the signature panel, that is your signature?---It is.

And what was the purpose of this letter and its context? ---Ah, it was contemporaneous to also information the - the Premier, ah, of my, ah - ah - ah - ah, visit to, ah,

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31

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1 Austria, ah, and, ah, I was, ah - ah, I - my state of mind
2 at the time was I was very keen to inform the Deputy
3 Premier because, of course, he had a role in relation to,
4 ah - ah, state relations, ah, trade and investment, ah -
5 the portfolios he held at that time.

6
7 And just on the final paragraph we can see on the screen on
8 the 27 page, it says:

9
10 Immediately following my official visit to the
11 Republic of Austria, I met with the secretary general
12 of the OECD, Mr Mathias Cormann. I discussed with
13 the secretary general the role of the IOI in
14 supporting economic growth for its work on promoting
15 anti-corruption measures.

16
17 ?---Correct.

18
19 It also says:

20
21 I met separately with Ambassador Brendan Pearson,
22 permanent representative of Australia to the OECD.

23
24 That - and that was in the same trip?---That is correct.

25
26 And, Mr Associate, just for completeness, page 29 of this
27 bundle?

28
29 I don't know how impactful these things are, Mr Field, but
30 there was an article in Brief Magazine, which is a magazine
31 read often by lawyers, about your appointment to the
32 President of the world body, the IOI, and that was
33 published in October 2020. You recall that?---I do.

34
35 And did you provide the information for that?---Yes. I,
36 ah, actually don't have a photo recollection of the exact
37 process of the drafting, but I certainly had an input into
38 it - a significant input into it.

39
40 I don't think the Commission benefits from a public reading
41 of that, Commissioner, and I'll have it taken down as part
42 of the documents.

43
44 **THE COMMISSIONER:** I'm on the editorial committee, so I
45 must have read it.

46
47 **PORTER, MR:** Yes. We - we all have prices to pay. The -
48 the - I just pause for a moment. I want - I want you to
49 think carefully about this question. You'll understand
50 that, in part, what is being put against you is that you

1 have obtained benefit for other persons or other bodies.
2 You understand that?---I do understand that.

3
4 I am - I want to have an answer from you about the OECD
5 contract as it was finally executed. Did you concede to be
6 the beneficiaries of that contract?---Uh, I was
7 unambiguously clear about who I thought the beneficiaries,
8 uh, were. First and foremost, the West Australian
9 Parliament, um, whom I serve. Second, West Australian
10 citizens - and particularly vulnerable and disadvantaged
11 Western Australians. Um, third was my office. I felt it
12 was a benefit to my office, particularly in terms of the
13 continuing skilling and establishing of my staff. Uh, and
14 last of all, I also thought it had a benefit for, um, other
15 Ombudsman institutions, particularly in the Asia-Pacific
16 region.

17
18 Well, how many other Ombudsman institutions are there?---
19 Members of the IOI there is around 210, a few more. There
20 are more again, ah, who are not members. But of the IOI,
21 around 210.

22
23 And is there anything you can say about the proportionality
24 of benefit between your Ombudsman's office and jurisdiction
25 and those other offices and jurisdictions?---I thought the
26 - the proportionality of benefit was absolutely
27 proportionate to the contribution of funding that we were
28 making. Um, I considered the predominant benefit, um, to
29 be, uh, to our parliament, our citizens. And as I say, I
30 make no - whether it's right - well, people will disagree
31 or not agree that it was more for the benefits of
32 vulnerable and disadvantaged Western Australians. Um, uh,
33 I did think there would be a percentage of benefit to the
34 Asia-Pacific region. I was unashamed about that. Um, and
35 the IOI contributions were intended to extend benefit to
36 north - the North American and other regions.

37
38 Of those 200 or so Ombudsman offices and jurisdictions, we
39 are but one of the 200. Did you conceive the benefit to
40 Western Australia as a benefit of one in 200?---Oh, no,
41 nothing of the sort. Um, I considered that, uh, the
42 percentage of our benefit to be substantially more than one
43 in 200. I'd gone into law degree with humanities, but I
44 think in terms of mass, that would be an outrageously low
45 percentage compared to what I had in mind. We were the
46 funder, um, uh - not just the principal funder but the
47 substantive funder, um - - -

48
49 What was the percentage of funding that your office had
50 contributed to the overall contract?---Uh, our funding was,

1 uh, in at around, um, uh - the funding of the IOI was
2 around €50,000, and that was intended to expand - - -

3

4 As a percentage?---Oh, as a percentage.

5

6 As a percentage - - -?---Yep.

7

8 - - - what was the West Australian Ombudsman's share of the
9 funding?---The exact percentage I'd have to check, um, but
10 it was the bulk of the percentage of the funding - the
11 majority percentage of the funding. Um, and, uh, I'm not
12 quite sure how I can put this any other way leaving aside,
13 um - - -

14

15 Well, let me put this to you. If it were put to you that
16 WA was subsidizing benefit to other Ombudsman's' offices,
17 what would your response be to that?---Oh, no. I - I - it
18 would be dishonest for me to sit here and say I did not
19 think there was some form of subsidy. Uh, that would be a
20 dishonest thing for me to say. The majority of the funding
21 was provided by the office of Western Australia Ombudsman
22 for the benefit of Western Australians. That was my
23 intention from day one. It's my intention as of today, um,
24 uh, with the same if I can say with respect duty and
25 passion and - - -

26

27 Well, I think we're now - - -?---Yeah. Commitment I've
28 made - - -

29

30 Emotions - - -?--- - - - for 17 years.

31

32 - - - are less important than the principle that's being
33 put to you?---Yep.

34

35 You accept that there was some level of subsidization of
36 benefit?---Yes. I don't deny that for a moment,
37 Commissioner. I would be lying to you if I said there
38 wasn't some form of subsidy, particularly for the
39 Asia-Pacific region. Um, and that is exactly what I'd
40 intended.

41

42 **THE COMMISSIONER:** Well, ultimately, I'll take into
43 account your evidence, but also the documentary evidence
44 and what that points to and whether it supports you or may
45 contradict you. And I will give due regard to all of your
46 evidence as well.

47

48 **PORTER, MR:** And, Mr Associate, we're going back to
49 document bundle 0664 on page 365, which is a page from the
50 Procurement Act 2020 of Western Australia.

51

1 0664^

2

3 I think it appears clear from your evidence and your
4 correspondence to the treasurer that you accepted that this
5 process was subject to the Procurement Act and that it also
6 formed a statutory basis as well as a regime, a set of
7 rules pursuant to which you were engaging with the OECD for
8 a contract, correct?---Correct.

9

10 And in section 4 of the Procurement Act there's - sorry,
11 yes. Goods and services?---Yes. Correct.

12

13 Which of these did you consider you were engaging in a
14 contract for the provision of?---Uh, I considered them to
15 be neither goods nor works. That they were services, and I
16 had in mind that they were, ah, community services. I know
17 that the contract references information and communication
18 technology. Um, that is not what I had in mind when I was
19 - I was - because I think that's a different connotation
20 that the Act has in mind. So, it was a 4(1)(a).

21

22 If we can just go up to 3, which is the objects of the Act
23 - thank you, Mr Associate, if we can pause there. Under
24 (a) - 3(a). To promote (inaudible) for money in government
25 procurement so as to deliver sustainable economic, social
26 and environmental benefits to Western Australians. Did you
27 consider 3(a) in the context of your engaging in a
28 procurement process with the OECD as the sole source
29 provider?---Not only did I consider it, but I wouldn't have
30 procured it without it.

31

32 How do you explain the nexus between 3(a) and the contract
33 that's been the subject of these hearings?---Uh, I think
34 that nexus is profoundly strong. And I will say the reason
35 why, uh, because, um, uh, uh, the - first of all, of course
36 the sole mission of the OECD - well, not the sole mission.
37 The mission of the OECD is in relation to sustainable
38 economic, social and environmental benefits. That is
39 clearly a, um - one of the, uh, matters to which all
40 agencies in the state including mine must take into account
41 in terms of procurement. Um - - -

42

43 **THE COMMISSIONER:** Well, I think your question -
44 Mr Porter's question was more specific, as I understood it,
45 relating to section 3(a).

46

47 **PORTER, MR:** What were the benefits - economic, social or
48 environmental - that you perceived to derive from the
49 contract for Western Australia?---The benefits I perceived
50 that would - would - would, um, derive were economic,
51 social, and environmental. Uh, um, that the work that

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1 would be undertaken as part of that contract would
2 contribute to, uh, more sustainable, robust, economic,
3 social and environmental, uh, uh, uh, matters in Western
4 Australia that are a direct benefit, um, to - to all
5 Western Australians and particularly to vulnerable
6 Western Australians. Um, I'd articulated that in - in -
7 in, um - in my LinkedIn comment, in all public speeches I'd
8 made, uh, and indeed in the procurement memo itself. That
9 was absolutely at the very centre of my mind during the
10 entire procurement process. I wouldn't have done the
11 project without it.

12
13 Mr Field, I'm drawing very rapidly to a close.
14 Commissioner, there was an issue that arose as to the
15 potential membership and constitution of the committee that
16 made recommendations to the Premier about public service
17 medals given that some members of that committee also
18 themselves were recipients. And, Mr Field, you have a
19 (inaudible) the annual report of the Public Sector
20 Commission. This is the second bundle, Mr Associate, 0745
21 at page 19 and 20.

22
23 0745^

24
25 So, this is available online, which is how you access it,
26 Mr Field, is that right?---Ah, correct.

27
28 And that's the annual report 22/23 of the Public Sector
29 Commission, and we're at page 20. Now, it says:

30
31 In 2022-23, 18 people, including our Commissioner,
32 were awarded with the prestigious public service
33 medal for outstanding public service. This included
34 for the first-time awards specifically for COVID-19
35 related service. The WA Public Service Medal
36 Committee, chaired by the Commissioner, met twice
37 during the year to assess nominations and recommend
38 proposed recipients to the Premier. The nominations
39 for the Commissioner was undertaken separately to the
40 committee.

41
42 That tends to indicate - whilst we don't know, but that
43 tends to indicate that the committee sat in its normal
44 configuration where it was considering your
45 recommendation?---Ah, it's also consistent with my
46 discussions with, um, the Public Sector Commissioner that
47 that was what occurred.

48
49 And if I can go now to page 21, Mr Associate. This is just
50 how the Governor-General of the Commonwealth's website
51 appears when printed. You've accessed this, I understand?

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36

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1 ---Yes, I did, correct.

2

3 And there's a hyperlink there to the individual recipients
4 of the Australia Day 2023 Honour's List. If I can go,
5 Mr Associate, to page 25? That describes essentially in
6 the third paragraph why it was that you received this
7 medal:

8

9 Mr Field is well-respected internationally, and is
10 the first Australian to be elected President in the
11 43-year history of the International Ombudsman
12 Institute. His previous roles as treasurer of the
13 institute have replaced a four-decade-old flat, free
14 structure, with a structure based on capacity to pay,
15 substantially improving fairness and inclusion for
16 Ombudsman's institutions from developing democracies.
17 As second vice President, Mr Field led a major
18 organisational change that saw regions historically
19 underrepresented, including Africa and Asia, receive
20 fairer representation from the executive of the
21 institute. As President, he has led extensive
22 engagement with the supernational bodies,
23 particularly the United Nations.

24

25 And so, the process, as we have traversed previously, was
26 the committee, chaired by Sharyn O'Neill, making
27 recommendations to the Premier, who made recommendations to
28 the Governor, that's correct?---That is my understanding.

29

30 And it appears on all the evidence unequivocally that you
31 were awarded that medal for concurrently being the WA
32 Ombudsman and as the President of the IOI, and discharging
33 your duties in each at the same time?---Well, my
34 understanding is that it's unambiguously clear.

35

36 And if we can go down, Mr Associate, this is an excerpt
37 from a LinkedIn page of Ms Emily Roper, who is the director
38 the Department of Premier and Cabinet, that's correct?

39 ---Correct.

40

41 And you accessed this?---I did.

42

43 And it appears to indicate there that it was either edited
44 or entered 11 months ago. Do you remember this being
45 posted?---I do.

46

47 Do you remember when it first appeared on LinkedIn?---Oh,
48 it was sometime very shortly after the PSM ceremony that
49 year, maybe March, April, something like that. I don't
50 have an exact date.

51

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37

1 And the final second to last paragraph:

2

3 It was humbling to hear about the significant
4 contributions so many incredible Western Australians
5 have made in service to the community and celebrate
6 their achievements across a wide breadth of
7 endeavours. Amongst them, our Ombudsman, Chris Field
8 PSM, who is blazing a trail internationally to
9 improve public administration and accountability
10 across the globe.

11

12 So, you recall that being published at the time?---I do.

13

14 And have you had any contact with Ms Roper subsequent to
15 the article being published on 7 October 2023 about your
16 role as President of the IOI?---Ah, well, absolutely none
17 that's critical of any description.

18 So, the two people in government who have directly
19 represented to you that your position as President,
20 concurrently held with your position as Ombudsman of WA
21 being untenable, that is limited to Ms O'Neill and
22 Mr Pastorelli, is that correct?---Correct.

23

24 They are all the questions that I have, Commissioner.

25

26 **THE COMMISSIONER:** Thank you Mr Porter.

27

28 **PORTER, MR:** Thank you for the time.

29

30 **THE COMMISSIONER:** Ms Nelson, do you have any questions
31 arising out of the examination?

32

33 **NELSON, MS:** I do, thank you, Commissioner.

34

35 **THE COMMISSIONER:** Very well.

36

37 **NELSON, MS:** Mr Field, just following on from your
38 counsel's questions about the PSM nomination. The
39 recommendations by the committee are made on the basis of a
40 nomination they've received about a particular candidate?
41 ---Yes.

42

43 And you gave some evidence about your nominations for the
44 PSM medal on the last occasion?---Yes.

45

46 I'll just take you to that, it's 0744^ at page 94.

47

48 **THE ASSOCIATE:** Which date, sorry counsel?

49

50 **NELSON, MS:** That is 20 March. If we go to line 34, I
51 think that's when it starts. Mr Porter asks you:

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38

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1
2 Do you know who was on the Public Service Medal
3 Committee in the year that your nomination [I can't
4 see it on the screen].

5
6 **THE COMMISSIONER:** Hang on, right.

7
8 **NELSON, MS:** Thank you. I'll start again:

9
10 Do you know who was on the Public Service Medal
11 Committee in the year that your nomination was
12 considered?---Ah, it was my understanding that I was
13 nominated by Sharyn O'Neill, um, and, ah, I thought
14 she was on the committee of the year of my
15 appointment, but I - that I do not know. That's
16 information I don't know and have never sought to
17 find out.

18
19 And then later on, if we go over to page 95 at line 3. In
20 answer to the next question, you say:

21
22 ?---Well, sorry. When I say I was nominated, my
23 understanding is I was nominated by my deputy after
24 my deputy received a call from Sharyn O'Neill that I
25 should be nominated. That is my understanding.

26
27 When did you find out that information, that your deputy
28 had nominated you for the medal to Ms O'Neill?---Oh, off
29 the top of my head, I couldn't guess what time that would
30 be. I presume it was some months prior to, um, the -
31 obviously was some months prior to the closing date for the
32 Australia Day 2023 Honour's List. I couldn't be precise
33 about the time, counsel.

34
35 So, you knew that you were going to be nominated by your
36 deputy, who was at the time Ms White?---Correct.

37
38 So, you knew you were going to be nominated by your deputy
39 before she made the nomination to Ms O'Neill?---Ah, yes, my
40 deputy informed me of that, correct.

41
42 And in what context did she inform you of that fact?
43 ---Context? She would have either come into my office or
44 called me, I think is my recollection. I don't - I don't
45 have a photo recollection of that time.

46
47 And if we could just go further on to page 97, at line 35.
48 By this stage of the questioning, you had been taken to
49 some of the referee reports that had accompanied your
50 nomination, do you recall that evidence, Mr Field?---Yes, I
51 do.

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39

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1
2 And Mr Porter asks you - it's at line 35:

3
4 I'm just going to put you to, you end up being passed
5 embarrassment through these proceedings, but quite
6 often these things are orchestrated and organised by
7 the person who has been nominated. Did you write any
8 of these?---No, I did not.

9
10 Do you remember giving that evidence, Mr Field?---Yes,
11 absolutely.

12
13 And when you say 'no, I did not', are you saying that you
14 didn't write the referee reports that Mr Porter had taken
15 you to, is that what your answer - - -?---Correct, correct.

16
17 Did you write any part of the nomination form?---Ah, I
18 absolutely made contributions to the nomination form in
19 discussions with the staff who were putting it together,
20 absolutely.

21
22 And those contributions were actually drafting some of the
23 form, or reworking it?---Assisted with - exactly correct.

24
25 And what was the extent of your assistance in the drafting
26 of that form?---Oh, I was very - I recollect being very
27 involved with the drafting of the form. The staff had
28 spoken to me about it, wanted my - to ensure that they were
29 putting the best possible - because of course, you can
30 self-nominated - wanted the best case put forward, and I
31 was delighted to be involved in that. I'm not trying to
32 hide that at all, in fact, my understanding is it would be
33 absolutely standard practice to do that, particularly
34 because you can self-nominate, as I understand.

35
36 **THE COMMISSIONER:** Not my standard practice, I should say.

37
38 **NELSON, MS:** On this occasion, you did not self-nominate.
39 Correct?---Mm.

40
41 Did you inform the referees that you were involved in the
42 process of drafting the nomination form?---Ah - ah - ah,
43 why would I have?

44
45 Did you ask the referees for their referee reports?---Ah,
46 the referee reports were requested by, um, my staff, as I,
47 um - is my only recollection of it.

48
49 And - and how did they make that request?---Ah, I made the
50 request, I think, through emails, possibly phone calls.

51
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Epiq

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(Public Hearing)

40

1 Did you draft those emails, Mr Field, for your staff to
 2 send?---I don't recollect whether I had an involvement in
 3 settling those or not. I certainly have a recollection of
 4 being involved in the work on the actual nomination form.

5
 6 Did you indicate who you wanted the invitation to provide a
 7 referee report to go to? The particular person?---There
 8 were certainly discussions about who would be, ah,
 9 appropriate referees to - to approach. That's exactly
 10 correct.

11
 12 So is the answer to that question, yes, you directed who
 13 the referee report request was to go to?---Well, you just
 14 put words in my mouth, um, counsel. I didn't say that at
 15 all. Um - - -

16
 17 No. You said, "We had discussions". I - - -?---That's
 18 not - - -

19
 20 Could you - - -?---That's not - - -

21
 22 - - - be more - - -?--- - - - directing.

23
 24 Could you be more specific as to what you mean by
 25 "we" - - -?---Ah - - -

26
 27 - - - and "discussions"?---So I don't have a photo
 28 recollection of all of that - events. I need to be clear
 29 about that. To the best of my recollection, um, I'm, ah -
 30 ah - ah, completely bemused by the questioning, but I
 31 obviously will answer it with respect to the Commission,
 32 because people can self-nominate. Um, I, um - ah,
 33 certainly have a recollection that, ah, my staff spoke to
 34 me about referees and I spoke to them about it. Would I
 35 have suggested referees to them, I'm almost certain I would
 36 have. I - I mean, I don't have a photo recollection of the
 37 exchanges. Whether that was done by email, ah,
 38 conversation in my office, phone call, but not only do I
 39 doubt I - do I doubt I, ah - have no doubt I would have, it
 40 was an utterly appropriate thing for me to do.

41
 42 Could I ask you another question just tweaking what
 43 Mr Porter asked you on 20 March where he said:

44
 45 Quite often these things are orchestrated and
 46 organised by the person who's been nominated. Did
 47 you write any of these?

48
 49 I want to ask you did you orchestrate the nomination form
 50 and organise the - the final version that went to
 51 Ms O'Neill?---Ah, I - I'm sorry, counsel, um - ah, the

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41

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(Public Hearing)

1 process of, ah - ah, to answer your question, um - ah, I
 2 received, um, from my deputy, and I can't remember whether
 3 it was a phone call, an email or a discussion in my office,
 4 that she had been approached by Sharyn O'Neill that I
 5 should be nominated for a PSM. I never spoke to Sharyn
 6 O'Neill about that. I didn't ask her to nominate me for a
 7 PSM. I orchestrated nothing. Um, it then, um - and it's
 8 an outrageous, ah, assertion that I did. Um - - -

9
 10 **THE COMMISSIONER:** It's not an assertion that counsel is
 11 making. She's asking you a question - - -?---Well - - -

12
 13 - - - and you're free to agree or disagree with it?---Well,
 14 I disagree with it on the basis - - -

15
 16 I appreciate that, but it's not an assertion by counsel as
 17 to the fact?---Well, I - - -

18
 19 It's an endeavour to find out what the position is?---It -
 20 it - it - it - it defames my character, so I - I - I - but
 21 I apologise, Commissioner. I realise the difference, and I
 22 apologise to you. Um, so, um - - -

23
 24 Well, before you say it defames your character - or after
 25 you've said it, it was matters which your counsel raised,
 26 quite properly. It was matters which your counsel raised.
 27 Now, the fact that counsel assisting the Commission is
 28 further exploring it is not defaming your character?---To
 29 say I orchestrated a - a - a thing which I did not is.

30
 31 Well, orchestrated was a word that Mr Porter used?---But
 32 not in the context of that, Commissioner. He was talking
 33 about whether I - whether it was orchestrated by others,
 34 not by me. That's not what the - how that word
 35 "orchestrated" is used in that.

36
 37 Well, I can read what it says.

38
 39 Anyway - - -?---Well, um - - -

40
 41 - - - repeat the question and we'll get an answer?
 42 ---Commissioner, I sincerely apologise. Um, can I, ah,
 43 just say, of course, that the, um - ah, Commission is - the
 44 Commissioner and the people on that panel are utterly
 45 independent of me. Had no conversation with me about that
 46 process whatsoever. Had the material before them and
 47 approved my PSM. Did I know about the PSM being, ah -
 48 being nominated for that PSM? No, I did not. Did I know
 49 that Sharyn O'Neill was going to call my deputy? No, I did
 50 not. Did I have a conversation with Sharyn O'Neill
 51 beforehand about it? No, I did not. Did the deputy come

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42

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1 and say to me, "Guess what? You're being nominated for a
2 PSM"? Yes, she did. How did she do it? I don't have a
3 photo recollection. Did, um, I then - and continue to have
4 involvement with the production of that PSM? Yes, and
5 utterly properly so. You can self-nominate. I could have
6 written the thing myself. It's just - I don't understand
7 the questions, counsel.

8
9 **NELSON, MS:** Well, why did you say, Mr Field, it was an
10 outrageous assertion or it defamed your character for me to
11 suggest that you had orchestrated the PSM nomination for
12 yourself?---Because you seem to be suggesting, counsel,
13 that I - I thought you were suggesting that your - that -
14 that, ah, I've somehow been involved in the process of the
15 actual approval itself.

16
17 No. I'm suggesting that - - -?---Well, then, I - I - ah,
18 sorry.

19
20 I'm suggesting that you were in - involved in the drafting
21 of the nomination - - -?---Oh.

22
23 - - - form that went to the committee to consider?---Then I
24 - I owe, ah, Commission, ah - the Commission a particularly
25 profound apology. I misunderstood, um, and I therefore
26 apologise to you, counsel. I misunderstood. I thought you
27 were suggesting I was involved in the actual approval of it
28 itself. Um, no, of course, um, my staff came and discussed
29 the, um - ah, the, ah, process with me, who they were going
30 to ask as referees. I think they came up with a series of
31 ideas of their own, as I recollect it. I suggested some
32 referees as well. There would have been exchanges about it
33 I suspect by email, um, and I also suspect in person as
34 well.

35
36 And what staff are you referring to?---I think the staff
37 that were principally involved were my deputy and Ms Poole.

38
39 Could I have 0695? Thank you.

40
41 0695^

42
43 **NELSON, MS:** So, this is email from yourself to Ms Poole,
44 12 July 2022, and it appears to me to be a draft of an
45 email that is to be sent by Ms Poole to prospective
46 referees for them to write a report?---Yes.

47
48 And you have put together the form of words that are to go
49 to the referees?---I, ah - ah, I don't have a recollection
50 of whether I did or I didn't. Um, it wouldn't surprise me
51 at all if I was involved in doing that though.

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43

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(Public Hearing)

1
2 Well, you can see on the second half of the page at 5.17 pm
3 on 12 July that Ms Poole has sent you a version of the -
4 the referee nomination email, if I can call it that, and
5 then you've sent back a - a slightly different version, it
6 would appear to me?--Ah, yes. I'm reading it now. I
7 agree with you completely, counsel.

8
9 So, you've settled the text that goes to the referees?---
10 The text that goes to the referees, counsel, is simply
11 what's on the form.

12
13 You've settled the text of the email that goes to a
14 prospective referee to invite them to make a referee
15 statement on - - -?---I've - - -

16
17 - - - your behalf?--- - - - repeated what's on the form.
18 Yeah, that's the - that's the material from the form.

19
20 Did you have any input into any of the referee statements
21 that were returned after this email went out to - - -?---I
22 have - - -

23
24 - - - any - - -?--- - - - no - - -

25
26 - - - of them?---Certainly don't recollect that I had any
27 involvement in the referee statements as they were
28 returned. I don't know if they - I'm - suspect they were
29 shown to me. In fact, I know they were shown to me. I
30 don't have any recollection of making any commentary about
31 them apart from saying things like, "Well, that's lovely"
32 or something like that. I'm sure I would have said that.

33
34 Did you see all of the referee statements that accompanied
35 your nomination?---I'm not sure I saw all of them, but I'm
36 sure I saw many of them. There were - there were many. I
37 think there were eight or nine.

38
39 Could I have 0686, please?

40
41 0686^

42
43 So, this is an email from the following day, July the 13th
44 2022. And the chain is that a Ms Connie Lau has sent a
45 referee statement for your nomination to Ms Poole at 11.13
46 am, and she's then forwarded it to you. And then you've
47 sent back a form of words for Ms Poole to thank Ms Lau?
48 ---Yes.

49
50 Did you have any input into the content of any referee
51 statement?---I don't have any recollection of, uh, doing

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44

Epiq

(Public Hearing)

1 so, um, uh, beyond of course the matters you're putting to
2 me here. There, for example, sending back an email
3 indicating that we're grateful for her contribution.

4
5 And of course, Ms Lau is not aware that you know that she's
6 providing a referee statement if she's only received the
7 email that you drafted inviting her to make one?---Sorry,
8 counsel, what was that?

9
10 I'm putting to you that Ms Lau would not be aware that you
11 know that she's making a referee statement?---I would have
12 thought Ms Lau would be absolutely aware that I would be -
13 of that being the case.

14
15 Well, if we go back to 0695, which is the text of the email
16 that she would have received.

17
18 0695^

19
20 So, this was the email that went from Ms Poole to Ms Lau.
21 Nowhere in that email does it say that you are aware that
22 Ms Lau would - or whoever is going to provide the statement
23 would be making one on your behalf?---I'm not following the
24 question, counsel.

25
26 **THE COMMISSIONER:** Why would Ms Lau be aware of your
27 involvement if the email is sent by someone else?---Of my
28 involvement?

29
30 Mm?---Right. So, well - sorry. I understand that. Um,
31 uh, well, I don't know that she would have any knowledge of
32 my involvement. My involvement is, um, to assist one of my
33 staff members who's exceptionally busy, um, ah, to send,
34 ah, an email. And that email is mere repetition of what
35 appears on the form.

36
37 **NELSON, MS:** And if Ms Poole was exceptionally busy at
38 this time, why would you not email Ms Lau directly and ask
39 her for a referee statement or any of the other referees?
40 ---I would have been happy to do so. And as I say, you can
41 self-nominate. The - the, um, uh - but the process that
42 had occurred is that Sharyn O'Neill as the Public Sector
43 Commissioner had contacted the deputy Ombudsman - my deputy
44 Ombudsman, and the deputy was putting together the
45 application together, um, with Ms Poole. And like any
46 other work they did in the office about anything, um, they
47 would talk to me about it and I would assist them with it
48 wherever I could, particularly when they were busy. I
49 mean, you would have seen from tens of thousands of emails
50 sent in 2023 alone that I am, um, always preparing, um, and
51 assisting Ms Poole and other staff members with the email

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1 they're sending. Mr Heritage, Ms Poole, and so many
2 others. This is - this is - this is just a daily
3 occurrence. This is just one example. I was doing this
4 constantly about all sorts of things.

5
6 Did you assist Ms Poole to prepare bullet points for a
7 referee statement to come from Michael Manthorpe?---Uh, if
8 Michael Manthorpe the former commonwealth Ombudsman had
9 asked the sort of things that should be put into a referee
10 statement, she may well have come and asked me, um, that
11 question.

12
13 Do you have a recollection of that occurring, Mr Field?---I
14 don't have a photo recollection of it, but I'm not saying
15 it didn't occur.

16
17 Could I have 0693?

18
19 0693^

20
21 So have you had a chance to read that?---Yes, I have.

22
23 So, it would appear that Ms Poole has been contacted
24 directly by a prospective referee, Michael Manthorpe, and
25 asked for some assistance in the form of bullet points, do
26 you agree with that?---Yes.

27
28 And Ms Poole has then drafted something but sent it to you
29 to settle?---Yes.

30
31 And you say at the top of the page:

32
33 Thank you so much. This is all great stuff for the
34 application for MM. I think we might do what he
35 asked. That's because the others are a grand sweep -

36
37 Meaning the other referee reports?---Yes.

38
39 - and it might be good to have the commonwealth
40 Ombudsman say in the period that I was in office and
41 worked with him... I have shortened it dramatically
42 accordingly and tried to wrap it up in his voice.

43
44 What do you mean by that last statement "I have shortened
45 it dramatically accordingly and tried to wrap - - -?---My
46 understanding in that case is that's what Michael was
47 asking us to do.

48
49 But what have you - what are you saying to Ms Poole that
50 you have done when you say, "I have shortened it
51 dramatically accordingly and tried to wrap it up in his

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46

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1 voice"?---I have no doubt tried to contribute to it in the
2 way that Michael requested we do so.

3
4 If we could scroll down, please. Keep scrolling,
5 thank you, to the last page. Thank you. The words on the
6 page on the screen, are they what you shortened
7 dramatically and put into Michael's voice?---I think
8 they're his bullet points. Um, he's then made a request to
9 us that that be shortened down or put into a way that was
10 a, uh - a shortened form version of a reference and that we
11 do so.

12
13 If we could go back to the first page - the second page, we
14 can see what the request from Mr Manthorpe was:

15
16 Rebecca, great to hear from you. This is an
17 excellent proposal and one I'm very happy to support.
18 To help me draft something, can you send me a few dot
19 points?

20
21 And then if we scroll up, we can see that Ms Poole has
22 replied to him - sorry, stop scrolling. A little bit down
23 further. No, you're right. Thank you, Mr Associate.
24 Thank you.

25
26 Dear Michael,

27
28 Thank you very much for your email. I would be
29 delighted to send you a few dot points very shortly.

30
31 And then Ms Poole - if we can scroll up - drafts dot points
32 but she sends them to you initially for you to settle.
33 Isn't that what you then shortened dramatically and tried
34 to wrap up in his - meaning Michael's - voice?---I don't
35 have a photo recollection, but I cannot stress strongly
36 enough to you, counsel assisting and Commissioner, that's
37 not because I'm trying to be evasive about it. I just see
38 this being not just anodyne but of absolutely no moment
39 whatsoever.

40
41 Mr - - -?---I can't understand it.

42
43 Mr Field, a few - well, in the last answer you said that
44 they were Michael's dot points. I'm suggesting to you that
45 in fact they're Ms Poole's dot points that have been
46 reworked by you?---Now looking at that counsel, and being
47 very clear and direct to your answer, I think that is the
48 most sensible way of looking at, um - of the dot points,
49 correct.

50
51 Could I have 0681?

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47

1
2 0681^

3
4 **NELSON, MS:** And the first email in the chain is at the
5 bottom half of this first page, thank you, Mr Associate.

6
7 So, your deputy, Ms White, on 21 July, 9.20 pm, sends you
8 the initial draft of:

9
10 The document I've been working on.

11
12 You're nodding your head?---Ah, yes.

13
14 And if we go through to page 3, we can see what the
15 document is that she's referring to. It is, in fact, the
16 nomination form for the PSM medal?---Yes.

17
18 And we can see there that her signature has already been
19 applied to the document - - -?---Yes.

20
21 - - - but there are some tracked changes in red?---Yes.

22
23 And then if we go back to page 1 at the top of the page,
24 the - the following day, you sent her back the version that
25 we've just looked at with tracked changes. Is that
26 correct?---Yes, counsel.

27
28 You've suggested that Mr Amon be added as a referee?---Yes.

29
30 Did you contact him yourself to arrange that?---I don't
31 know if I did or I didn't. Once again, of course, can I
32 say if I did, it would have been an entirely and utterly
33 appropriate thing for me to do.

34
35 Go to page 3 again, thank you.

36
37 We'll just look at the - the actual document itself.
38 You've changed a - a form of the words on the front page,
39 and then we go to the next page, made some changes to the
40 details of the person being nominated, which is yourself,
41 of course?---Yes.

42
43 And then we go to the next page. The prospective referees'
44 details have been added here, and you've made some changes
45 in red tracked to how they're referred to?---Correct.

46
47 And looking at those referees now, do you recall whether
48 you suggested each of those be prospective referees?
49 ---There was certainly a discussion, ah, I recollect about
50 referees. I think some were suggested by me, some
51 suggested by others, but there was - I - I'm not, ah - I'm

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48

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1 not trying to hide that at all. I don't have a photo
2 recollection of the conversation, but it would have - it -
3 it's certainly something, um, that we could have and
4 probably did discuss. As I say again, um - ah - ah,
5 applicants can self-nominate. Applicants can approach
6 referees. The referees themselves sign these forms. Even
7 if I've made some suggestion, it's their form. They've
8 signed it, and then the PS - then the committee considers
9 those and makes their award or not. I - I - how - how this
10 has anything to do with corruption is beyond me but I - I -
11 I - I'm not - obviously, that's not for me to say.

12
13 Well, the - the committee will assess the referee report.
14 That's true, but they'll also assess the contents of the
15 next few pages of the nomination form. If we could go to
16 the next page which is the nomination summary, which
17 actually gives the details of what the basis is to be for
18 the nomination application?---I'm allowed to make a
19 contribution to that, counsel. People can self-nominate
20 for these medals. There's nothing improper about my staff
21 wanting to ensure that that application presented me in the
22 best possible light because they were committed to doing
23 that application. The Commissioner had contacted our
24 office asking for that to be done. I - I - I cannot
25 understand how it could be the slightest but inappropriate
26 for my staff to ask me, um - um, for assistance in
27 completing this form. If I thought it was even the
28 slightest bit inappropriate, I wouldn't have done it.

29
30 Well, in this instance, you were not self-nominating and
31 the Public Sector Commissioner has not directly approached
32 you to self-nominate?---But it goes to my state of mind as
33 to whether I thought it was inappropriate or not that you
34 could self-nominate. I didn't think for one minute
35 anything I was doing was inappropriate.

36
37 Now, if we just finish looking through this document, so
38 this page describes the - your role as the Western
39 Australian Ombudsman and then separately your role as the
40 President of the IOI, and then gives some details as to the
41 role where you have excelled, and then we go over the page.
42 The next form then explains how the nominee has
43 demonstrated outstanding service, and again there's a - a
44 portion under the heading:

45
46 Western Australian Ombudsman.

47
48 Did you contribute to that?---Yes. Keep in mind too,
49 counsel, that a huge amount of that is settled text from
50 places like our annual report. It was publicly available
51 material that all my staff were aware, so these are things

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1 that are cut and pasted from things like annual report
2 text.

3
4 And then over the page there's a separate section
5 addressing how you demonstrated outstanding service as
6 President of the IOI. Did you settle that content?---Ah -
7 ah - ah, I cannot be clearer. I am being - ah - ah - ah,
8 sorry. The answer should simply be, yes, Commissioner.
9 Yes, I did, and I did so, in my view, utterly
10 appropriately. Through the request of my staff, utterly
11 appropriately. They, ah - the - their positions were
12 unambiguously, ah - ah, honest and in good faith.

13
14 So, this was the - the tracked changes that you had made to
15 Ms White's initial draft of July 21?---Correct.

16
17 And then if we go to 0680? So, this is the following day,
18 Friday, July 22. And perhaps if we go to the start of that
19 email chain, thank you, Mr Associate, which is on page 2.

20
21 0680^

22
23 **NELSON, MS:** So, you're sending an email to Emily Johnson,
24 and is she an executive assistant - - -?
25 ---Correct.

26
27 - - - to the deputy, Ms White?---Ah, yes, that is correct.

28
29 Or Mary?---Yeah, ah - yes. Correct. Mary.

30
31 So:

32
33 Dear Emily, can you please confirm for me that Mary
34 has seen my email and that is being worked on?

35
36 So, presumably, that's the email with the tracked changes
37 you'd sent through?---I presume that's correct, counsel.

38
39 Can you recall what the urgency was for Ms White to work on
40 this?---No, unless it was approaching the deadline. I - I
41 have no specific recollection.

42
43 And if we go and follow the email chain, it goes onto the
44 first page, so Ms Johnson says that:

45
46 Mary is heading to a doctor's appointment -

47
48 - and if we can continue to scroll up?

49

1 So, you ask Emily to fix the formatting, and then at the
2 top of the page, you ask Emily to send it on to Ms Poole
3 for checking?---(No audible answer)

4
5 You're nodding your head?---Ah, sorry. I - I - it's
6 inappropriate I nod my head. Yes, counsel.

7
8 Can I have 0674?

9
10 0674^

11
12 **NELSON, MS:** So, this is an email from Ms Johnson to
13 Ms Poole, not to yourself, but there - there is an
14 attachment which has the nomination form that we've looked
15 at with an edited version. I just wanted to ask you what
16 knowledge you have about the second last paragraph, the
17 last sentence, Ms Johnson says to Ms Poole:

18
19 I will delete it completely from my computer once I
20 have confirmation to do so.

21
22 The sentence beforehand:

23
24 I - - -

25
26 ?---No.

27
28 - - - also had this document saved in my P drive. I
29 will delete it completely from my computer once I
30 have confirmation to do so.

31
32 ?---Leaving aside confidentiality, um, I - I actually don't
33 know.

34
35 What do you mean by confidentiality?---Well, um, a range of
36 files, um, uh, ah - files are kept in certain places in the
37 office and shouldn't be in multiple places. I don't know
38 if that's a reference to deleting it from her particular
39 computer. Of course, a version of it can and must exist
40 and would exist in the - in the office. There's no
41 confidentiality about this, um, that would prevent it from
42 being, uh - it's a record. It would have to be kept in my
43 office.

44
45 Did you give a direction to anyone at the OWA to delete the
46 various edited forms of the nomination from the computer or
47 from any record?---I had nothing to hide about it. Why
48 would I have given such a, um - a - a direction? And even
49 if I had something to hide, I would never give that. If I
50 was having something to hide, I would have resigned. I
51 don't - I don't hide things and I would have never given

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51

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1 such a direction, and I had absolutely nothing to hide
2 about it.
3
4 Could I have 0682?
5
6 0682^
7
8 So, if we could just see the bottom of the page, thank you.
9 So you've been sent an endorsement letter by Cathryn Flet.
10 r?---Yes.
11
12 And did that letter accompany the nomination?---It did.
13
14 What's the purpose of the endorsement letter?---I'm sorry?
15 It was a reference.
16
17 It's a reference?---Yes. Sorry. Oh, sorry. I didn't mean
18 to sound sarcastic. It was a reference, counsel.
19
20 And you indicate to Ms White that you're still working on
21 the narrative right now. Does that mean the content of the
22 nomination - - -?---Yes.
23
24 - - - summary?---Correct. That's what that would be a
25 reference to. In fact, I read it, um, now, and that's
26 exactly what I would have been referring to.
27
28 And then further up Ms White replies:
29
30 Please let me know if you need anything further from
31 me.
32
33 ?---Correct.
34
35 And do you recall that you continued to work on that
36 document during the course of Friday, 22 July?---I don't
37 have a photo recollection of that time, but, counsel, it
38 wouldn't in any way surprise me, um, that that was the case
39 that I continued to work on the document.
40
41 And if we could go to 0671, which is a version of the
42 nomination form from Saturday, July the 23rd at 6.56 pm.
43
44 0671^
45
46 In that email to Ms Poole and to Ms White at 4 you say:
47
48 I have also added the quotes from the references.
49
50 Is that to the nomination summary?---Correct.
51
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1 The references are ridiculously strong and really
2 make the point so effectively and they are
3 "independent". Not me saying it about me and not you
4 saying it about me.

5
6 Why was it important for you to say that they are
7 independent? Why is that something that you thought you
8 should note in this email on Saturday, July the 23rd?
9 ---Well, it's in the context of what I've said there. I've
10 also added quotes from the references. So, in - what I'm
11 trying to say is this. It is not something I'm saying
12 about myself. It's not something that my deputy is saying
13 about me. It's something that others are saying about me.

14
15 I understand that, but why was it a noteworthy point for
16 you to make to Ms Poole and Ms White in this email? Why
17 did you feel you needed to say it?---Well, leaving aside
18 perhaps vivacity or anything else, I was - I was - I
19 thought it was worthwhile saying that, um, it would be an
20 unpleasant sort of hubris if you were writing, uh - if
21 there was a - a - a form submitted about you that said,
22 "Hey, aren't you wonderful, isn't it good that, uh, that
23 other people are saying that about me?" But it's very much
24 to that first sentence:

25
26 I have also added the quotes from the references.

27
28 I'm trying to make the point there that the things that are
29 - that are in that report, um, that are extremely strong
30 aren't my words about myself, aren't my deputy's words
31 about myself - about me, aren't Ms Poole's words about me.
32 They are the words of others. That's the sole thing I'm
33 trying to say there.

34
35 Because it was important to you that the nomination was
36 seen to be independent from you?---No, that's not what I'm
37 saying at all and it's not what that's saying at all. I'm
38 saying I think if you are being nominated for an award and
39 you sit there and you say, "Hi, my - forgive the third
40 person referencing, Commissioner. "Hi, I'm Chris Field.
41 I'm fantastic". That has a very, very low level of merit.
42 If you say, "Hi, this is Chris Field" and, um, the speaker
43 of the legislative assembly says, "And he's fantastic",
44 that's good. That's - that's - that's something of value.
45 That's all that's trying to say.

46
47 So, the valuableness of the independence from you was that
48 there was some distance between - if I could put it this
49 way. From your point of view, a nomination form would have
50 more weight if it wasn't your words, but it was someone
51 else's words about you?---Well, I think that's a way of

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53

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1 putting it, counsel. I can't - I think there is less merit
2 in, uh, walking around, uh - rather it's certainly not the
3 Australian way to walk around and say, "I'm fantastic".
4 But if someone says, "You're good", um, then, um, that is
5 valuable. And I'm trying to make the point there that in
6 so far as the submission makes comments like "He's good",
7 they are not me saying that about myself. That is not my
8 deputy saying that about me and that is not Ms Poole saying
9 that about me. It is other people outside of our
10 organization saying that about me. It's - it means nothing
11 more and nothing less than that.

12
13 Thank you. That can be taken down - hang on, sorry. I
14 might just look at what you've added in. If we could go to
15 page 5. That's page 5 of the nomination form, so that's
16 probably page 7.

17
18 **THE ASSOCIATE:** Sorry, which page?

19
20 **NELSON, MS:** Just keep scrolling through, thank you.
21 Thank you, that's it. We can see there that there's a
22 paragraph near the top of the screen in the words of
23 Werner Amon and then further down under 4 in the words of
24 Rob Berenze, et cetera. So, are they the - the portions
25 that you have added, the indented paragraphs?---I can't
26 remember exactly, um, the final construction of the
27 document. As I say, it was, ah, a document where three of
28 us - in fact, I think it was more particularly my deputy
29 and myself were working on it. And of course, in saying
30 that, I'm in absolutely no way criticising my deputy. Um,
31 but it was my recollection it was more particularly my
32 deputy and I, and, ah, between us, those quotes were added,
33 and I'm sure I was involved in selecting those quotes and
34 suggesting they should be in the final submission.

35
36 Well, if we could go back to the very first page of 0671^?
37 ---But counsel, just to perhaps finish that, with your
38 indulgence, Commissioner, I didn't write those quotes.
39 They're quotes signed by eminent senior people, I didn't
40 write them, and then it goes to an independent committee,
41 of which I have no part.

42
43 If we could go back to the first page. Just to cover up on
44 your recollection that it was your deputy who was mostly
45 working on the document - so you can see here on 23 July,
46 which is a Saturday, that you've sent back what's called
47 the master file, you're nodding your head?---Oh, sorry,
48 yes, I apologise again, yes counsel.

49
50 And you've put down the four dot points as to how you have
51 reworked the master file?---Yes.

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1
2 And then the - later that evening, if we could have 0685^?
3
4 0685^
5

6 **NELSON, MS:** Ten to 11 that evening, your deputy responds
7 to you saying she's proofed the form that you had sent
8 back?---Yes, excellent examples of the work ethic of my
9 office, um, counsel.

10
11 And she's marked up the narrative section, with some
12 suggestions for your consideration?---Correct.
13

14 I have attached the renamed endorsement from Cathryn,
15 and prepared a cover email.
16

17 ?---Correct.
18

19 In which she says that she's nominating you?---Correct.
20

21 And if we could just scroll through to see the attachments,
22 thank you. Sorry, if we could just go back to that letter
23 from Ms Fletcher. So, it would appear from this that an
24 endorsement letter is not a referee report, would you agree
25 with that?---Ah, I thought - in fact, I'm certain
26 Ms Fletcher provided a referee report.
27

28 Did she also endorse the nomination by Ms White?---That
29 must have also been the case. That's a part of the process
30 that has slipped my memory about endorsement, and to the -
31 when you were referring before to her, I was also
32 remembering of course that Ms Fletcher had provided a
33 reference.
34

35 And if we keep scrolling, thank you. Keep scrolling, thank
36 you. And sorry, if we could just go back up to the
37 comment, thank you, that Ms White has suggested balancing
38 out the information about the IOI?---Yes.
39

40 Did she have a conversation with you about that?---I don't
41 recollect it. It's absolutely perfectly possibly, we spoke
42 extremely regularly.
43

44 And continue down, thank you. And again, Ms White has
45 suggested more content about the OWA:
46

47 It would be good to also refer to the big picture for
48 the WA Ombudsman.
49

50 ?---Yes.
51

1 And then continue on, thank you. Thank you. And then the
2 document is sent to Ms Poole for her final proofing, do you
3 recall that, on the Sunday?---I don't, but that exactly
4 would have been the practice of my office, always to proof
5 documents multiple - multiple occasions, any document.

6
7 And then on Monday, 25 July, you send the final master
8 version to Ms White to send, do you recall that?---Ah, I
9 don't, but I'm not doubting it occurred.

10
11 All right, thank you, that can be taken down. Would you
12 agree, Mr Field, that you were quite - you were
13 substantially involved in the content of the nomination
14 form as it went up to the Public Sector Commissioner?
15 ---I've been substantially involved in every aspect of my
16 office for 17 years. But can I say in relation to that,
17 ah, I was, and it was an utterly and completely appropriate
18 thing for me to do.

19
20 You told the Commission this morning that the sole supplier
21 email of 3 February 2023 that was put up on the screen by
22 your counsel was your making it very clear that the
23 contract with the OECD was to be a sole source supplier
24 contract with the Ombudsman of Western Australia?---Yes.

25
26 And you had formed the view that the OECD was to be a sole
27 source supplier by 3 February 2023?---Yes.

28
29 And you had formed the view that the contract with the OECD
30 was to be between the OWA and the OECD as at 3 February
31 2023?---Yes.

32
33 Not between the IOI?---No. Although it - well, the answer
34 is no, counsel. That's not to say that they weren't to be
35 a party, a funder, but no is the answer, it'd be the only
36 correct answer to your question.

37
38 Isn't it the case that a month earlier, on 9 January, you
39 had told the Secretary-General of the IOI that it was to be
40 a project between the OECD and the IOI?---Yes, that's
41 exactly the conversations I had with the Secretary-General.
42 But as I've said in my previous evidence to you, ah, or to,
43 sorry, the Commission, that, ah, each one of these aspects
44 to speaking to any given particular audience. Now, what
45 the Secretary-General was interested in is was there going
46 to be an IOI contribution to that funding, and that's
47 exactly what I was talking to the Secretary-General about.
48 I wasn't saying the IOI is the sole funder, it's the only
49 person involved in that. And of course, the submissions
50 that were made to the board of the IOI make that abundantly
51 clear.

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1
2 Make what abundantly clear, sorry?---That the Office of the
3 Ombudsman of Western Australia is the principal funder, so
4 - and those were the discussions that were - - -

5
6 I'm not talking about the funding, I'm talking about who
7 was going to be the project partner with the OECD on the
8 contract?---No, the project partner was always going to be
9 the Ombudsman Western Australia, but I absolutely
10 considered the IOI to be a project partner. It's exactly
11 what I put into that LinkedIn - contemporaneous LinkedIn
12 announcement, that today the Ombudsman has signed a
13 contract, ah, with the OECD to do a project together, and
14 an additional project partner would be the IOI.

15
16 Yes, but that was in June 2023, or August, when you signed
17 the actual document. I'm talking about in January 2023,
18 you told the Secretary-General that it was to be a project
19 between the IOI and the OECD?---Ah, no, I was talking to
20 the Secretary-General about what I thought the Secretary-
21 General would be interested in, and she'd be interested in
22 whether the IOI was going to be a partner in that project,
23 and that's what I was talking to her about.

24
25 And you told the board that it was also going to be a
26 project between the OECD and the IOI, didn't you?---And it
27 - and it is and it was, it was and it is.

28
29 Mr Field, the contract agreement is between the OWA and the
30 OECD, correct?---Correct.

31
32 It's not between the IOI and the OECD, or the IOI and the
33 OECD or the OWA, is it?---Well, and so it must properly and
34 should be between the OWA and the OECD, um, but the
35 suggestion that the IOI wasn't a project partner in that,
36 and that I haven't been transparent, abundantly clear about
37 that all along, is simply incorrect.

38
39 Well, I am suggesting to you that you have not been
40 transparently clear about it all the way along, because on
41 9 January you told the Secretary-General that it was to be
42 an IOI and OECD project, to which we would provide some
43 funds, meaning the OWA would provide some funds?---I'm
44 sorry counsel, I completely disagree with you, and with
45 respect, from my perspective - obviously you can disagree,
46 but it doesn't represent what I consider to be a sensible
47 conversation with the Secretary-General. I'm not talking
48 to the Secretary-General about, 'Hey, here's all the things
49 you'd like to know about the Ombudsman Western Australia,'
50 I'm talking to her about what she's concerned about, the
51 IOI, as the Secretary-General of the IOI.

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1
2 Do you think she might be concerned about who was going to
3 be the project partner with the OECD?---Not a scintilla of
4 concern.

5
6 **THE COMMISSIONER:** Sorry, what?---I said not a scintilla
7 of concern.

8
9 So, the Secretary-General of the IOI has not a scintilla of
10 concern about being a project partner or not being a
11 project partner with the OWA, is that your evidence?---Oh,
12 no, no, no. Sorry, I'm sorry Commissioner. No, I - I
13 thought the question was that she wasn't a project partner.
14 Of course, she'd be concerned about whether she was a
15 project partner, and she was, and that was clear.

16
17 **NELSON, MS:** On the bare grant agreement and the proposal,
18 it is between the OWA and the OECD, correct?---Correct.

19
20 And that was a late addition, as we saw on previous
21 examinations, by 20 June 2023 that was decided, not
22 before?---No, I don't accept that at all, there's clear
23 evidence, um, of me, um, indicating that it was a
24 procurement being undertaken by the OWA with the OECD. I
25 don't accept that at all. I'm not denying - and I know the
26 Commissioner - I really want to clarify that for the
27 Commissioner's question. I had made it clear to the
28 Secretary-General that, um, the IOI would be a - a project
29 partner in this project, that was made clear. And I think
30 she would have been very surprised if that wasn't the case.
31 But that's everything that I have evidenced all throughout.

32
33 Well, I'd suggest to you that what you made clear to her on
34 9 January was it was to be a project partnership between
35 the OECD and the IOI, to which the OWA would provide some
36 funds, some financial funds and some in-kind resources?---I
37 was talking to the Secretary-General about what I thought
38 the Secretary-General, ah, would be a matter of interest to
39 the Secretary-General, and that is, what is the IOI's
40 involvement? And that's the reason that I had that
41 conversation, in exactly in those terms.

42
43 And did you represent to the IOI board of directors that
44 they were commissioning a report with the OECD, meaning the
45 IOI was commissioning the report?---What I, ah, represented
46 to the board - and certainly what I intended to represent
47 to the board was that they would be a project partner. Ah,
48 more specifically, um, it was intended that the funding
49 contribution that the IOI would make would be able to
50 expand the project, so that the beneficiaries were beyond
51 just Western Australia and its near-Asian Pacific partners,

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1 um, to other regions of the IOI. And indeed, there was
2 discussions at - I think both before, during and after the
3 board meeting, that there was a real desire, for example,
4 that North America be included in that - in that benefit.
5 And that was, um, a key component reason of why the IOI was
6 making a funding contribution, so the benefit of that
7 project would not just be for Western Australia, not just
8 be for Asia Pacific. It was never just Western Australia,
9 it was also - and this is an aspect of subsidy, if you
10 like, it was intended to extend to our Asia Pacific
11 neighbours. But the IOI contribution was to take it
12 further again than that.

13
14 Well, I'm suggesting, Mr Field, that the message you gave
15 to the board was that it was to be a project done by the
16 IOI, not by the OWA?---Well, um, I was the President of the
17 board, I was at the meeting. Um, um, and I can indicate to
18 you it is my absolutely profoundly clear view of the
19 messaging I gave, um, this was a project that was being
20 undertaken, um, it arose out of my meeting with Mathias
21 Cormann, there was background given, that it was a project
22 that would be undertaken by the Office of the Ombudsman
23 Western Australia as the principal funder, but it was my
24 deep intention and desire to extend the value of that
25 project to other regions of the IOI, and there would be a
26 contribution made by the IOI to do exactly that. Now,
27 that's my recollection of the board meeting.

28
29 Could I have 0728^ at page 41?

30
31 0728^

32
33 **NELSON, MS:** This is a transcript of you talking to the
34 agenda item at the particular board meeting, and the agenda
35 item is the OECD cooperative research project. And this is
36 the board meeting in May 2023. Have you seen this
37 transcript before, Mr Field?---I would have - well, not a
38 transcript, I would have seen the minutes of the meeting.

39
40 You haven't seen this document before?---I don't recollect
41 having seen it, no.

42
43 **THE COMMISSIONER:** Were meetings transcribed?---Are
44 meetings transcribed? Um, yes, they - under European law
45 there is a permission at the commencement of the meeting to
46 record them. I don't recollect them being transcribed.
47 What is produced is a minutes.

48
49 **NELSON, MS:** And if we look at the second paragraph, you
50 are saying as President of the IOI to the board:

51

1 One of the things I was very interested in was her
 2 work [meaning Ombudsman Emily O'Reilly] that she did
 3 as a partnership with the OECD, and you know, of
 4 course the OECD is the organisation for economic
 5 development. And it struck me that one of the things
 6 that the IOI wants to continue to do as we go forward
 7 is look at the possibilities of further relationships
 8 with supernational, international bodies.

9
 10 ?---Well, that strongly supports all of the evidence I've
 11 given to this Commission, that that was the genesis of my
 12 understanding of the project, and that was Emily O'Reilly's
 13 project.

14
 15 My point is, Mr Field, is that you are telling the board
 16 that it is the IOI's purpose that is going to be fulfilled
 17 by this project?---And it was. There I'm talking to the
 18 IOI board to ask them for a contribution of €50,000 to the
 19 project. Um, um, so if it had no benefit to the IOI, then
 20 why would I be asking them for any contribution? Of
 21 course, I was talking about the IOI there, because I was
 22 talking about the contribution the IOI would make. I
 23 haven't seen this transcript ever before, um, um, but as
 24 I'm looking at it, just by flicking through it, all of the
 25 things that I've been saying to this Commission over the 10
 26 days or so that I've been - - -

27
 28 **THE COMMISSIONER:** Well, just look at the last two lines,
 29 because I haven't seen this document?---Well, I haven't
 30 either.

31
 32 It was really the inspiration that Emily O'Reilly's
 33 project with the OECD suggested to me that there may
 34 be a similar sort of project that can be done by the
 35 IOI.

36
 37 ?---Yeah, but I'm talking to the IOI board, Commissioner.

38
 39 Yes. But you're not lying to them. You're telling
 40 them - - -?---I'm absolutely - - -

41
 42 - - - what you think?--- - - - not lying to them.

43
 44 No. You're telling them what you think, that this is a
 45 project that can be done by the IOI?---No. That is not
 46 what I'm saying, Commissioner - - -

47
 48 Well, it's - - -?--- - - - at all.

49
 50 It's the words?---No, it's not. It's - it's - - -

51

1 I'm sorry, Mr Field. Those are the words?---Not in the
2 context of the - well, you're showing me those words.
3 You're not showing me the words that say I'm seeking a
4 \$50,000 contribution from the IOI.

5
6 Well - - -?---Those words are in the context of
7 saying - - -

8
9 There - there is time for that - - -?---Yeah.

10
11 - - - but those are the words that presently counsel is
12 taking you to.

13
14 **NELSON, MS:** If we go to the - the next paragraph, you
15 talk to the fact that you met with the secretary general of
16 the OECD - - -?---Yes, and I - - -

17
18 - - - and you say he's - - -?---Obviously, that's very -
19 very, very, very much supporting all of the evidence I've
20 given to the Commission.

21
22 You said:

23
24 So, he and I met at some length. SG Coleman in Paris
25 along with a subsequent and additional meeting with
26 the Australian Ambassador. I asked him whether he
27 might have some interest in the OECD doing some work
28 with the IOI, all which, of course, would be subject
29 to any board consideration and approval.

30
31 In - you are not telling the board that you were talking to
32 Mathias Cormann about a cooperative project with the OWA?
33 ---Ah - ah - ah, counsel, the - the fundamental
34 misunderstanding here, with respect, is if this was a -
35 well, a - not a tripartite, um, arrangement but four
36 parties involved, and I'd been seeking a further \$35,000
37 from say GANHRI, um - ah, to fund this project. That's
38 absolutely conceivable. I would have appeared before the
39 board, and every time you see the word IOI, it would have
40 said Gamry because I'm asking that organisation for a
41 contribution. I'm talking about the value for them and
42 their contribution. This is not being said to hide the O,
43 ah - OWA involvement. It was abundantly clear to everyone
44 that OWA was the principal funder. That was abundantly
45 clear from every aspect of what I was doing.

46
47 But the - the OWA was funding a project between the IOI and
48 the OECD?---No. The OWA was funding a project between the
49 OW - OWA and the OECD of which the IOI would be a
50 beneficiary, and for that benefit, they would make a
51 contribution of 50,000 euro.

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1
2 Well, why didn't you say that to the board, Mr Field?
3 ---Because I'm asking the IOI for a contribution.
4
5 So, you didn't to tell them, "Look, this is going to be a
6 project between the OWA and the OECD to which you, IOI,
7 will get a benefit. Can you give me some money?"?---But
8 they had been told. They'd been told that we were the
9 principal funder.
10
11 For a project between them and the OECD?---Why - I - why
12 would we be principally funding a project between two other
13 people? Ah, that just - - -
14
15 I don't know, Mr Field?---Just it's - - -
16
17 Why would you tell - - -?---Well, it's Bentham's "Nonsense
18 Upon Stilts" to even suggest it. I mean, ah, why - why -
19 why - how could I possibly be saying to someone, "You're
20 the - you're the minority funder for a project that you -
21 that - that - that - that, ah - that we are the majority
22 funder"? It doesn't make - it's - it's - doesn't make
23 sense, and it's certainly not what I said, and it's
24 certainly not what I discussed, and it's certainly not what
25 was understood.
26
27 If we go down a little bit further where there's a sentence
28 about the last third of the page which starts:
29
30 But much of the discussion actually was around the
31 fact -
32
33 - it's just on the C and the O of the - the confidential -
34 about where the cursor is. Thank you. Yes:
35
36 Much of the discussion actually was around the fact
37 that whilst Emily's project was highly meritorious,
38 it was highly focused on the European region, and we
39 had a particular interest in the concept of doing
40 that work but for the African region, the Asian
41 region, Southeast Asia and the Caribbean and Latin
42 America.
43 So, at the time you said that to the board, it was your
44 intention that the project would cover all of those
45 regions, Mr Field?---Yes, at that - what - that - and it
46 was always the case, and that was why we were going to the
47 IOI for funding. If it hadn't had been the case, I
48 wouldn't have gone there in the first place. The - the -
49 the whole reason why this application was made - whereas we
50 would have - we would have simply, ah - ah, commissioned
51 the project ourselves. That was the reason we were going
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1 to the IOI. What I can also say, as a matter of
 2 completeness, is North America was at it after that through
 3 requests from my North American colleagues, um, but as I
 4 say it would have been an utterly redundant matter for me
 5 to take any of this for the IOI if it wasn't for the fact
 6 that we were trying to leverage additional value from that
 7 project for Ombudsman - other Ombudsmen, um - ah - ah, that
 8 was the whole reason of doing this.

9
 10 There was no particular emphasis in your mind at the time
 11 on the Asia region or on Western Australia?---Every aspect
 12 of my interest from the day I took the presidency in every
 13 single thing that I have written and said to the Premier,
 14 to the Deputy Premier, on every single basis, has been the
 15 potential benefit to our trading and cultural partners in
 16 the Asia region particularly, but other bilateral and
 17 multilateral interests we have. I mean, I - I - I have
 18 said that hundreds and hundreds of times.

19
 20 Well, you've said that to the Commissioner, Mr Field, but
 21 you didn't say that to the IOI board?---I've said it to the
 22 IOI constantly.

23
 24 **THE COMMISSIONER:** When you find a convenient time, let me
 25 know.

26
 27 **NELSON, MS:** Thank you, Commissioner.

28
 29 **THE COMMISSIONER:** All right. We'll break until 2 pm.

30
 31 (THE WITNESS WITHDREW)

32
 33 (LUNCHEON ADJOURNMENT)

34
 35 **THE COMMISSIONER:** Please be seated.

36
 37 **CHRISTOPHER JAMES FIELD RECALLED AT 02.01 PM:**

38
 39 **NELSON, MS:** Madam - sorry. Mr Associate, could I have
 40 again 0728 at page 41?

41
 42 0728^

43
 44 Mr Field, we were going through this document, and your
 45 evidence before lunch was that you don't believe you'd seen
 46 this document before?---When I say I - I - I don't have a -
 47 a recollection. I may have, I may not have. I just don't
 48 have a recollection.

49
 50 Do you recall receiving some documents from the IOI on
 51 2 April this year in preparation for a board meeting - a

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1 special meeting by Zoom?---Uh, I don't - I'm sure I - if
2 you - well, I don't have a photo recollection - - -
3

4 **THE COMMISSIONER:** Well, it was only about eight or 10
5 days ago?---Oh, sorry. I'm so sorry, um, Commissioner.
6 Let me listen to the question more carefully. Sorry.
7 Sorry, counsel, if you could repeat it.
8

9 **NELSON, MS:** Do you recall receiving from the IOI
10 secretary general some documents, a reader in preparation
11 for a zoom meeting of the IOI board? And you would have
12 received the documents on 2 April this year?---Ah, oh, yes,
13 of course. Yes. There was - absolutely I recollect that.
14

15 And did you read those documents?---I had a very, very - I
16 was aware of what the meeting was about, um, and had I
17 think a very cursory glance at the reader.
18

19 So this particular transcript is part of that bundle of
20 documents that were sent?---And I did - and I certainly
21 recollect that there was a bundle of documents that
22 included, uh, referencing to a range of things of which the
23 OECD was one, but I don't have a photo recollection of
24 reading this at the time I read the reader. No, I don't.
25

26 **THE COMMISSIONER:** So it was available to be read?---I
27 accept it was available to be read, yes.
28

29 And it was only a short time ago?---Yes.
30

31 And it was in preparation for a meeting which you had an
32 interest in?---Yes.
33

34 But you don't have a recollection of reading this?---The -
35 the meeting was not about the OECD proposal.
36

37 No, I know?---No.
38

39 But it was a meeting which may have affected you?---Oh,
40 yes.
41

42 But you don't recollect reading this material?---No,
43 Commissioner. I absolutely recollect receiving the email.
44

45 No, I'm not talking about receiving. You've answered
46 that?---Yep.
47

48 I'm just getting on to reading. My understanding of your
49 evidence is although it was only a little over a week ago,
50 you don't have a recollection of reading this?---I actually

1 don't remember reading this particular document at all. It
2 wasn't germane to the topic of the meeting.

3

4 Very well. I just wanted to understand what your position
5 was?---Yep.

6

7 **NELSON, MS:** The meeting itself - the Zoom meeting was
8 held on 3 April - - -?---Correct.

9

10 - - - this year. Did you attend that meeting?---I did.

11

12 Okay. If we could go back to this transcript then that's
13 on the screen. And so before lunch I had taken you to your
14 statements on page 41 about the - your statement to the IOI
15 about your meeting with Mathias Cormann in 2022. Do you
16 recall that?---Yes, I do. Thank you.

17

18 And I pointed out to you - I'll just take you to it again.
19 It's about where the E and N are on the watermark. The
20 sentence starts:

21

22 I asked him whether he might have some interest in
23 the OECD doing some work with the IOI.

24

25 Can you see that sentence?---Correct.

26

27 Now, at the time you made that statement to the board, was
28 that a correct summary of your discussion with Mr Cormann
29 the previous year?---Yes. For the purposes of what I was
30 speaking to the board about, it absolutely was. That I had
31 discussed with the secretary general of the OECD, um, that
32 the IOI - there would be, uh, work I would hope that the
33 IOI would be able to do with the OECD. Correct.

34

35 And when you say for the purposes of this meeting, are you
36 suggesting that there was something else discussed about
37 who the OECD might do work with, with Mathias Cormann?
38 ---That discussion with Mathias Cormann, um - as I say, I
39 don't have a photo recollection of the discussion, but
40 there was the introductions, there was the discussion about
41 what I thought was the confluence of interest between
42 Ombudsman as an institution and the OECD, and I also spoke
43 to him about the, um - my desire, um, that there could be,
44 uh, some form of furtherance of that relationship. In
45 fact, multiple ways potentially over a period of time - not
46 just that project but a raft of other potential future, um,
47 relationships like we have with the United Nations. I say
48 "we". The IOI. So that was all part of that conversation
49 I had with Mathias Cormann.

50

51 And the discussion with Mathias Cormann was limited to how

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1 the IOI might interact with the OECD in doing any activity
2 in the future?---Well, no. There was clear discussion
3 about my role both as the Ombudsman of Western Australia
4 and the President of the IOI, and in part you would expect
5 so because we were both Western Australians and there was
6 some talk about Western Australia as well, so, um - - -

7
8 But was - you might talk about Western Australia, but my
9 question was was the discussion about collaboration
10 projects with the OECD a discussion about the IOI doing
11 such activity - - -?---No. It was a discussion - - -

12
13 - - - with the OECD?--- - - - about institutions of the
14 Ombudsman generally, human rights commissions and others.
15 Um, most of the meeting with Mathias Cormann, um -
16 obviously very bright and I didn't think he needed much
17 guidance on the matter, but I was trying to I think engage
18 him with the concept of, uh, why Ombudsman institutions and
19 their commitment to the rule of law had a very
20 complementary and overlapping concept with the OECD, um, in
21 promoting good governance. So that was the broad concept
22 of the conversation. We never got down to a granularity of
23 a project idea. I flagged the idea of projects in the
24 future. That granularity came later on at an officer
25 level.

26
27 And in that conversation with Mathias Cormann, you never
28 discussed expressly the OWA doing a project with the OECD?--
29 --No, I don't recollect doing that. No.

30
31 Thank you. If we can move on. And then also before lunch
32 we - I asked you about your statements to the board about
33 the focus of any project being the geographical focus and
34 around about where the C and the O are.

35
36 It was highly focused on the European region, meaning
37 Emily's project, and we had particular interest in
38 the concept of doing that work but for the African
39 region, Asian region, South-East Asia, the Caribbean
40 and the Latin America.

41
42 So that is the scope of regions that you are contemplating
43 to the IOI board that any project would address?---Yes,
44 correct. It was always my intention, um, that the project
45 have as much as possible, ah, as benefit for as many
46 regions as possible. And that was exactly the reason why I
47 was seeking funding from the IOI.

48
49 You were not seeking to represent to the IOI board at this
50 meeting that the geographical work would be confined to the

1 Asian region?---No. It wasn't my intention that it would
2 be.

3
4 And you did not ask the board to consider apportioning any
5 funding to any particular region?---Oh, no, that was
6 exactly what I was, uh, proposing. Now, look, um, if I've
7 been inelegant in that description, obviously this is -
8 there are no - I'm not reading from notes. I'm not reading
9 from a speech the 11th agenda item of the day after
10 multiple days of work. Um, what I was trying to, um, uh,
11 convey, uh, was that this project had the capacity to be
12 expanded to a range of, um, regions of the IOI, and that
13 would be an appropriate thing for the IOI to consider
14 funding.

15
16 But you were not suggesting that, should the IOI decide to
17 put in some funding, that the funding would be split
18 between the IOI and the OWA depending on what geographical
19 area the project was expanded to?---Oh, no. If the IOI
20 hadn't - hadn't been able to contribute funding, that would
21 have limited the number of regions which this project
22 serviced. There's no question about that.

23
24 Okay. So I'm asking you the other side of the coin. If
25 the IOI board on this day, which they did, decided they
26 would - - -?---Yes.

27
28 - - - put funding towards this, you did not then ask them
29 to put their funding towards a particular region of the
30 OECD project. It was just going to be general funding
31 towards the entire project?---Well, I, ah - um, no, I
32 thought that was utterly clear, um, not just impliedly
33 clear from the tenor of the discussion. Now, as I say,
34 that's - that's all I can tell you of what was in my mind
35 when I was explaining it, um, and what I'd intended.

36
37 **THE COMMISSIONER:** The best indication of what was in your
38 mind was what was being said?---I accept that,
39 Commissioner.

40
41 **NELSON, MS:** And you go on to say:

42
43 So we wanted to look at regions that had not had
44 directly that sort of examination. This aligns with,
45 of course, our interest -

46
47 - meaning IOI interest -

48
49 - but also interests of the OECD nation building -
50

1 - et cetera?---Yes. And that particular sentence, for what
2 it's worth, just to - to round off the answer to your
3 previous question, um, OECD nation building developing
4 democracies (indistinct) democracies, for example, the work
5 in post war recovering Ukraine, that was definitely
6 something that was discussed with - in my meeting with the
7 secretary general of the OECD.

8
9 And if we go down to when you start to talk about the cost
10 towards the bottom of this page, the bottom of page 41:

11
12 As you will see, there is a cost to the project very
13 similar to the cost of the previous project that was
14 done in Europe, and it's not an insubstantial cost.

15
16 Can you see about where the cursor is?---Yes, I can. Thank
17 you, counsel.

18
19 And you go on to tell the board:

20
21 I had the good fortune of my parliament recently
22 appropriating a very large amount of money to my
23 office, and that was for two reasons. One to support
24 the travel of the office of the President, and second
25 was for projects of merit in regions and particularly
26 in developing economies and nations to support the
27 democratisation and economic development.

28
29 So this statement was made in May of 2023 after the
30 streamline budget process, and is that the appropriation of
31 the very large amount of money that you're referring to?---
32 That would be the amount I'm referring to there. Correct.

33
34 No other appropriation?---Ah, no. Not - not - well, not my
35 recollection, no. I think that's what I was referring to
36 at that stage.

37
38 And, of course, we - we've looked in length - at length at
39 the - the streamline budget process description of the
40 expenditure. In your mind now, is your characterisation to
41 the board that the appropriation was:

42
43 For projects of merit in regions and particularly in
44 developing economies and nations.

45
46 Was that an accurate reflection of what you had asked for
47 in your streamline budget process?---Absolutely, because
48 remember once again I'm speaking to the International
49 Ombudsman Institute, and I'm speaking to them in relation
50 to, ah, their interests in, ah, the regions of the
51 Institute, as opposed to individual institutions, um, and

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1 in fact I think those words are remarkably consistent with
2 the SBP, ah, where, ah, that application was around, um -
3 ah, developing economies, ah, democratisation, economic
4 development. Ah, all of those matters that are in Western
5 Australia's - well - well - well, I say, profoundly in
6 Western Australia's interest, and part of that which
7 everyone knew I was doing and everyone supported me doing.

8
9 Well, the - the phrase:

10
11 Developing economies and nations to support
12 democratisation and economic development -

13
14 - doesn't appear in the streamline budget process
15 description of expenditure, does it?---But that - but
16 that's what I'm referring to when I'm talking about our new
17 Asian, ah - neighbours in the Asia Pacific region, which is
18 in the SBP.

19
20 Well, you - you've told the board that the appropriation
21 was for:

22
23 Projects of merit in regions -

24
25 - plural. You've asked the West Australian Government for:

26
27 Finite project and travel costs -

28
29 - arising from your election as President, and then you
30 talk about:

31
32 Well advanced negotiations for a major OECD project
33 in the Asian region -

34
35 - one region. Asia -

36
37 - and a sister state relationship with Graz -

38
39 - which has nothing to do with developing economies. Does
40 it?---Ah, no. The - the - I - I think they're - well,
41 sorry, from my perspective, they're completely and utterly
42 consistent. I'm talking about the idea that, ah, as I say
43 - I - I - from the very moment I commenced my presidency,
44 before it, during it and at every stage at every level of
45 government and at the most senior (inaudible) I'd indicated
46 that I felt one benefit from the presidency was to, ah,
47 work, um, with, ah, our near regional partners, um, in
48 terms of developing economic and other relationships
49 supporting democratisation and economic development.

1 Well, I'm - I'm focused on what you've actually asked the
2 treasurer for - or the ERC for?---Yes.

3
4 And you've asked them for:

5
6 Finite project and travel costs -

7
8 - arising from your election as President:

9
10 The presidency has already resulted in well advanced
11 negotiations for a major OECD project in the Asian
12 region and a sister state relationship with Graz -

13
14 - so that is, in my mind, different to what you've told the
15 board that the appropriation was for?---But, counsel, my,
16 ah - ah, sorry, thank you, counsel, and I respect that
17 opinion but, um, I - I - I profoundly disagree. There - in
18 - in the Asian region - the outstanding, wonderful Asian
19 region, um, upon which our wellbeing as a state, the
20 funding for this Commission - - -

21
22 **THE COMMISSIONER:** Yes, but look at the words:

23
24 The African region, Asian region, Southeast Asia and
25 the Caribbean and Latin America.

26
27 ?---No, but here - here specifically I'm talking about the
28 appropriation of funding - - -

29
30 Yes?--- - - - and I'm talking about the fact that the Asia
31 region includes developing economies, supporting
32 democratisation and economic development.

33
34 Well, I'm sorry if it's my poor geography, I would have
35 thought the Caribbean is not the Asian region?---Oh, no, I
36 wasn't referring to the Caribbean.

37
38 But you were to the board?---No. Ah - ah - um,
39 Commissioner, I'm not saying no to you. Ah - ah - ah,
40 I - - -

41
42 I'm just going off the words?---Ah, no, but the - the -
43 that is - that is, ah, some paragraphs earlier where I'm
44 talking about Emily's project, that is the European
45 Ombudsman's project, which was focused on the European
46 region, um - um - ah - ah, and then saying the IOI more
47 generally, we have a focus upon a raft of regions,
48 including as you correctly say, the Caribbean and Latin
49 America. The words that counsel assisting is reading to me
50 are the ones that relate to the SBP and, um - - -

1 That's right?---And the SBP, ah, words - - -

2

3 Doesn't - - -?--- - - - were around the Asia region, which
4 include developing economies and nations to support
5 democratisation and economic development.

6

7 Well, I think it's a long way around of saying that we're
8 all in agreement?---Thank you. Ah, thank you,
9 Commissioner.

10

11 **NELSON, MS:** Perhaps I could ask the question another way.
12 Are you representing to the IOI board in May 2023 that the
13 WA Parliament has appropriated to you - to the OWA some
14 money for, effectively, the OECD project you're asking them
15 to commit to?---I'm sorry, and I want to be very careful,
16 counsel, and I apologise. Can I ask you to ask that
17 question again? I was listening very carefully.

18

19 Are you representing with this statement:

20

21 My Parliament recently appropriating a very large
22 amount of money to my office for two reasons, to
23 support travel of the President, and the second for
24 projects of merit in regions, and particularly in
25 developing economies.

26

27 Are you representing to the board that the WA Government
28 has appropriated funds to your office for this project?
29 ---Ah, yes.

30

31 And you're telling the board that the WA Government are
32 aware that it's a project for regions, in plural,
33 particularly in developing economies and nations, it's not
34 narrowed to just the Asian region, that's what you're
35 representing to the board?---Well, what I was attempting to
36 represent to the board was this. That the regions in
37 particular with developing economies, without economic
38 development, we cannot afford - sorry, nation support,
39 democratisation, economic development, was Australia and
40 its near-Asian neighbours. Um, and that there would be
41 further benefit to the project that would extend out to
42 other regions. Not the European region, because they'd
43 already been covered by the European, um, Ombudsman's
44 project, and that would seek support from the IOI, and
45 hence the whole reason why I'm making the application.

46

47 But to date, in this transcript, you have not told the
48 board that you were going to focus on the Asian region,
49 have you?---Um, because I'm talking about what the IOI's
50 funding is focusing on, and the IOI's funding wasn't
51 focusing on the Asian region, it was focusing on the

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1 regions beyond Asia, to - and highly meritoriously, to the
2 African region, um, Caribbean, Latin-America, and laterally
3 to the North American region, that's the whole reason why
4 that's the case.

5
6 So, you're saying that as at this board meeting, the
7 funding was to be split depending on what region it was to
8 be focused on?---Ah, the funding - the efficacy of the
9 project and its benefits were to be expanded to other
10 regions, dependent upon IOI funding, that's what I was
11 trying to say.

12
13 The IOI's contribution and the OWA's contribution were to
14 go towards the same project?---Correct, counsel.

15
16 Which had a broad approach when it came to regions?---Ah,
17 well, the Ombudsman Western Australia, ah, and the Western
18 Australian and Asia-Pacific was a fundamental, core,
19 central component of the project, but I was highly desirous
20 of expanding the project.

21 But that's only in your head, Mr Field, because on the
22 contract itself, it does not focus on Asia, does it?---Ah,
23 I don't - no, I don't think it does, and nor would it have,
24 because at that stage, the IOI had made their contribution
25 of funding. I mean, it would have been wrong for the contract
26 to say that, because it would have ignored the \$50,000
27 funding that the IOI contributed. In fact, I think the
28 contract wouldn't have even been immoral, if not unlawful,
29 on that basis.

30
31 If the IOI had voted on this day not to participate in this
32 project, or to provide any funding, would the OWA have
33 continued on with the project with the OECD?---I would have
34 had to have given that further thought at the time. Um, my
35 view is, as you know, it was a project - sorry, from my
36 evidence, it was a project I had been interested in doing
37 dating back to as early as 2018. Um, I think I would have
38 tried to continue with the project, but in a smaller way.
39 And that - and it may be the OECD wasn't interested in doing
40 the project, so it would have had to have been in
41 consultation with them as well. I cannot answer that
42 definitively, it's a hypothetical which I can't now say which
43 way I would have gone.

44
45 So, getting the IOI to agree to commit to the project was
46 essential to it continuing in the form to date that it was
47 in?---No, it wasn't essential. What it was is it made the
48 project one where I felt it had a much greater benefit, um,
49 not just to Western Australia, but to Ombudsmen generally,
50 and I felt that was a positive thing. But I actually felt
51 the more regions that were involved, the more benefit it was

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1 to Western Australia as well, that was certainly in my mind
2 as well.

3
4 So, if the IOI had decided not to participate at all, my
5 question is the project, the proposal as it currently stood
6 as at May 2023, would have to be totally reworked, if the
7 OWA was to go it alone?---No, I don't think it would have
8 necessarily been totally reworked at all, but I can't say -
9 I mean, it's a hypothetical, it didn't arise, I'm not sure
10 what I would have done. I would have had to have looked at
11 all of the circumstances at that time to consider, um, that
12 it still had sufficient and appropriate value for money for
13 Western Australians to proceed. I mean, that was the sole
14 basis for this to ever happen, is it had to be a value for
15 money proposition for the Western Australian public.

16
17 So, just looking at that, at the bottom of the page, you
18 come to make the request of the board. You say at the second
19 last line:

20
21 And so the proposal - and now it is for extensive or
22 as much discussion as you wish - but the proposal
23 before you [meaning IOI board] is in two parts. One,
24 would you have an appetite [go over the page], does
25 the IOI wish to have a project partnership?

26
27 You agree that's what you're asking the board to consider?
28 ---Oh, yes, and that's - I make no, um - - -

29
30 **THE COMMISSIONER:** Well, the answer is yes?---Or sorry, I
31 really want to reinforce my yes. Yes. I don't need to.

32
33 Well, you don't need to reinforce it. If you say yes, I
34 accept that you said yes?---I apologise Commissioner, yes.

35
36 **NELSON, MS:** And then going down a few lines, the fourth
37 line down at the end, towards the right of the page, the
38 sentence starts:

39
40 But the project proposal before you is one, would the
41 IOI like to support such a project. And then second,
42 if you do, the proposal is that my office, the OWA,
43 contribute €77,000 appropriated from my Parliament,
44 and the IOI would contribute €50,000 to the project.

45
46 So, you're asking the IOI firstly to decide whether the
47 project will go ahead on this day?---No, I'm asking the IOI
48 whether they wish to make that €50,000 contribution to a
49 project. Whether the project would have gone ahead in some
50 other form and in some other way would have been a matter
51 for me, my corporate executive, my office, and of course,

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1 exclusively on a value for money assessment for Western
2 Australians.

3
4 **THE COMMISSIONER:** Well, you keep adding that, but I keep
5 coming back to the words that you spoke at the time?---Yes.

6
7 And that's what counsel is asking you about.

8
9 **NELSON, MS:** So, before you're asking them to consider the
10 money, you're asking them firstly to consider whether
11 they're going to support the project, aren't you, Mr
12 Field?---I'm not - well counsel, I'm not seeing the - I'm
13 not putting the weight that you're putting on those words.

14
15 They're your words, Mr Field:

16
17 But the project proposal before is one, would the IOI
18 like to support such project, and then the second, if
19 you do - - -

20
21 Then it talks about the money?---Yes, but counsel, can I -
22 can I say to you what I'm saying with those words? Um, but
23 the project before you would be one the IOI would like to
24 support. Well, it's - it's redundant - sorry, it's surely
25 obvious that if I'm asking the IOI board to support \$50,000
26 contribution, I'm asking them whether they'd like to
27 support the project. I don't think there's any meaning to
28 that beyond simply saying, 'Is this the sort of project
29 you're in favour of, and if the answer is yes, would you be
30 prepared to contribute €50,000 to it?' I put nothing on it
31 beyond that.

32
33 And then you say you're putting it up for discussion:

34
35 I'm entirely in your hands, members.

36
37 And then one member says he supports the idea of the
38 project in general, but he wants it extended to North
39 America?---Yes, and I've flagged that on a number of
40 occasions in the answers. That's exactly correct, and
41 that's exactly what did happen.

42
43 And when you agree to that, you say halfway down the page:

44
45 May I say that the choice of countries was in part
46 driven by OECD's developing nation priorities.

47
48 Yes, that's exactly correct. We were very mindful of their
49 interests in developing nation priorities.

1 So, the choice of countries or regions you're saying was
2 really what the OECD needed to do to meet their targets,
3 their priorities?---No, not at all. Um, I'm saying our
4 priority was the Asia-Pacific region. But in dealing with
5 the OECD, I was extremely interested in hearing what their
6 interests were and what regions they were interested in.
7 That was just a normal part of, uh, both negotiation of a
8 contract but also, um, discussions with them. In fact, as
9 a matter of interest, I was broadly interested in what the
10 OECD did see as developing nation interests from the point
11 of view of, um, what Ombudsman interests would be in those
12 regions as well.

13
14 Well, again, you don't tell the IOI board that you were
15 considering the Asian region. You just tell them that the
16 choice of countries was driven by the OECD, don't you?
17 ---I'm sorry. I'd have to read the words you're referring
18 to.

19
20 May I say that the choice of countries was in
21 part - - -

22
23 ?---I'm so - - -

24
25 - - - driven by the OECD's developing nation
26 priority.

27
28 ?---I'm not being rude, I just - I'm now lost at where it
29 is in the text.

30
31 It's - no, go back further up. Thank you. So middle of
32 page 38. Yes. And about - just to the right of the E
33 where it says, "May I say". A bit further down with the
34 cursor?---Oh, yes. I can see it now, thank you.

35
36 So, you agree that the project can be extended to
37 North America?---Yes.

38
39 And you say that if that's an additional cost, you'll go
40 back to "my Parliament", meaning the WA Parliament?
41 ---Correct.

42
43 And I'll get the money to ensure that it can go to
44 North America as well.

45
46 ?---Correct.

47
48 How were you going to do that, Mr Field?---Well, I'm sorry.
49 We hadn't answered the previous question. May I say that
50 the choice of countries - you've said it - you said it was
51 driven by - I'm saying it was in part driven by OECD

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1 developing nation priorities. It certainly wasn't set by
2 them. Did I listen to them? Did I consult with the OECD?
3 Did I consider their expertise and wisdom? Of course I
4 did. Um, but it was in part - absolutely connotes
5 grammatically that it wasn't in full ,and it was certainly
6 significantly driven by my office. And I think that's been
7 misrepresented to me, counsel. I mean, I say that with
8 respect.

9
10 Well, Mr Field, you have not mentioned to date in this
11 transcript to the IOI board in May that you wanted to focus
12 on the Asian region or that Western Australia wanted to
13 focus on the Asian region in this project, have you?---But
14 that wasn't the relevancy of talking to the IOI.

15
16 So, you were tailoring to the audience, is that what you
17 were doing? Tailoring your message to the IOI board, which
18 was the audience that you had in front of you on that day?
19 ---Well, I'm not sure if tailoring - tailoring is meant to
20 be pejorative. I - I'm - what I'm doing is I am knowing
21 that I have an appropriation from my Parliament for the
22 office of the Ombudsman of Western Australia to do a
23 project where that project will have a benefit for the
24 Asia-Pacific region, which was abundantly clear in that
25 SBP, within every piece of correspondence with every single
26 senior Western Australian. Then I go to the IOI and say,
27 "Would you like to contribute money to expand the benefits
28 of this project beyond those regions?" And so that's why
29 that's focused on those discussions. Why would I be
30 talking about the Asia-Pacific with the IOI when it had
31 already been funded by my Parliament?

32
33 Well, first of all, Mr Field, I just want to
34 clearly - - -?---I wasn't trying to hide it.

35
36 - - - suggest to you that as at May 2023 there is no
37 correspondence with any senior West Australian government
38 official about the OECD project at all?---It's in the SBP,
39 counsel. And this was before this meeting.

40
41 The SBP project, yes. And it says:

42
43 A major OECD project in the Asian region.

44
45 ?---Exactly. That's exactly my point, counsel. The
46 Parliament had funded a project to benefit the Asia-Pacific
47 region. Why would I go to the IOI and say, "Fund something
48 that's already been funded"? I'm going to them to say,
49 "Hey, that's funded". I'm not talking about it. I'm not
50 trying to hide it from them. It's just not necessary.

1 No. You've - - -?---I'm - - -
2
3 - - - told them it was funded for projects of meriting
4 regions and particularly in developing economies and
5 nations?---Well, you - - -
6
7 You omitted to say in Asia?---Well, to the extent to which
8 you're suggesting I dishonestly omitted it, um, that is
9 absolutely profoundly untrue. Um, this is a transcript, by
10 the way, that has never been proofed. I don't know that -
11 perhaps I said the word "region". I mean, do I know that
12 "regions" is even correct? But the, um, uh - but if I did,
13 I was talking about the Asia-Pacific region.
14
15 Can we go back then to the original question? I asked you
16 how you were going to go about going back to the
17 WA Parliament to get extra money to ensure that
18 North America could be included in the project?---And
19 sorry, counsel, I'll just have to - my sincere apologies.
20 It's my fault. Could you just ask that question again?
21
22 Perhaps, Mr Associate, if you could just highlight the
23 section - the sentence just below your cursor that starts:
24
25 And let me make this further indication to you.
26
27 Thank you. How were you going to do that, Mr Field?
28 ---Exactly as I said I would. I would go back to my
29 Parliament and make that request.
30
31 And using what mechanism?---Uh, treasurer's advance, uh,
32 uh, uh, budget bid through the appropriate budget cycle.
33 All the - the - the way that you would normally go back and
34 ask. What would have been - - -
35
36 **THE COMMISSIONER:** You'd lose your SBP for a start?---Um,
37 that's not necessarily correct, Commissioner.
38
39 You might?---You might. You might. Um, you lose it if, um
40 - if it's not considered a new policy parameter. What I
41 would have done - well, here's the utterly disingenuous and
42 inappropriate thing. I could have just taken it from - my
43 budget was in surplus. Seventeen years, never had a budget
44 deficit. I could have just taken it from my own budget.
45
46 But that's not what you said?---No. I'm saying that would
47 have been disingenuous and inappropriate of me.
48
49 That's not what you said. What you said is you'd go back
50 to Parliament?---No. I'm trying to make the point that

1 that would have been the wrong thing to do. I'm trying to
2 be very - - -

3

4 Well, if it was the wrong thing to do, why did you tell
5 them?---Oh, no. I'm saying that would have been the wrong
6 thing if I had said that. I've - - -

7

8 Sorry, I'm now confused. What you said is you'd go back to
9 Parliament and ask them for more money?---Yeah, I'm sorry.
10 And I - - -

11

12 Is that a correct statement?---I'm sorry, your Honour.
13 Um - - -

14

15 Because your surplus has nothing to do with that?---No, no.
16 Correct. What I was trying to say is I could have used it
17 from the surplus. I didn't want to. I was trying to be -
18 as I've always tried to be - - -

19

20 No, no, no?--- - - - utterly - - -

21

22 The words - I keep coming back to the words. You didn't
23 say, "I've got a surplus" or anything. So "I could go back
24 to Parliament"?---I'm trying to reinforce my transparency.

25

26 So the fact that you might have had a surplus, you might
27 have had another source of money doesn't matter. It's what
28 you told them and why did you tell them that?---Okay.
29 Thank you, Commissioner. Um, so what I was trying to say
30 there was first of all, there's only one transparent way to
31 achieve that money. Not to take it from a surplus or to
32 take it any other way, but to go back to Parliament. That
33 is the only transparent way to do it. And I apologise.
34 That's what I was trying to say, Commissioner, clearly
35 inelegantly. Um, and the words I'm saying there is if
36 additional costs are required, if they are, I will go back
37 to Parliament to seek those costs. There are a multitude
38 of mechanisms for doing so, and I would have done so and I
39 would have done the same way I do - have done every budget
40 bid or sought any money over the 17 years of my office. My
41 office has gone from 26 staff to 90 staff. I have an
42 absolute clear understanding of how you apply for money
43 through budget processes, and that's what I would have
44 done. And it would have been the Parliament who made that
45 decision to appropriate the money.

46

47 **NELSON, MS:** Do you recall saying those words to the
48 board?---Um, the problem I do have with this particular
49 transcript - and only so I can be once again under oath.
50 Um, I've never seen the board produce, um, uh, a verbatim
51 transcript. We get minutes of a board meeting and they're

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1 sent out to the President to settle, and then ultimately
2 the IOI board, so I've never seen, ah, a document where
3 it's simply just a rote transcript. Of course, if this had
4 come to me, ah, and it was contemporaneous when it came to
5 me, um, there may have been mistakes in it that I picked up
6 at the time that were contemporaneous, so I - I make the
7 point this is in - this is an unedited, unapproved, um,
8 verbatim transcript, um, that I have, ah, not seen. I know
9 you said it was with the reader, but it certainly wasn't
10 contemporaneous to when the board meeting was held, ah, in
11 June, and I have never seen in 12 years on the IOI world
12 board a transcript produced that's sent out to IOI board
13 directors. Minutes are sent out, not a transcript.

14
15 Mr Field, did you give that undertaking?---Well, I said, ah
16 - I was just trying to make the point. I don't have a
17 photo recollection of the meeting or these words as being
18 absolutely accurate, um, but it, ah - I don't - wouldn't
19 surprise me at all that those words would be accurate, that
20 I would give an undertaking that I would - I would seek
21 those fundings if that funding was required. Doesn't mean
22 I would get them. The parliament might say no.

23
24 And then the next question from Mr Bertrand(?) is about, in
25 effect, what the OECD is contributing for the - the
26 financial cost of it. Is that a fair summary of his
27 concern?---Um, my recollection of Marc Bertrand was that it
28 was exactly what he was saying. I actually recollect those
29 comments.

30
31 And he thanks your parliament for intervening in the
32 financing of the project?---Yes. I recollect him saying
33 that. Well, I don't have a photo recollection but I
34 recollect the generality of his comments.

35
36 And then you - you give a response to him, which I'd
37 suggest, in effect, indicates that the OECD has views about
38 what the - the core delivered projects are that they
39 produce?---Yes.

40
41 And then we go to the next page, and you talk about their
42 model being a return capital model. Can you see that?
43 ---Might assist me if there's a line - I'm - I'm -
44 apologise - no, I can see it now. I've found it.

45
46 And you - you talk about having already driven the budget
47 down substantially from what was presented?---Yes. That's
48 correct.

49
50 And you say:
51

1 But your point of principle is absolutely correct.
2 What you get from them is the OECD badge.
3
4 ?---Yes. Correct.
5
6 And then there aren't any other questions, so you say:
7
8 I'm going to put the proposal in two points cos
9 they're separate.
10
11 Can you - - -?---Yes.
12
13 - - - see that? One is:
14
15 The support for the concept of the IOI having a
16 joined support with the OECD on this particular
17 project.
18
19 ?---Correct.
20
21 And again I suggest to you that the plain meaning of those
22 words as you said them to the board in May is that the -
23 the project is to be an IOI and OECD exclusive project?
24 ---Well, I - I mean, I - I respect your view, counsel, but
25 I take the plan meaning to be the exact opposite of that,
26 um, that the IOI, um, is to have a, ah - joint support with
27 the OECD but certainly not to the exclusion of the fact
28 that the Ombudsman of Western Australia is the other, um,
29 project partner to the project, and indeed the principal
30 funder, and that's very much borne out by the substantive
31 part of the document, including the referencing some
32 paragraphs about to 77,000 euro contribution from our
33 office and 50,000 from the IOI, so I don't read those plain
34 words as that way at all. It's not what I intended.
35 Certainly not the way I read the words.
36
37 And then the second issue you asked them - - -
38
39 **THE COMMISSIONER:** Why - why wouldn't you have said the
40 IOI are having joined support with the OWA and the OECD?
41 ---Well, once again, um, Commissioner, it was certainly - I
42 mean, it was - it wasn't any sense of a lack of
43 transparency with my - with the board of the IOI.
44
45 Well, that is the issue for me to ultimately
46 determine - - -?---Oh, no, no, no, I'm say - I'm saying
47 from my - - -
48
49 But - - -?---My perspective.
50

1 - - - my - my point is there are two ways to view this
2 potentially. The OWA was always to be the project partner,
3 which is the point you put?---Yeah.

4
5 The OWA was not going to be a project partner until some
6 down - way down the line. It was the IOI, which is the
7 point that counsel assisting is putting?---Yeah.

8
9 I have seen - the documents I have seen so far, and this is
10 a tentative view, is that it is ambiguous whether when
11 there is reference to the OWA, is it a reference to it as a
12 funder or as a partner, and there's a lot of evidence for
13 me to go through but one of the things I would have thought
14 if that was going to be the fact that it was a partner, you
15 would have said it?---Ah - ah, well, Commissioner, I agree
16 with you. There is ambiguity. There is no question. I
17 can tell you what, um, I believe those words mean, and what
18 I meant by them is that I was, ah - well, it gets to my
19 point that I've made several times, and it is my true - it
20 was my true belief walking into that meeting that I was
21 trying to say to the IOI, "This is why you should join in
22 this project", and my focus was on the IOI jointly
23 supporting a project with the OECD. It wasn't, um, to
24 exclude the OWA. It simply wasn't the point that I was
25 trying to, ah, sell or say or provide to the IOI. I was
26 trying to talk about the IOI having a joint supporting
27 role. I mean, the - the words alone "joint" suggests that
28 there's another partner, and it was always - - -

29
30 Yes. The OECD?---(No audible reply)

31
32 Joined support with the OECD?---That - that's certainly not
33 what I intended, and I - I understand the ambiguity,
34 Commissioner. I absolutely do, um - um, but, ah, it was
35 certainly my view and certainly the discussions - well, ah
36 - ah, even then, Commissioner, though, the, ah - can I say,
37 I would have thought the rest of the document tends to read
38 to support the concept of joint support because it's made
39 very, very clear that the OWA is contributing substantially
40 more than the IOI, 77 compared to 50, so you'd have to read
41 the document as a whole not, just those words.

42
43 Of course. Read every document - - -?---Yeah.

44
45 - - - as a whole - - -?---But I accept the ambiguity.

46
47 - - - where documents exist, and there seem to be a dearth.

48
49 Anyway, carry on, counsel?---Thank you, Commissioner. I
50 accept that.

51

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1 **NELSON, MS:** And, Mr Field, then the second matter you
2 asked the IOI board to vote on, the sentence starts:

3
4 And then in relation to the second issue as amended,
5 and that is that the project will extend to our
6 friends in North America, including if the case is -
7 I can't imagine the OECD will give me the money, so I
8 can tell you I'll - I'll provide it with the money
9 that we further contribute to the project and, of
10 course, we'll give you a revised budget in relation
11 to it but, um - it won't change what I'm seeking from
12 you now as a decision so - so it's actually money we
13 can afford if you're going to approve it.

14
15 So you're undertaking to the board that the OWA or Western
16 Australia will provide extra money to assure that North
17 American can be included?---Ah, yeah, I had absolute
18 confidence that if I went and sought that money, I would be
19 able to actually obtain that money, yes.

20
21 And if you sought that money, that would include you
22 demonstrating a value for money proposition for Western
23 Australia in Western Australia advancing moneys to include
24 North American in a project?---Absolutely, but it would
25 have had to have been done with very significant
26 consultation with, ah - ah - ah - ah - ah, all relevant, ah
27 - that would have included, in that particular case, with
28 JTISI, DFAT and probably our permanent representative to the
29 United Nations as well. It would have been about value for
30 money with substantive trading partners of our state.
31 Absolutely.

32
33 **THE COMMISSIONER:** Well, then why would you be so
34 confident - absolutely confident, which is what your answer
35 was one answer ago?---But - well - and this is not intended
36 as an answer of hubris, Commissioner, but in 17 years,
37 we've made, ah, innumerable budget requests, and I've not
38 had one in 17 years rejected.

39
40 No, but you may never have made one saying, 'Can you give
41 us some money for a North American survey?'

42
43 And then the reality is I would have had to have gone back
44 and said, 'I'm sorry, that was hubris, not humility, I was
45 wrong.' It was based on my past experienced success with
46 budget applications.

47
48 Well, there's a great difference between budget allocations
49 and submissions for something directly related to Western
50 Australia, and a budget submission out of the budget cycle,
51 for extending a survey to North America?---Well, that's,

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1 Commissioner, where I don't disagree or agree with you,
 2 because that's not appropriate for me to do, but I do see
 3 this as directly beneficial to Western Australia, and
 4 that's the argument I would have been making to Cabinet.

5
 6 Well, I understand that argument. Your whole evidence is
 7 that what you did was of benefit to Western Australia.
 8 That is what this Commission is exploring?---Exactly,
 9 Commissioner, that's why I don't want to - - -

10
 11 But I certainly understand your position?---Thank you.

12
 13 **NELSON, MS:** Mr Field, I'd suggest that this is exactly
 14 another example of what you did when you said to Ms Schwarz
 15 on 9 January that the OWA will contribute financial funds
 16 and in-kind resources. You did it off the cuff without any
 17 consultation with anyone within WA?---Off the cuff? I'm
 18 sorry, I was - the - none of this, once again, is intended
 19 to make me sound anything more important than I am, which
 20 is not important. But I was the State Ombudsman, the
 21 accountable authority under the Procurement, um, Financial
 22 Management Act, Procurement Act and Procurement Rules, and
 23 I was having discussions about a potential project, and
 24 ultimately contributions to that. It wasn't off the cuff,
 25 it was based on all the authority that I had to do that,
 26 ultimately knowing that all of it had to be accountable to
 27 my Parliament, all of which it ultimately and totally and
 28 completely was, there was nothing off the cuff - nothing
 29 off the cuff about it at all.

30
 31 By the time you told Ms Schwarz on 9 January that you would
 32 contribute funds from OWA, you had not appropriated through
 33 the SBP any monies for any project, had you?---But I was -
 34 but counsel, based on my - at that stage, may I say, not
 35 anymore, um, as has been made very clear by government, but
 36 at that stage I had a very high reputational capital within
 37 government. And in fact, I had a very high reputational
 38 capital bipartisan. I was confident that if I went with
 39 the budget submission, that budget submission would be
 40 approved. Of course - - -

41
 42 But on 9 January, there hadn't been approved the SBP, had
 43 it?---No, it hadn't been, counsel. And ultimately if it
 44 hadn't been, I would have gone back to Ms Schwarz and said,
 45 um, it wasn't approved and that's the end of that project.

46
 47 My point is that on 9 January, knowing that it had not been
 48 approved - in fact, you hadn't even applied for it, you
 49 committed Western Australian funds to this OECD project?
 50 ---I didn't commit any funds. If I'd committed funds, I
 51 would have been sending funds across by wire to - to the

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1 thing, that would have been illegal. Of course I didn't
2 commit any funds.

3
4 Okay. A few answers ago, you said that if you were to go
5 back to Parliament for an appropriation for North America,
6 that that would take significant consultation with JTISI and
7 with DFAT?---What it would have required, um, I, um, would
8 have had - would have worked through. But it would have
9 been the appropriate level of consultation to ensure that I
10 could have given a meaningful submission to Cabinet to
11 achieve it.

12
13 You did not consult with DFAT about the initial
14 appropriation under the SBP for the OECD project?---No, I
15 didn't think it was necessary to do so.

16
17 And nor did you consult with JTISI?---Not in relation to the
18 OECD project. Extensively regarding - - -

19
20 **THE COMMISSIONER:** Well, we know that you did with Graz,
21 Styria, but not with this project?---That's correct,
22 Commissioner, sorry, and that's what I was going to say,
23 thank you Commissioner, that is correct.

24
25 **NELSON, MS:** Mr Associate, if we could go to page 35.

26
27 **THE COMMISSIONER:** Well if we're going to go for another
28 page, we might take a 10-minute break.

29
30 **NELSON, MS:** Thank you, Commissioner.

31 **THE COMMISSIONER:** Because it may just be me, but the air-
32 conditioning doesn't seem to be working.

33
34
35 (Short adjournment)

36
37 **THE COMMISSIONER:** Please be seated. Apparently it's only
38 me that has the problem with the air conditioning, but if
39 anybody else does, let me know.

40
41 **NELSON, MS:** Thank you, Commissioner. Thank you,
42 Mr Associate. So, we're on the same document, which is
43 0728.

44
45 0728^

46
47 **NELSON, MS:** And I just wanted to show you, Mr Field, page
48 35. So, this was the memorandum that went to the board
49 before they had the discussion that we've just gone
50 through?---Ah, yes, thank you counsel.

1 So, these would have been part of the papers that the board
2 received in preparation for the meeting in May 2023?

3 ---Correct.

4

5 And on previous occasions, I've taken you to draft
6 iterations that were prepared by Kyle Heritage of - - -?

7 ---I remember that, counsel.

8

9 - - - the OWA and settled by yourself. And could I just
10 point out the second paragraph that the board were told
11 arising from this meeting, being with the secretary general
12 of the OECD, the OECD prepared a proposal for a research
13 project between the IOI and OECD, and that proposal is also
14 annexed. And in fact, the proposal you will recall is
15 between the IOI and the OECD. It doesn't mention the OWA.
16 Do you recall that, Mr Field?---Oh, I'm sorry, counsel.
17 You'll have to repeat that last - I was actually reading
18 it. I thought it was about that paragraph, and I was
19 reading it. I'm so sorry.

20

21 So the board prior to the meeting were told that it was a
22 proposal for a cooperative research project between the IOI
23 and the OECD?---Correct.

24

25 And they were told that on the basis of a document that had
26 been settled by yourself?---Yes, that is correct.

27

28 And then the actual proposal with the title appears on the
29 screen was also included in the board papers, and that's at
30 page 34 and 35 - sorry, 38 and 39. And the proposal refers
31 to - you can see it in the very last paragraph - the OECD
32 and the International Ombudsman's Institute's mandates, and
33 it doesn't refer to the OWA. So at the time that the board
34 received these papers, the proposal was for between the IOI
35 and the OECD, wasn't it?---Um, as I - in relation to the -
36 yes, in relation to the first part, counsel, that is
37 correct. Ah, as the plain words are there, this proposal
38 was seeking a contribution from the IOI to an OECD project
39 and hence the recent emphasis on those two parties in
40 relation to the contract. Well, of course there was not as
41 many as Styria, but there were numerous moving parts,
42 numerous iterations from - from 2018 right through till
43 today, um, in relation to the, uh, conception, negotiation,
44 funding, uh, procurement and delivery of that project. And
45 that was one iterative stage of it.

46

47 Well, there weren't numerous iterations of the contract,
48 were there, from 2018? The first contract or grant
49 agreement was received on 6 June 2023, wasn't it?---But
50 there of course were, uh, ah, ongoing negotiations between
51 my staff, um, uh, in relation to this project that dated

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1 back to, uh, the month after I met with Mathias Cormann in,
 2 uh, June 2022. So that was - we've got - conversations
 3 about these matters and potential scoping and potential,
 4 uh, other matters go back to as early as, um, June 2022,
 5 July 2022. Um, and like any contract, like any process,
 6 uh, like any project, it develops iteratively over time.
 7 And at any given time at any document you point out, um,
 8 it'll be one phase of that process. I do know what was
 9 ultimately the case. I do know ultimately what the
 10 parliament funded and I do know ultimately what we were
 11 delivering.

12
 13 Mr Field, when you said a few sentences ago that there were
 14 conversations right back from 2018, that's not correct, is
 15 it? The first conversation - - -?---I think it was
 16 actually - I said - oh, I'm sorry. If I did, I didn't mean
 17 to. I said 2022.

18
 19 There were no conversations or emails or documents about
 20 the OECD project prior to you meeting with Mathias Cormann
 21 in June 2022?---Oh, I - I - I didn't think I said 2018, but
 22 if I did, I apologise. No. I said - I meant to say
 23 June 2022.

24
 25 And if we could go to page 37 of this document. So this is
 26 the third page of the memorandum to the IOI board of
 27 directors that they received in preparation for the board
 28 meeting that you spoke at. And the recommendation that you
 29 were putting to them was that the board commission - the
 30 OECD to undertake the cooperative research project. You're
 31 nodding your head?---Yes.

32
 33 And I suggest to you again it's another - it's the plain
 34 meaning of the word the board, commission, the OECD is that
 35 is the board procuring the services of the OECD?---It's the
 36 board commissioning, um, their component part of that
 37 project is exactly what I - - -

38
 39 **THE COMMISSIONER:** Well, it doesn't say that?---Well,
 40 uh - - -

41
 42 It just does not say that?---Well, in a memo where it is
 43 absolutely plain that the Western Australian Ombudsman is
 44 contributing €77,000, um, and the IOI are contributing
 45 €50,000, the idea that this would be, um, the - the board's
 46 project commission is obviously not what could be possibly
 47 intended from my perspective.

48
 49 I'm just going on the words?---Oh, no. I accept that,
 50 Commissioner.

51

1 Your words?---Well, no. They're not my words at all. The
2 recommendations aren't my words. That's the words of the
3 person who's the minute keeper of the meeting. I haven't
4 said all those words at all. I've never seen those words
5 before in that sense in this document, and they are not my
6 words, Commissioner.

7

8 Very well.

9

10 **NELSON, MS:** Well - - -?---And I didn't mean that in a
11 rude way, Commissioner. I mean they're not my words.

12

13 So this is page 37. If we could go to page 35. So this is
14 the memorandum that we were talking to just before which
15 you agreed that Mr Heritage had drafted and you had
16 settled?---Yes, correct.

17

18 And if we could just scroll through, thank you. It's the
19 second page of the memorandum?---Thank you.

20

21 And then the third page with the recommendation?---Correct.

22

23 So the three pages were drafted by Mr Heritage, weren't
24 they, Mr Field?---Correct.

25

26 And they were settled by you before they went to the
27 board?---Yeah. Oh, well, I - I want to be clear. Um, uh,
28 when I say they are not my words, uh, I will take personal
29 and full responsibility for those words. Um, and if the
30 Commission was to find any fault about those words,
31 Commissioner, they are my fault and my fault alone and not
32 of any of my exceptional staff.

33

34 **THE COMMISSIONER:** Well, the question of whether they're
35 at fault is an issue which we can leave to one side?---Yep.

36

37 The recommendation is a recommendation that Mr - that
38 document Mr Heritage prepared?---Correct.

39

40 I'm just trying to understand. You settled?---I now take
41 full responsibility for those words.

42

43 Did you settle it?---Yes, I did. And therefore, I take
44 full responsibility for them.

45

46 **NELSON, MS:** So you're now saying that that - the
47 recommendation is incorrect. Is that what you're saying,
48 Mr Field?---Oh, no, I don't think it's incorrect at all.
49 First of all, I'm taking full responsibility for those
50 words. Those words are mine. I am solely responsible for
51 them. Second, in relation to those particular words, um,

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1 no, I don't think those words are inconsistent with
 2 anything else I've said at any point and - and not
 3 inconsistent with any of the discussions with the board,
 4 not inconsistent with the, uh, proportionality of
 5 contributions, and ultimately not inconsistent with of
 6 course the project as it was commissioned.

8 And just before we leave this particular meeting, I want to
 9 suggest to you that as a result of that meeting and during
 10 the meeting, there were no discussions about splitting the
 11 funding that was coming from the IOI and the funding that
 12 was coming from the OWA to particular regions that would be
 13 addressed by the project?---Um, there was - it was in my
 14 view not germane to seeking the funding, um, to - to do so.

16 Sorry. You agree there were no discussions at the board
 17 meeting about splitting the funding on region?---I do not
 18 have a photo recollection of what was discussed at the - at
 19 the June 2023 board meeting, but I think, um, counsel, I
 20 would agree with you that if it wasn't discussed, that
 21 would be perfectly reasonable, um, because it wasn't in my
 22 mind a matter that was relevant to what the IOI was
 23 contributing to do. They would - they would be receiving
 24 significant value for that contribution, as would the
 25 Australian taxpayer - West Australian taxpayer from their
 26 contribution from my perspective. I realise that's
 27 entirely a matter for the Commissioner, but my perspective.

29 And during the board meeting I'd suggest that was presented
 30 to the board that the project was an OECD IOI cooperative
 31 research project cosponsored by the IOI and the OWA?---Yes.
 32 That was always the case that it was, um, intended to be
 33 and optimally to be a project where there would be joint
 34 project partners.

36 But that's not what I'm suggesting to you, Mr Field. I'm
 37 suggesting it's a bipartisan project with two partners,
 38 OECD and the IOI, but it's cosponsored by the IOI and the
 39 OWA?---(No audible answer)

41 And I - I take it that you disagree with that?---Oh, I -
 42 I'm sorry. I - I'm not shaking in an arrogant way. I'm
 43 just, ah - I'm - I'm - I'm trying to read those words as
 44 you're speaking, um, but, no, my conception was it was a
 45 project of, um, benefit to Western Australians. Benefit
 46 to, ah, Asia Pacific, benefit to other, and insofar as it
 47 was a benefit to others, the majority of the contribution
 48 to the benefit to the others would be made by the IOI.
 49 That's - - -

51 You're - - -?--- - - - sort of - - -

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1
2 You're - - -?--- - - - the - - -

3
4 You're not - - -?--- - - - (indistinct) - - -

5
6 - - - actually answering my question - - -?---Oh, I - - -

7
8 - - - though, Mr Field?--- - - - apologise.

9
10 My - I'm putting to you that at the IOI board meeting, they
11 were told that it was an OECD cooperative project between
12 two partners, the OECD and the IOI, but cosponsored by the
13 IOI and the OWA?---No. I don't accept that at all.

14
15 Do you accept that at the meeting there was no discussion
16 about a donor agreement or what was going to be in a
17 contract or grant or donor agreement with the OECD?---Well,
18 I - I, ah - I - I certainly don't recollect, um, in a board
19 meeting getting down to the granularity of contract laws
20 and - and matters of contract. No, I don't. I would have
21 left that to - to the subsequent matters that would have
22 occurred. I have to say, and I do mean this with respect,
23 I think it would have been somewhat of an absurdity if
24 you're sitting down and having those discussions in a board
25 meeting.

26
27 And at the board meeting there was no discussion about who
28 would be attributed on the publication itself, what - who
29 would be named on the - the actual report itself?---I'm not
30 sure whether that was discussed in the board meeting or
31 not. Ah, that I cannot - I'm on - under oath, I cannot say
32 yes or no to.

33
34 Now, in evidence you've said on numerous occasions that the
35 SBP was intended to fund three matters, your IOI travel,
36 potential costs arising from the MOU with Graz or Styria,
37 and the project with the OECD?---Yes.

38
39 I just want to ask you about your evidence on 15 February
40 about a 16 January email. I'll show you the email first.

41
42 0406.

43
44 0406^

45
46 **NELSON, MS:** On 16 January 2023 to Ms Poole you say:

47
48 If the 203 comes through, we'll allocate it this way,
49 half to Natalie's salary, 75,000 for travel and
50 25,000 is provisionally allocated to the OECD.

51

1 The - you told Mr Porter yesterday the 203 is a reference
2 to the allocation in the streamline budget process if it
3 had been accepted?---Ah, correct.

4
5 Now, the \$75,000 for travel, as at 16 January, was that
6 travel for you in your role as President of the IOI?---
7 Correct.

8
9 Just want to take you to some evidence you gave on
10 15 February, 0741 - - -?---Ah, and, sorry, Commissioner, ah
11 - counsel assisting, just to be absolutely also - I - I - I
12 have to be absolutely - isn't a question of honest, but
13 it's just to be, um, precise, ah, that could have also
14 potentially included travel for the office of the President
15 and Ombudsman as well, but it was principally, I think, in
16 my mind at that time for my travel. Correct.

17
18 And for Ms Poole's travel or just for - - -?---Oh, could
19 have been for other staff travel as well. There are other
20 - travel that occurs, um - ah, in that, ah - in that, ah -
21 in that, um, area of the office.

22
23 When you say, "That area of the office", you mean the - the
24 office of the - - -?---The policy - - -

25
26 - - - President - - -?--- - - - area.

27
28 Right?---Yeah, correct.

29
30 And - so that could have been for any type of travel,
31 whether it was for interstate or international travel?---My
32 - my - my recollection was it was principally for
33 international travel but, of course, there is some other
34 travel that is - does occur in that section of the office
35 of the (inaudible).

36
37 **THE COMMISSIONER:** Was it calculated?---Ah, my
38 recollection was that there was a calculation, ah, roughly
39 done of what travel might be expected, both based on past
40 and - and going forward as well, but I - ah - ah - ah,
41 Commissioner, I don't - it - it probably was the sort of
42 thing that I'd written down on a piece of paper as opposed
43 to putting into great detail.

44
45 Because you've got to get to the magic figure of
46 two per cent for the streamline budget?---Ah, that's
47 correct, um, Commissioner, although we have historically
48 never sought money which we didn't think, um, was, ah,
49 required or would be spent, so if that's the case, we
50 wouldn't have applied for the two per cent.

1 **NELSON, MS:** And do you understand the - the
 2 Commissioner's point that the streamline budget process is
 3 capped to two per cent of the agency's - - -?---Oh, yes, I
 4 complete - - -

5
 6 - - - usual - - -?---Commissioner if completely correct.

7
 8 - - - cash appropriations?---That's exactly what it is,
 9 yeah.

10
 11 So you could not have applied and been given more than
 12 \$203,000 - - -?---No, you absolutely could not have. It
 13 wouldn't be an SBP on that basis, no.

14
 15 So half of Natalie's salary. Was that about \$75,000 if she
 16 was on about - - -?---Ah, maybe - - -

17
 18 - - - \$150,000 - - -?--- - - - a little bit more - - -

19
 20 - - - a year?--- - - - with oncosts, but I don't want to be
 21 pedantic. I think that's about right.

22
 23 So that would add up to about 175,000 then for her - half
 24 her salary, 75,000 for travel, then 25,000 provisionally
 25 allocated to the OECD - - -?---Yes.

26
 27 Well, OCED, as on the screen there?---(No audible answer)

28
 29 Because at - at this stage, you had not received any budget
 30 proposal from the OECD in relation to the project, had
 31 you?---No. Not - it - well, ah, I don't know exactly what
 32 the timing was, but I think the answer to that is no.

33
 34 The - on the - the Commission's records, the first occasion
 35 that it was received at the OWA was 7 February?---Ah, well,
 36 then I absolutely accept that as being the truth.

37
 38 Now, could I - I take you to your evidence previously about
 39 this email.

40
 41 0741. Thank you, Mr Associate. 15 February, page 28 at
 42 line 51 it commences.

43
 44 0741^

45
 46 **NELSON, MS:** Thank you, you could just stop there. Sorry,
 47 perhaps we go up to page 27. Stop. Yes.

48
 49 So I've just shown you that email, 0406, and then if we go
 50 down to page 28, I ask you:

51

1 Do you recollect now what was in your mind as to what
2 - how you were going to spend the funds?

3

4 And then if we just go down a little but further, I ask
5 you:

6

7 And by travel are you referring that email to
8 international travel by yourself and Ms Poole?

9

10 And you say:

11

12 Oh, it certainly would not have been by me and
13 Ms Poole, no.

14

15 And then I ask you again - and if we could just scroll up
16 so we could see the next answer? You say:

17

18 Well, it would not have been by international travel
19 by myself and Ms Poole. It would have been by
20 research staff if the international travel occurred.
21 That would - that would be the reference in there.
22 Not by myself. Absolutely not. That would be by the
23 researchers and those doing questionnaires and field
24 work and - so it certainly would not have been by
25 myself and Ms Poole. I can be unambiguously clear
26 about that.

27

28 To my mind, that evidence you gave on 15 February
29 contradicts what you've just told the Commission?---Yes.
30 Well, I, ah, have to say, I would - it was certainly no
31 intent on my part, um - ah, the - it's - that 203,000, um -
32 ah, was intended, as I say, in therefore the SBP, ah, for
33 the SBP - for the OECD project, and that's where the
34 Natalie Fisher money came from. Um, the travel there was
35 referring there to researchers for the OECD project. I'm
36 not sure that I'm as absolutely certain that it was
37 exclusively only for researchers. That's also quite a lot
38 of money for researchers. Um, but I will say this, all the
39 money up until that point for travel had been paid for from
40 appropriated funding. So, we hadn't sought that separate
41 funding for that at that stage. So, ah, I'm not seeking to
42 reconcile the two statements at all, you're asking - - -

43

44 Well, which one do I accept?---Well Commissioner, I think
45 it's an unbelievably reasonable question to ask me. I'd
46 have to turn my mind back to that time, and all I can
47 recollect at that time is when we were talking about the
48 SBP, we were talking about funding for the OECD project,
49 and that was clearly - at that time we were talking about
50 funding a part of one of our officers, because at that
51 stage we thought FTEs could - - -

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(Public Hearing)

1
2 When you say, 'at that time', you mean 16 January?
3 ---Correct. So, there was discussion - I do recollect
4 discussion around that time of, um, ah, we could have one
5 of our own officers make a contribution to that project.
6 This is before we knew that FTEs were not included in that
7 year's SBP. Um, I thought we had a discussion, and that's
8 where my evidence, ah, sorry, the evidence then was based
9 on the fact that the principal nature of that discussion
10 was based on the fact that we were talking about the OECD
11 project, and we were talking about the idea that we would
12 also hire external researchers. Now, all of that pivoted
13 when we found out that FTEs couldn't be funded through the
14 SBP process, and then we moved to the concept that it would
15 be funded by the OECD and a procurement from them. Um, um,
16 when you've asked me today and I've looked at that figure,
17 of course I'm in the mindset of the fact that the OECD
18 funded it all, and therefore I must have - the travel must
19 have been for, um, my travel. So, Commissioner, I
20 profoundly apologise for the difference between the two.
21 If I can say this, they're both true in - they're both
22 correct in one sense. When I was talking about this, it
23 was at the time when we thought the SBP project could be
24 used to fund staff, consultants and other matters to
25 deliver - to deliver the services or otherwise later, then
26 procure the OECD. And it was when we found out we couldn't
27 use the funding in that particular year, which you normally
28 could. In that particular year for FTE employees, we
29 pivoted the entire process to move towards a procurement
30 from the OECD. That's the mindset I'm in when I'm reading
31 those numbers now. But it must have been funding for my
32 travel. So, I apologise for the discontinuity - - -

33
34 Well, I appreciate you've apologised several times. My
35 simple question was which one do I accept?---I'd accept
36 both.

37
38 **NELSON, MS:** Well, Mr Field, we're left with the position
39 whereas at the time you put in the SBP application on 1
40 February, you had not received a budget from the OECD, so
41 you didn't know how much that project was going to cost?
42 ---Correct.

43
44 You had not costed the MoU with Graz or Styria?---Ah,
45 that's certainly not correct.

46
47 **THE COMMISSIONER:** Sorry, certainly correct or incorrect?
48 ---Certainly not correct.

49

1 So, you had budgeted for Graz - Styria?---For Graz and
2 Styria, we had an understanding. In fact, there were
3 certainly some - - -

4
5 Just listen to the question?---Sorry.

6
7 Did you budget for the Styria - we'll just call it Styria
8 MoU?---Yes.

9
10 Did you budget for that in calculating the amount of
11 203,000, of which that was a component?---We had a sense of
12 costing of what Styria might be.

13
14 And what was it?---It wasn't significant. It was for some
15 hotels, ah, pickups from airports, things like that. It
16 was a relatively marginal cost, and then of course, we
17 dropped all of that when we found out the DPC protocol
18 would pay for that, and JTSI.

19
20 **NELSON, MS:** Is it the case, Mr Field, that that work in
21 costing the hotels and transfers, et cetera, didn't occur
22 until at least mid-2023?---Oh, in terms of actually
23 exchanging a range of dialogue with JTSI, I think it
24 occurred then. Um, I had a sense of that costing, um,
25 going back to as early as May 2022 when I was in Austria,
26 in Styria.

27
28 Did you reduce that to writing?---Ah, no, I didn't reduce
29 it to writing.

30
31 So, there's nothing in writing as at the 1st or 2 February
32 2023 on what the MoU with Graz is going to cost?---Counsel,
33 um, well the answer is no.

34
35 And there is no budget for the OECD on what that project is
36 going to cost?---Well, as I - I think I've said in previous
37 evidence to the Commissioner, I had a reasonable sense,
38 based on 17 years' experience, roughly what such a project
39 might cost. I certainly based it on my experience, um, um,
40 ah, I accept it's now the subject of a Commission, but I
41 hope you could expect that with the travel I had undertaken
42 and the diplomacy and work that I had done, um, that I
43 might have had some sense, back of the envelope sense,
44 without reducing it down to writing in some long memo,
45 about what it might cost to entertain three or four people
46 from - - -

47
48 **THE COMMISSIONER:** Well, we're slipping into Graz now.
49 Counsel had moved off Graz?---Oh, well, sorry.

1 Onto the OECD?---I'd moved back, and I apologise. Um, so I
2 did have a sense, roughly, of what I thought such a project
3 might cost.

4
5 What was your sense?---Ah, I think the amount I'd spoken to
6 the staff about is I would have an appetite to procure a
7 service somewhere between 80 to \$200,000, but once it
8 started getting beyond those numbers, I was going to get
9 very uncomfortable.

10
11 **NELSON, MS:** So, the visiting - the transfers and the
12 accommodation, everything to do with the MoU with Graz, it
13 was your intention that the OWA would pay that?---No, no,
14 no. Not pay it, make a contribution to it. I understood
15 that, um, there would be multiple contributors to that.
16 Um, the Office of the Premier, JTSI, potentially DFAT, and,
17 um, ah, culture and the arts, a whole raft of people would
18 make a contribution to that, of which we may be one of the
19 contributors. As it then eventuated, um, we were told that
20 we didn't need to make any contribution, because there was
21 otherwise funding within government, a pot of funding, a
22 pool of funding, tranche of funding, that was made
23 available for those sorts of visits.

24
25 So, going back to early February 2023, I'm just trying to
26 establish what information, what hard evidence you had
27 about costings for the OECD project and the MoU and travel,
28 and I'm getting the sense that you didn't have any hard
29 evidence of what the OECD project was going to cost at that
30 stage, and nor the MoU?---Yes, look, the only answer I can
31 give to you is no, if you mean hard evidence as in a memo.
32 I do think, counsel, there's got to be some consideration
33 for someone who has been at senior levels of government for
34 two decades to have a rough idea of what things might cost.
35 Without having - - -

36
37 **THE COMMISSIONER:** Why would you have a rough idea of how
38 much the survey would be, for example?---Well - - -

39
40 Did you think it'd be €170,000?---From knowledge of, um,
41 ah, simply the work I'd done over the past two decades as
42 Ombudsman. The sort of money that you might pay to a
43 university - we commissioned substantial amounts of work,
44 Commissioner, including survey-type documents, from
45 universities and others, for our major own-motion
46 investigations.

47
48 I'm sure you do, and would you do an evaluation and a
49 business case for such?---Ah, depends, it could be under
50 the CUA.

1 It'd be a common user?---Yes.
2
3 But to establish a case for it in each case, even if you do
4 it?---Yes, and we did in this case as well.
5
6 And you would put it in writing?---Yes.
7
8 Before you paid the money?---Um, every aspect of what we
9 did, from my view - it's obviously entirely a matter for
10 you, um, in terms of procuring this is exactly - - -
11
12 I'm not talking about this, I'm talking about the surveys
13 and other things that you commissioned, university. Would
14 you, before entering into an agreement with a common user
15 or otherwise, would you have had a case to approve?---I'd
16 have to go back and check. Some of those might have been
17 approved below my level as well in the organisation.
18
19 But they would always have something in writing to approve,
20 wouldn't they? I mean, you wouldn't just go out and give a
21 contract with no paperwork?---You can do procurement, um,
22 Commissioner, on verbal - on verbal - on verbal quotes.
23
24 Well, that's one of the issues, because you haven't got any
25 paperwork in relation to this until September and October?--
26 --That I respect, Commissioner.
27
28 And what I just want to know - and it's relevant to what
29 counsel's asking, so I'm not yet confused. How did you
30 work out the amount which would have to total no more than
31 203,000? At the moment, I'm confused as to how you worked
32 it out apart from as you say your experience. If that's
33 all that is, that's all there is?---Ah, it was my
34 experience. It was certainly going through and looking at
35 what I thought the project was. And I was of the view - I
36 was of the view it would cost less than 203,000. I had a
37 supreme level of confidence about that, um, in terms of our
38 contribution. And of course, that's exactly how it bore
39 itself out. I mean, my guesses were right, Commissioner.
40
41 **NELSON, MS:** And in the procurement memo 0158 that you
42 sent to the treasurer, you told the treasurer at page 11
43 that the total cost of the procurement of the OECD project
44 was 215,938 - - -?---Yes.
45
46 - - - Australian dollars?---Correct.
47
48 And then with the IOI's contribution, that would go down to
49 133,000 Australian - - -?---Well, correct.
50

1 - - - dollars?---My - my - my guesses were not only right
2 but on the low side.

3

4 And then the remainder of the SBP would have had to have
5 funded the MoU and travel and perhaps half of Nat's
6 salary?---Correct.

7

8 You have told the Commissioner at various times in the last
9 couple of days that the OECD project wouldn't have
10 progressed without the funds from the SBP?---Ah, it could
11 have lawfully but my view is that, um, ah, I, uh - it was
12 my preference certainly to seek funding, um, from both the
13 SBP and the IOI for it to be the project that was going to
14 proceed.

15

16 Well, I'd suggest that in fact you intended to proceed with
17 the procurement regardless of the outcome of the SBP?---

18 Well, that's not correct. It wouldn't have been unlawful
19 to do so, but that's not correct.

20

21 I'll just show you an email. 0136.

22

23 0136^

24

25 If we could go to the second page to see the beginning of
26 the chain, thank you. So Mr Heritage on 10 January is
27 asking the OECD to send through a budget in effect to
28 consider the resourcing of the project. I have shown you
29 this email chain below. Do you recall this email chain?
30 ---I do recall it. Thank you, counsel.

31

32 And then Ms Cantera from the OECD replies on 25 January
33 saying they can't share the budget at that time, but
34 shortly. And then if scroll up, that response is sent by
35 Mr Heritage to Ms Poole for her and your information?---
36 Yes.

37

38 And then if we scroll up, Ms Poole sends it to Ms Jamieson
39 for your attention?---Yes.

40

41 And she sends it to you. And if we just go to the top,
42 thank you. And you say:

43

44 Good update. Very happy. The project is 5, 4, 3, 2,
45 1. Thunderbirds are go.

46

47 ?---Well, if we ignore the abominable wit, that doesn't say
48 anything. That's not suggesting for one moment I'm saying
49 that the project is ready to go in terms of commencing the
50 project without funding. I'm saying the project is ready
51 to go in terms of continuing the OECD debate and contract

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1 negotiations, discussions. That's exactly what happened.
2 There is absolutely no suggestion - and I can tell you what
3 I had in my mind, and I cannot see reading into those words
4 at all. I'm saying - well, if I approved an entire
5 multiple hundred-thousand-dollar project on the basis of
6 that, I should be - I should be corrupt for that if that's
7 what I was doing.

8
9 Well, by this stage you'd already told Ms Schwarz that you
10 would commit funds from the OWA?---I'm - I'm sorry. I'm
11 sorry, counsel. That is just absolutely profoundly
12 incorrect.

13
14 **THE COMMISSIONER:** Well, that's what - it was the January
15 meeting?---Oh, no, no. That's correct. I'm saying the
16 reading of that is profoundly incorrect.

17
18 Well, did you tell Ms Schwarz the secretary general that
19 you would commit funds for the project in 2023?---Yes. And
20 that was the intention to go ahead and get those funds,
21 Commissioner, which is exactly what I did.

22
23 **NELSON, MS:** Could I have 0359 page 8, thank you.

24
25 0359^

26
27 Point 2:

28
29 My office will provide both in kind resource to the
30 project and a financial contribution.

31
32 It's unequivocal, isn't it, Mr Field?---But sorry, counsel.
33 I'm not, um, debating that with you. Well, it's not for me
34 to debate. I'm not disagreeing with you at all. That's
35 utterly unambiguous. But that's not saying I'm giving it
36 from consolidated revenue. That's not saying I've giving
37 it for the appropriation that was given to me for the
38 2022/2023 financial year. I'm saying I will be going and
39 getting, um - that I'll be - there'll be funds provided by
40 my office, which is exactly what I intended and exactly
41 what I went ahead and did.

42
43 **THE COMMISSIONER:** Sorry, I can't understand any of that.
44 And it's probably me and the hour - - -?---I'm sorry,
45 Commissioner.

46
47 - - - and the air-conditioning. You're adding words, as I
48 see. What do you say this email committed the state to, if
49 anything?---Well, nothing unless, um, that - those
50 contributions were made. There - there was no commitment
51 to do anything at this stage. Um, the board hadn't met.

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1 Um, the SBP hadn't been made. Um, uh, the contract hadn't
2 been signed. Uh, the procurement hadn't been - - -

3

4 What part of paragraph 2:

5

6 My office will provide both in kind resource to the
7 project and a financial contribution.

8

9 What part of that is equivocal?---But it's not intended to
10 be equivocal. It's intended to say that's what I intend to
11 achieve. That's what I intend to that, um, um, I will be
12 going about, um - I'm trying to say very clearly, "I think
13 the office of the Western Australian Ombudsman wants to do
14 a project or wants to be contributing to this project", and
15 I am saying to her - now, you could accuse me of being - of
16 that being some of form of hubris that I'm making
17 assumptions that I'll be successful in that regard, but I'm
18 certainly not committing the state to anything at that
19 stage and it's certainly in no way an indication that I was
20 intending to take that money from consolidated revenue.

21

22 Well, I note your answer.

23

24 **NELSON, MS:** Thank you, Commissioner. I will move on to
25 something else. Do you recall making a submission to the
26 Salaries and Allowances Tribunal in January 2023?---Yes, I
27 do.

28

29 And that was in relation to your remuneration level
30 and - - -?---I do.

31

32 - - - getting it reviewed. Do you recall that you asked
33 Ms Poole and Mr Heritage to review the submission that you
34 had written?---Um, I don't. Well, I'm sure that would have
35 been a very likely sort of thing for me to do.

36

37 Do you recall receiving any feedback from Mr Heritage
38 and/or Ms Poole?---I - I don't, I'm sorry. I'm not saying
39 I didn't, I just don't remember it.

40

41 I'll show you a document and see if that jogs your memory.
42 0276^, thank you.

43

44 0276^

45

46 **NELSON, MS:** If we could just run down and see what the
47 attachment is, because it has an attachment of the
48 submission. And if we could just stop there. Do you
49 recall drafting this submission?---Yes, I do.

50

1 And you can see Mr Heritage has put some comment boxes in
2 there?---Yes, correct.

3

4 Do you recall seeing the document with the comment boxes at
5 the time?---I'll have to - now, please, I'm sure I did. I
6 don't have a photo recollection, but I absolutely accept
7 that I would have.

8

9 If we could continue scrolling down, thank you. We'll get
10 to the next comment box. You see Mr Heritage has commented
11 about whether achievements that have no connection to
12 Western Australia or your Ombudsman role should be
13 included, do you recall receiving that feedback from him?
14 ---I don't have a photo recollection of it, but I
15 absolutely accept I did.

16

17 And if we keep going down, thank you. So, this was all
18 part of the package that you put together?---That's
19 correct.

20

21 And if we go back to the very top page to the email that
22 Mr Heritage has composed to Ms Poole, I'll just give you a
23 minute to read that. Point 2, where Mr Heritage says he
24 has a substantive concern, the heading 'focus on your
25 international engagements', he says:

26

27 The Ombudsman's international engagements, while
28 undoubtedly individually impressive, are not
29 connected to the Ombudsman's functions as set out in
30 legislation and have a quantified financial benefit
31 to the state.

32

33 And he refers to it as an optional extracurricular
34 activity, which may undermine your submission. Do you
35 remember receiving that feedback from Mr Heritage?---Don't
36 have a photo recollection of it, but once again, I - I'm
37 happy to say, um, that if - well, that's sent to Ms Poole,
38 but I would have assumed Ms Poole would have forwarded it
39 to me.

40

41 Do you recall having a conversation with Ms Poole about
42 Mr Heritage's views that your role as President was an
43 extracurricular activity?---I do not. That's not to say
44 that it didn't happen, I just don't have that recollection.

45

46 Do you have a recollection of talking to Mr Heritage at any
47 other time and in any other context about his views of your
48 work as President and their connection to the Ombudsman
49 role?---Ah, well Mr Heritage and I would have spoken on a
50 number of occasions over the years, um, but in relation to
51 being extracurricular or other activities, no, I don't have

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1 any recollection of that conversation. I'm not saying -
2 once again, I'm not saying it didn't occur, I don't have
3 any recollection.

4
5 When you say you've spoken to Mr Heritage on a number of
6 occasions across the years, is that in relation to his
7 views generally about the connection of your presidency
8 role to the state?---No, as an employee of the Office of
9 the Western Australian Ombudsman, who was assigned the
10 policy officer of the Office of the Ombudsman, he was an
11 employee, and a deeply valued employee, and I spoke to him
12 on many occasions.

13
14 About OWA work generally?---Yes, correct. He was working
15 on a raft of policy matters.

16
17 Okay, thank you, that can be taken down. Now, we spoke
18 generally about the MoU with Styria, or Graz. And I
19 understood your evidence was to be that - well, was that
20 Mr Pastorelli was made aware of considerable detail about
21 the MoU from some time in 2022, is that correct?---Oh, the
22 exact dates - but Mr Pastorelli was certainly well - one of
23 many people who was well aware of that arrangement.
24 And Mr Porter took you to some emails from, I think, it was
25 late January and February and March 2023?---Yes, I remember
26 that.

27
28 Could I take you to another email, 0509^?

29
30 0509^

31
32 **NELSON, MS:** So, this is an email around about the time of
33 20 January. If we could just go to the start of the chain,
34 thank you. Ms Johnson was an executive assistant in your
35 office?---Ah, correct.

36
37 Was she your executive assistant?---Ah, unless she was
38 acting for me at that stage, no. She was the executive
39 assistant to another officer.

40
41 Do you recall whether you had a hand in drafting this email
42 that she sent to Filipa Robinson?---I don't recollect. I
43 could have, I could well have, I don't recollect that.

44
45 I think your evidence earlier was that Filipa Robinson, or
46 Pip, works in the Office of the Premier (inaudible)?---Ah,
47 that's correct. Well, my understanding, certainly at the
48 time, was that she was the executive assistant to the
49 Premier's chief of staff, I think. And also had another
50 role as well.

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1 You can see the reference in the first paragraph to the
2 Ombudsman as President of the IOI is progressing two
3 projects, but then it names one, being the proposed MoU
4 between WA and Styria?---Yes.

5
6 And it talks about the timeframe for signing the MoU, late
7 March to early - to the end of April, the fact that the
8 Governor of Styria and the Styrian Minister for
9 International Affairs would travel to Perth. And is one of
10 those persons Mr Werner Amon?---Yes, correct.

11
12 It talks about that it falls under Australia's strategic
13 cooperation arrangement with Austria, and that you - at
14 four, you've spoken to stakeholders, the Deputy Premier's
15 chief of staff, Rebecca Brown, John Langoulant, et cetera.
16 And then at five, the question he has at this stage - so
17 that's your question, is, assuming the matter is to
18 proceed, who would Mr Pastorelli consider as the most
19 appropriate person to represent the state at the signing
20 ceremony?---Correct.

21
22 So, do you accept that at 20 January 2023, there's no
23 certainty that the MoU will proceed?---Oh, no, that's not
24 what that email is getting at, at all. It's - whether it
25 would be the Premier, the Deputy Premier, or some other
26 Minister who would be signing. So, um, ah, what we're
27 trying to, ah, ascertain in that email there is would it be
28 the Premier who is signing the agreement, the Deputy
29 Premier, or, ah, for example, um, one of the other
30 Ministers. There was actually talk, ah, during - and of
31 course, it's an iterative process over several months, but
32 there was multiple Ministers discussed as potentially -
33 including Ministers and backups to Ministers, if others
34 were available. Now, it eventuated that it was the
35 Premier, and I was delighted about that.

36
37 Well, can I just focus your attention on 20 January 2023?
38 ---Mm-hm. I've answered that question then.

39
40 I'd suggest to you that when you say - well, when
41 Ms Johnson says 'the question he has', so meaning you, the
42 Ombudsman, at this stage, is assuming the matter is to
43 proceed, who would Mr Pastorelli consider as the most
44 appropriate person to represent the state at a signing
45 ceremony?---That's just the way that I myself - and I train
46 my staff, to write, counsel. Um, now, ah, it's on the
47 basis that - as I say, others can disagree with me, but we
48 write everything on the basis of humility, and not hubris.
49 I'm not writing and saying, 'I'm just telling you you'll be
50 doing this, you just take it as read, you're doing this,
51 and since you are, um, which one of you is it going to be?'

11/04/24

FIELD, C.J.

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Epiq

(Public Hearing)

1 Those are the sorts of things I insist go - and it goes
2 into all of my writing, it goes into my staff's writing
3 - - -

4
5 **THE COMMISSIONER:** But if I can just stop you. I
6 understand your point, but this is the sort of agreement I
7 would have thought would have to go to Cabinet. At least
8 there's a fair possibility it would have to go to Cabinet.
9 There are a lot of steps that would have to be taken, and
10 it seems to me that it's perfectly reasonable to say,
11 assuming the matter were to proceed, because nobody could
12 be sure it would?---Well, what I can say is this. I
13 certainly didn't want to make an assumption, because a week
14 is a long time in politics, and that's exactly how it
15 turned out with this particular matter. Um, you had the
16 Premier locked in one day, and the next day he wasn't
17 there. That's no criticism of the former Premier. So,
18 assuming the matter is to proceed is both meant to be an
19 expression of humility, but I think even an expression of
20 real politics. There are so many things that could happen.

21
22 Well, that was a fairly simple answer to a convoluted
23 response. It seems to me you wrote the words, whether you
24 wrote them as humility, you wrote the words because that
25 was a reasonable representation of what might happen,
26 assuming?---I apologise for my convoluted answer,
27 Commissioner.

28
29 Anyway, I think it's probably time, unless you're going to
30 finish in the next 10 minutes.

31
32 **NELSON, MS:** No, I'm not, sadly, Commissioner.

33
34 **THE COMMISSIONER:** We will finish tomorrow however, and
35 that wasn't actually framed as a question. All right.
36 9.45 tomorrow.

37
38 (THE WITNESS WITHDREW)

39
40 AT 4.03 PM THE MATTER WAS ADJOURNED UNTIL
41 FRIDAY, 12 APRIL 2024
42

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*Evidence Act 1906***

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