



# **PARLIAMENTARY CRIME AND MISCONDUCT COMMITTEE**

## **Members present:**

Mrs EA Cunningham MP (Chair)  
Mrs JR Miller MP (Deputy Chair)  
Mr PJ Dowling MP  
Mr IS Kaye MP  
Mr JM Krause MP  
Ms J Trad MP  
Mr PW Wellington MP

## **Staff of the Office of the Parliamentary Crime and Misconduct Commissioner present:**

Mr P Davis SC (Acting Parliamentary Commissioner)  
Dr K Mellifont SC (Counsel assisting the Acting  
Commissioner)  
Mr M Kunde (Principal Legal Officer)

## **Staff present:**

Mr N Laurie (Clerk of the Parliament)  
Mr S Finnimore (Committee Office Manager)  
Ms A Honeyman (Acting Research Director)  
Mr P Rogers (Principal Research Officer)

## **INQUIRY INTO THE CMC'S RELEASE AND DESTRUCTION OF FITZGERALD INQUIRY DOCUMENTS**

### **TRANSCRIPT OF PROCEEDINGS**

**WEDNESDAY, 20 MARCH 2103**

**Brisbane**

## WEDNESDAY, 20 MARCH 2013

### Committee met at 9.20 am

**CHAIR:** Good morning. I declare this public hearing of the Parliamentary Crime and Misconduct Committee open. On behalf of the committee, I welcome Dr Kerri Mellifont SC, who is assisting the acting commissioner, Mr Peter Davis SC. I am Liz Cunningham MP, the member for Gladstone and chair of the committee. Mrs Jo-Ann Miller MP, the member for Bundamba, is the deputy chair. The other committee members are Mr Peter Dowling MP, member for Redlands; Mr Ian Kaye MP, member for Greenslopes; Mr Jon Krause MP, member for Beaudesert; Ms Jackie Trad MP, member for South Brisbane; and Mr Peter Wellington MP, member for Nicklin.

This committee is tasked with this inquiry by resolution of the House dated 7 March 2013 and is required to report to the Assembly by 5 April 2013. Under the standing orders, witnesses may be accompanied by legal representation. Whilst witnesses may confer with their legal representative to obtain advice on their rights, the legal representative is not a witness in this inquiry and may not address the committee.

I remind all of those participating today that these proceedings are similar to parliament to the extent that the public cannot participate in the proceedings. In this regard, I remind members of the public that under the standing orders the public may be admitted to, or excluded from, the hearing at the discretion of the committee.

The committee has resolved that the whole of the proceedings of the committee may be broadcast online with the conditions for broadcasters and guidelines for camera operators, which are available from one of the parliamentary attendants in this room. We have also resolved to allow the media to take continuous pool footage with the traditional conditions that apply.

I ask that mobile phones or pagers be either switched off or switched to silent. Also, I remind you that food and drink are not permitted in the hearing room. For the benefit of Hansard, I ask all witnesses to identify themselves the first time they answer a question asked of them.

### WOOD, Ms Sidonie, Official Solicitor, Crime and Misconduct Commission

**CHAIR:** I welcome Ms Wood. Thank you for your attendance again. I invite Dr Kerri Mellifont SC to continue proceedings with the examination of Ms Wood.

**Dr Mellifont:** Ms Wood, you are still under your previous oath. Yesterday we spoke about the events of May 2012 and you said that you went in and had a discussion with Mr Duell. So I have oriented you in time?

**Ms Wood:** Yes.

**Dr Mellifont:** And part of the reason, or the reason for the discussion with Mr Duell, was because Mr Martin had told you to remove it—that is, to make sure that the 20-year RAP was removed; correct?

**Ms Wood:** Yes.

**Dr Mellifont:** And by that you took him to understand removed and replaced with the 65-year RAP?

**Ms Wood:** Well, he didn't tell me to actually remove it, just as in question mark, make sure, or check, that it had been removed, yes.

**Dr Mellifont:** Yes, and by 'removed' we are talking about to make sure that instead was in place a restricted access period of a longer duration, namely 65 years?

**Ms Wood:** Yes.

**Dr Mellifont:** And it was upon those instructions you had a discussion with Mr Duell; correct?

**Ms Wood:** That's right.

**Dr Mellifont:** And in the course of that discussion you said yesterday that you looked at a letter which he had sent to Queensland State Archives rectifying the problem?

**Ms Wood:** Yes.

**Dr Mellifont:** Can I show you this letter, please? It is a letter and an attachment dated 29 May 2012 under the hand of Peter Duell to Ms Hawkins. This document is not tabled yet. Is that the letter that you looked at?

**Ms Wood:** Yes, I think so, yes. It's dated that day and it advises of the change in the restricted access period. I didn't take a copy at that point in time.

**Dr Mellifont:** Sorry, can I just have the return of that document for one moment? Now, the letter reads—

The attached Restricted Access Notice—Change Request refers to all series of Fitzgerald Inquiry holdings transfer, TR5422, with the exception of Series 18501, 18586 and 18651. Series 18501, 18586 and 18651 relate to the transcripts, exhibits and inquiry documentation.

Please note that the exceptions previously noted in Series 18651 continue to apply for those items subject to "Not for Publication or Inspection" orders as per the listing provided on 3 February 2012 with those items retaining a restricted access period of 100 years.

Then we see an attached change request, which lists a number of series within the Fitzgerald holdings. When you read that, Ms Wood, what did it mean to you?

**Ms Wood:** It meant that it changed the series of documents that were the offending surveillance records back to 65 years and that the other series of documents that remained on the 20-year period were the publicly available documents.

**Dr Mellifont:** What did you do to independently check that the numbers set out in the attached change request covered off all of the surveillance documentation?

**Ms Wood:** That is when I asked him can I see those documents on his spreadsheet, but when it was brought up those series numbers weren't on there.

**Dr Mellifont:** So if the series numbers were not up on the spreadsheet, that would not have assisted you to correlate as between this letter and the surveillance records; do you agree with that?

**Ms Wood:** I had no way to know that those series numbers were—sorry, the public records. He just assured me that they were.

**Dr Mellifont:** By this point in time was it apparent to you that the person who had authorised the change of access back to 20 years was, in fact, Mr Duell?

**Ms Wood:** Yes.

**Dr Mellifont:** Did you undertake any audit of looking at the change of access documentation that was generated back then and crosscheck it with the series numbers in the change of request form attached to the 29 May 2012 letter?

**Ms Wood:** I didn't interpret that was my task. My task was to ensure that it had been changed from 20 to 65. The physical audit itself I relied on Mr Duell to do, seeing that's his expertise.

**Dr Mellifont:** When you say you relied on Mr Duell to do a physical audit, what are you speaking of?

**Ms Wood:** Well, I would have thought that someone who is responsible for those records would have looked at the series and matched them up that they're the public transcripts, they're the public exhibits, that's a group of documents that were publicly available and tendered, these are the documents which are the sensitive, covert material. And you could tell by the series, because they would have classified them as those originally.

**Dr Mellifont:** So that is an assumption you made by virtue of the position that Mr Duell had; is that correct?

**Ms Wood:** Yes.

**Dr Mellifont:** But you would agree with my proposition that you did nothing to independently audit that?

**Ms Wood:** I wasn't tasked to do an audit, no.

**Dr Mellifont:** Ms Wood, you were tasked by the chairperson specifically to ensure that the 20-year RAP was removed. Surely, that must have triggered to you that your responsibility was to make sure that everything which had the 20-year RAP on it was now fixed to 65 years?

**Ms Wood:** That wasn't my understanding of my task to do an audit, no. My understanding of my task was to ensure it was fixed insofar as that I looked at the notice letter and assured myself that that information had been actually performed on that day.

**Dr Mellifont:** Do you agree with me it would have been a simple enough thing to do—to ask for the change of request form back when it went down to 20 years and at least just check off the series numbers as against the change request form of 29 May 2012? That would have been a simple thing for you to do.

**Ms Wood:** Well, that's what I asked for and that's what I thought he put on the screen when I said, 'Can I have a look to check that series,' but the document that came up on the screen didn't have the series written on them and I asked why and he said, 'What happens is that they have a list of documents and they're not grouped in the series; they're grouped individually as they were logged in and they are attached to series.' So basically, if you are going to look at these spreadsheets, you're looking at the list documents. So you might have a public exhibit next on the list—something that is covert. So it was a stream of material that had been, I assume, logged in originally and then someone obviously had been tasked to classify each of those documents. So I didn't see a spreadsheet that was grouped in those series.

**Dr Mellifont:** So you asked for something which was fairly simple and you were given something which was extremely complex; correct?

**Ms Wood:** Yes.

**Dr Mellifont:** And that surely did not satisfy you that the series which had been changed previously was now being changed back by virtue of this letter?

**Ms Wood:** Well, on the 29th I had satisfied myself that he had changed the RAP.

**Dr Mellifont:** He had changed the RAP in respect of these series numbers listed in the change request form; correct?

**Ms Wood:** Yes.

**Dr Mellifont:** Right. I will hand the covering letter back to you. But you will see from the covering letter there are three series excepted from that, namely 18501, 18586 and 18651, described as transcripts, exhibits and inquiry documentation. So I hand that back to you.

**Ms Wood:** Yes.

**Dr Mellifont:** You'll see in that description the description of exhibits, for example, is not qualified by reference to public exhibits; you agree with that?

**Ms Wood:** That's right.

**Dr Mellifont:** So this letter certainly left open the possibility of confidential exhibits being within that series; you'd accept that?

**Ms Wood:** Well, I assumed that the series related—that he's referring to would have been checked and that that related to the public exhibits. But, yes, that was my interpretation, that's what he told me, which was that is a series of public transcripts, public exhibits and other material that was publicly available.

**Dr Mellifont:** But you did not interrogate him in respect of the terminology used in this letter; you agree with that?

**Ms Wood:** I asked him what inquiry documentation was.

**Dr Mellifont:** What did he tell you?

**Ms Wood:** Information that was publicly available. I didn't doubt that, given there would be in any inquiry a certain amount of material that was publicly available, someone had classed it as that.

**Dr Mellifont:** Ms Wood, I query why Mr Duell's assurances and explanations were accepted without qualification by you given that he was the person responsible for the declassification previously which led to the problem. Why were you prepared to accept that without undertaking any true independent audit or seek any true corroborating evidence given your instruction by the chair?

**Ms Wood:** I had no reason to doubt that he was competent and diligent and that he had a good grasp obviously of this area. It was the CMC's baby. I assumed he knew everything about it.

**Dr Mellifont:** Except that he'd made the mistake in the first place; you'd accept that?

**Ms Wood:** He'd explained to me the mistake he made, why it was made. He had seemed to have a full understanding of what the mistake was. He seemed to be completely familiar with the topic.

**Dr Mellifont:** And except that, when you asked for what was a simple request really of establishing the series of documents, what he showed you was a series of complex spreadsheets rather than a document you might expect to exist which is a simple change of request form with a list of series.

**Ms Wood:** I would have thought he could have brought up the series numbers and what—next to them what they were. He used to be the IT manager so I would have thought, yes, there was such a thing. I think that's why I asked him, as a follow up, can I see more clarification.

**Dr Mellifont:** It seems then that nothing happened after that point in time until about July of 2012 when there was the meeting planned to speak with him.

**Ms Wood:** Yes.

**Dr Mellifont:** Why did nothing further happen in that period?

**Ms Wood:** I would have been doing my normal job.

**Dr Mellifont:** But this was a job that you were told to check?

**Ms Wood:** Yes.

**Dr Mellifont:** By the chairperson?

**Ms Wood:** Yes.

**Dr Mellifont:** And it was in respect of sensitive surveillance documents which had been released into the public domain; agreed?

**Ms Wood:** Yes.

**Dr Mellifont:** Surely it was a priority.

**Ms Wood:** It was a priority. I was satisfied on the 29th that the RAP had been changed. I relied on his statements and assurances to me that the RAP had been changed and I accepted that it'd been done. He told me it was fixed and I accepted that.

**Dr Mellifont:** But it wasn't a full acceptance by you, Ms Wood, was it, because you still wanted to check the spreadsheets; correct?

**Ms Wood:** Yes.

**Dr Mellifont:** So therefore there was still this other process of verification you in your own mind wanted to undertake to assure yourself of the correctness of the position he had stated to you on 29 May 2012.

**Ms Wood:** That process was more 'can I see it on your documents? You've changed it with archives. I accept that that occurred, and that the RAP had changed at archives.' What I was querying about was that 65 years documented on our files so that there wasn't any confusion on the occasional request from journalists for information. So I was looking for the number 65 next to that document.

**Dr Mellifont:** Yes, and you never got it, ever.

**Ms Wood:** Well, I got a document that said a lot of documents were classed as 65. I had a later conversation with him briefly and he said, yep, that's what that means.

**Dr Mellifont:** When?

**Ms Wood:** Some time after receiving it. It could have been on the day but—I obviously had a meeting with him on the day he sent them to me. I would have looked at them in the next period of time.

**Dr Mellifont:** Are we talking 26 July?

**Ms Wood:** Yes.

**Dr Mellifont:** Right. Okay. But between 29 May and that meeting of 26 July and the consequential email of that meeting 26 July you received nothing to satisfy yourself that the CMC records had been rectified so as to ensure that it reflected a 65 year RAP; is that correct?

**Ms Wood:** He'd assured me at the meeting on 29 May that that had been done.

**Dr Mellifont:** Yes, I understand your evidence of that. I'm asking you about the period in between 29 May 2012 and 26 July 2012 you received nothing further to verify that the CMC records had been corrected so as to reflect 65 years; correct?

**Ms Wood:** Apart from his assurances, no, I didn't receive anything.

**Dr Mellifont:** Right. You had Ms Valeska waiting with bated breath to go and check the holdings. Why, in circumstances where you were unable to be shown by Mr Duell on 29 May a spreadsheet which made any sense to you, why not send Ms Valeska out to check State Archives to make sure that there was nothing in the public domain that oughtn't have been there?

**Ms Wood:** Well, if I had my time again I would have sent her in a cab straight away. I don't doubt that now I know what I know now. At the time I said subject to general counsel's advice be on your way. That was my view, and obviously that view was changed when Mr Martin came into my office and said, 'Let's fix—make sure it's fixed.'

**Dr Mellifont:** Can I take you then, please—sorry, can I table that document, please, 29 May 2012 letter with the attached restricted access notice change request from Mr Duell to Mr Hawkins?

**CHAIR:** Is leave granted? Leave is granted. It's document 86.

**Dr Mellifont:** Can I show you, please, a copy of your file notes of 26 July 2012. Now, these were the documents which were found yesterday in an original CMC file in a yellow-orange type notebook. Do you have a copy there?

**Ms Wood:** I do.

**Dr Mellifont:** Thank you. To the best of your knowledge where within that file was that notebook?

**Ms Wood:** At the top of the file.

**Dr Mellifont:** Loose?

**Ms Wood:** Yes. It was my set of notes on top of the records file.

**Dr Mellifont:** When were these notes made?

**Ms Wood:** 26 July.

**Dr Mellifont:** Why weren't they placed within the file in the chronological order?

**Ms Wood:** Well, they were next to my informal file so I had an informal file with everything in it and then I had taken away his file and put—placed my notes on top of it just as a reference of my conversation with him about that file.

**Dr Mellifont:** Why did you have an informal file?

**Ms Wood:** Well, unless we're given instructions to commence a matter then it doesn't get recorded as a formal file, I thought, basically.

**Dr Mellifont:** So what would have happened—if none of this had come to light what would have happened with your informal file?

**Ms Wood:** Well, it ends up being on another file called information management cases. So I would have filed it on—it's like saying records. They've got a—we have a file with various matters relating to information management section.

**Dr Mellifont:** To your mind, at what point in time was the issue resolved?

**Ms Wood:** After I looked at the spreadsheets and had a quick discussion with Mr Duell and satisfied myself that, yes, our records show that it was 65 years. I think I've had a brief look at the archives link he sent me and I've essentially wanted to know that it was 65 years and he again provided those assurances.

**Dr Mellifont:** So by the latest late July 2012 or early August 2012?

**Ms Wood:** I'd been assured on 29 May the RAP had changed, the dissemination was lawful and I was satisfied 99 per cent then. My role here was to ensure, from reading my notes, that the dissemination early 2007—i.e. the project—was lawful and that I was going to get that list of documents. I thought, I think, that was the whole purpose of the meeting, but I obviously recorded the whole meeting in the history of the project.

**Dr Mellifont:** When you speak about the dissemination project you are talking about the documents going over to Queensland State Archives; is that what you mean?

**Ms Wood:** Yeah, I just wondered the origin of it, whether that actually was lawful.

**Dr Mellifont:** All right. But returning to my question, which is in respect of this collective bundle of issues which is the change of the RAPs and the dissemination, its lawfulness, to your mind was it closed shortly after you received the spreadsheets on 26 July 2012?

**Ms Wood:** Yes, and I think I had a conversation with general counsel along those lines.

**Dr Mellifont:** Why then at that point in time did your temporary file not make its way to the information management case management file you have just described?

**Ms Wood:** Well, I wasn't sure where it was going to go. Someone could have done a 329 referral, someone could have said there's going to be an internal investigation about this. They weren't decisions for me. I was just performing a particular task to make sure the crisis of May was fixed and then a whole lot of things could have been happening behind the scenes, I don't know. In other words, he could have been subject to an investigation for all I know. I wouldn't know.

**Dr Mellifont:** When you say you didn't know where it was to go, I take it then that you didn't check back with Mr Hutchings to say, 'Look, it seems to me to be all sorted'?

**Ms Wood:** I don't think I ever said that, but—anyway, yes.

**Dr Mellifont:** I'm asking the question. I don't know, Ms Wood. Did you report back to Mr Hutchings, 'From my end, I regard this issue as closed'? Did ever report that back to Mr Hutchings?

**Ms Wood:** I have a vague recollection I did, yes.

**Dr Mellifont:** What about to Mr Martin?

**Ms Wood:** I cannot recall having a conversation with him about 'the case is closed'. However, they are one and the same. In other words, Rob is his counsel, his legal advice. They have a day-to-day working relationship. If I told Rob, I'm sure he would tell Ross and vice versa. In other words, I knew they were across the material, I knew they knew the issue and they would decide whether there was a 329 referral. I rarely had anything to do with 329s. I have had limited experience in them. In fact, I understand many go behind closed doors because of the confidentiality nature of them. I just don't do that area. I have in the past, once, when there wasn't a General Counsel, but that was for a—

**Dr Mellifont:** In the context of this matter, did you ever raise the prospect of a 329 referral with Mr Hutchings or Mr Martin?

**Ms Wood:** I have never raised it, but it seemed obvious.

**Dr Mellifont:** It seemed obvious that it ought to have happened?

**Ms Wood:** No, it seemed obvious that they would have turned their mind to it.

**Dr Mellifont:** Why did it seem obvious?

**Ms Wood:** Well, the act says that it is either official misconduct or improper conduct. 'Improper conduct' is defined as gross negligence or something along those lines or in that vein.

**Dr Mellifont:** What conduct appeared to you to be obvious that it might come under 329?

**Ms Wood:** Well, it seemed like a gross mistake that you could make.

**Dr Mellifont:** The change of RAP?

**Ms Wood:** Yes.

**Dr Mellifont:** A gross mistake by Mr Duell?

**Ms Wood:** The change in RAP of those surveillance reports.

**Dr Mellifont:** Yes. And even though it was obvious to you that this could be a 329 issue because it was a gross mistake, you were still prepared to accept from Mr Duell his assurances of rectification in May 2012; is that your evidence?

**Ms Wood:** Yes, I accepted his assurances and relied on his expertise.

**Dr Mellifont:** Notwithstanding it was obvious to you that this might be a 329 issue?

**Ms Wood:** I understood his explanation was he didn't get it wrong; that he had people working in a team that were tasked with writing on a form those series numbers and they got that connection incorrect, which was those series numbers should not have been put on that form. So he left it to his staff records manager and then he signed off on that form. That is my understanding. I cannot say whether it was his specific fault or whether it was a staffer, but—

**Dr Mellifont:** He signed off on the form.

**Ms Wood:** Ultimately, he had the responsibility.

**Dr Mellifont:** Yes. He was the person authorised at law to sign the form.

**Ms Wood:** That's right.

**Dr Mellifont:** And in attributing gross mistake from the perspective of a 329 contribution, it would have occurred to you that he was the man the buck stopped with?

**Ms Wood:** Definitely.

**Dr Mellifont:** Right. That having occurred to you, you were still prepared to accept his assurances; is that your evidence?

**Ms Wood:** Yes.

**Dr Mellifont:** Let's go, please—sorry. Why? Why? In those circumstances where it was obvious to you that a breach of the act was triggered by a senior officer within the CMC, why was it that you were prepared to accept his assurances when you had been told by Mr Martin, the Chairperson, to make sure it went back to 20 years? Why?

**Ms Wood:** The discussion that I had with him assured me that he understood there were publicly available documents, there were non-publication order documents and there was another category of documents that were confidential. He made assurances that it had been fixed and I accepted that because of his position and what appeared to me to be a very competent knowledge of that area. So I had been assured by whatever information he had relayed that he understood his area.

**Dr Mellifont:** No explanation beyond that in terms of your acceptance? I want to give you a full opportunity to answer.

**Ms Wood:** Well, he was the director of information management. That was also one of the factors.

**Dr Mellifont:** There was nothing at all which prevented you, in the role of official solicitor, from taking other steps; do you accept that? Other steps to check it; do you accept that?

**Ms Wood:** I was tasked to do a certain role. I was satisfied that he had changed the RAP on the specific material. I accepted his assurances that it had been done.

**Dr Mellifont:** That is not my question. My question is: do you accept that there was nothing which would have prevented you from taking other steps to check; do you agree with that proposition?

**Ms Wood:** Apart from time and resources, yes. In other words, there is probably 20 or 30 staff at records. I don't doubt they did a physical audit or some type of audit about those series.

**Dr Mellifont:** But you never actually checked to see whether they did; agreed?

**Ms Wood:** No, that was Mr Duell's role.

**Dr Mellifont:** I take you, please, to your file note of 26 July. I need you to take me through it. If you can take us through chronologically as to what occurred. Is this a meeting you had with Mr Duell?

**Ms Wood:** It appears so.

**Dr Mellifont:** You had the opportunity overnight to review this file note?

**Ms Wood:** Yes.

**Dr Mellifont:** Take us through it, please.

**Ms Wood:** This is a meeting that I had at three o'clock in the afternoon on 26th July with Mr Duell. I may have, by the look of the information I wrote down, first asked him how the project came about. In other words, its genesis and who approved it, how it was approved.

**Dr Mellifont:** By 'project' you are speaking about the dissemination to archives?

**Ms Wood:** Yes, so the bulk of the Fitzgerald material being transferred to State Archives.

**Dr Mellifont:** Before you go further, can I clarify from you whether, at this point in time, you have independent recollection of the contents of this meeting or merely that you had a meeting generally touching the Fitzgerald inquiry issues?

**Ms Wood:** I don't recall this meeting at all.

**Dr Mellifont:** You don't recall the contents of it or you don't recall having it?



**Ms Wood:** I'm sure I had it.

**Dr Mellifont:** Because you've written a file note?

**Ms Wood:** Yes.

**Dr Mellifont:** But that is the extent of your recollection?

**Ms Wood:** I don't remember the meeting itself, no.

**Dr Mellifont:** So the process we are going through is you doing your best for a reconstruction based on your file notes?

**Ms Wood:** That's right.

**Dr Mellifont:** That's a fair description?

**Ms Wood:** Yes.

**Dr Mellifont:** All right. So please tell us, as you go through, any areas where you're not sure about, okay? Please proceed.

**Ms Wood:** By the look of the file note I would have written down everything he said. That is just generally what I do. Looking at this, he just started talking about things I'd probably known. That they're the records of the Crown, that the archives' responsibility was to hold the records. He's just giving an overview. I don't know what questions I would have asked to have prompted any of this, but he might—I think, by the looks of it, I was inquiring about how the project started.

**Dr Mellifont:** Do you know why you were asking these questions?

**Ms Wood:** I'm not sure I did ask the questions. He talked a lot and I just wrote down what he said, I think, most of the time.

**Dr Mellifont:** Okay. Do you recall the purpose of this meeting??

**Ms Wood:** I thought the purpose was to get the documents, the spread sheets. I think I turned up there for that main purpose, but I think I had it in the back of my mind I should check whether the project itself was lawful and I would get a background as to who was responsible for authorising the transfer in the first place. He goes—about three-quarters of the way down the first page, there was a general authorisation or delegation to set the RAPs on all the holdings. And then it looks like Brendan Butler, 'BB', gave Greg Rigby, the director of information management and Janet Legg, the records management manager, that authority. Then he says, then eventually him. Then he goes through, again, the same information I knew. In other words, there was a RAP change by Suzanne Sweeper in September 2011 and General Counsel and, subsequently, they discussed it with Warren Strange.

**Dr Mellifont:** Just interrupting there. RAP change: you just said 'by Suzanne Sweeper', but it's your understanding, isn't it, that the person who authorised it was, in fact, Mr Duell?

**Ms Wood:** He implied there that Suzanne Sweeper, who obviously replaced Janet Legg, also had an authority to change the RAP. So she did such a change in September 2011. It's got 'GC' next to it—I think that's—sorry, I will recant that. I think that is when Suzanne Sweeper asks General Counsel for an advice in September 2011. That probably refers to her memo, sorry. And then, subsequently—so he is telling me the same information I knew. Then he says, 'Subsequently I discussed with it Warren Strange'. Rob wasn't present at the time. Warren Strange said go ahead with the change from 65 to 20 years save for the public exhibit—sorry. In other words, referring to the public exhibits, save for non-publication orders. So that change was only to do in relation to the public exhibits. As part of those public exhibits, there were some public exhibits that had non-publication orders on them. So he wasn't giving all the RAP change to the public exhibits; just those that didn't have a non-publication order. That's my understanding.

**Dr Mellifont:** That is what he is telling you?

**Ms Wood:** Mmm.

**Dr Mellifont:** Yes, all right. Proceed, please.

**Ms Wood:** Then he proceeds to give a background about non-publication orders have 100 years RAP on them and that it was Janet Legg that actually did the categorisation of each of the materials. He took the word 'series' as meaning exhibits.

**Dr Mellifont:** He told you the word 'series' meant exhibits?

**Ms Wood:** I would have been writing down what he was saying, so he says—I think I asked him, 'What is a series?' He said, 'I take them as meaning different categories of exhibits'.

**Dr Mellifont:** Had you checked with him on 29 May 2012 what 'series' meant?

**Ms Wood:** No, but I sort of understood they were groupings of different categories of documents. The way he'd explained it was those three series that he'd left on the 20-year RAP were the public exhibits, the public transcripts and the public documents, so they were categories of documents.

**Dr Mellifont:** Please proceed.

**Ms Wood:** I think I said something about 'How come the form refers to exhibits' or something like that.

**Dr Mellifont:** I missed that, sorry, Ms Wood. I couldn't hear.

**Ms Wood:** The next item I have written down is 'form referred to as "Exhibits"'. I must have cited a form that had the word exhibits on it.

**Dr Mellifont:** Do you know what that was?

**Ms Wood:** Not really, no. Then the next item says, 'Part of the transfer—unclear. They weren't included as non-publication orders (100 year RAP).' So he's just saying as part of the transfer they were not included because they were non-publication orders—that is, that they had a 100-year RAP on them.

**Dr Mellifont:** Can you go to the top of the page, please, in the left-hand corner. What does that say?

**Ms Wood:** It's to do with the criminal justice act and he said in the act that's where we're given the statutory possession and control of the Fitzgerald inquiry material—so section 375 of that act.

**Dr Mellifont:** He's just talking about the transitional arrangements then?

**Ms Wood:** Yes.

**Dr Mellifont:** Please proceed.

**Ms Wood:** After that I've written 'Website Barry Krosch's surveillance'. I am not sure what that word is, but I would say it is something like—

**Dr Mellifont:** You would say it is what?

**Ms Wood:** I don't know what that word is.

**Dr Mellifont:** What did he say about the website?

**Ms Wood:** I can't recall.

**Dr Mellifont:** Do you know what website he's talking about?

**Ms Wood:** I think the archives website.

**Dr Mellifont:** Beyond that, any recollection of the context?

**Ms Wood:** If I had to put any meaning to it I think I might have said, 'How do you know Barry Krosch's surveillance material is definitely not in archives?' And he said, 'You pop on the website.'

**Dr Mellifont:** Pop on the website?

**Ms Wood:** Yes.

**Dr Mellifont:** Right.

**Ms Wood:** He said they have a database. I'm sort of reading in-between the lines. But I have written the word database so I'm assuming they have a database via the website and you can check that way.

**Dr Mellifont:** All right. Proceed please.

**Ms Wood:** Then he goes through and then says, 'They're all 65 years except exhibits, transcripts and inquiry documentation.' And I was confirming with him what that meant again. I said, 'What sort of documents would be in there?' And he said—this is what I have written—'looks like exhibits'.

**Dr Mellifont:** Did he tell you he'd actually checked to see that they were, in fact, public exhibits?

**Ms Wood:** No, but when I talked to him I said, 'What sort of documents are they?' and he said, 'Well, they look like exhibits.' I've written down whatever he said. I have inverted commas so—

**Dr Mellifont:** So that was the best description he could give in response to your question so far as you can recall?

**Ms Wood:** Yes.

**Dr Mellifont:** Proceed on please.

**Ms Wood:** The next line refers to, I assume, Janet Legg's conservative approach on putting the 65 years on originally, but I'm not sure what that refers to, to be frank. It just says, 'Took a conservative approach—save.' I think 'save' I usually write as except. So, in other words, they took a conservative approach on everything except exhibits, the transcripts and these exhibits looking like publicly available documents. That's how he's worked out what stays at 20 years. The next item says, 'TL files, GH files etc—they're all now 65 years.'

**Dr Mellifont:** TL files and JH files, meaning what? No idea? This description Mr Duell is giving you at this point in time is all fairly vague, isn't it? Do you accept that?

**Ms Wood:** He's saying mostly—except a couple of bits—what I'd already known. So I'm not really sure. I think he was just talking and I was just writing down.

**Dr Mellifont:** And you have no recollection now whatsoever as to what a TL and JH file is?

**Ms Wood:** I can't think of it, no. He might have just given me names of people like Terry Lewis, is my quick guess—Terry Lewis and Jack Herbert.

**Dr Mellifont:** What was the relevance of that in the particular context you were having a discussion?

**Ms Wood:** I don't know. I was just saying 'Well, what documents are 65 years?' and he is saying, 'For example, the Terry Lewis files and the Jack Herbert files. They're all now 65 years.'

**Dr Mellifont:** All right. Go on.

**Ms Wood:** Then we seem to go on to another subject because of my little dash and then we go back to the topic of how the transfer—I have written here—'Transfer started/commenced'; gives me a history, the file number is 07, started in 2007. These notes are in relation to ascertaining what the basis was of the transfer in the first place.

**Dr Mellifont:** This next page you have 'eg QUT electronic access to t'script (we still have)'—what's that to do with?

**Ms Wood:** So I have obviously prompted the question of: do we have anything at all? And he said, 'They've got this project with QUT where they have electronic access to the transcripts. Apparently we must have had some transcript in Word, I think. He says, 'Word Perfect 5' we have a copy. He liaised with Ross Martin. And he says, '16 pg transcript', but I'm not sure what that means. Each day they might do 16 pages and put it on digital electronic access. So my understanding was, looking down those notes, that Ross said, 'Get QUT to negotiate with the State Reporting Bureau and get that happening.' In other words, it was a project where they were putting the Word Perfect copy of the transcript so it could be electronically accessed.

**Dr Mellifont:** So none of this really has anything to do with the restricted access period issue, is that right?

**Ms Wood:** No, I don't know why he's telling me that.

**Dr Mellifont:** When's the next note on topic?

**Ms Wood:** Three quarters of the way down he says, 'State Archives is the one that approved the transfer of Fitzgerald holdings to Queensland State Archives.' So I was just trying to find out who could have authorised that transfer and whether it was valid or lawful. And he explained that it actually came from their end which is they, under the act, could authorise or accept that that bulk holding of Fitzgerald inquiry material could be transferred.

The next relevant part I think is at the bottom of that page where I noted, 'Archives have a policy that we have the control of the files.' I think my question might have been: how do these journalists get access to this material? I'm only guessing. And he said something like, 'Well we've got a policy that the control is with the CMC.' Then I have '—person fills out & sends to us & we authorize the access to those'—and I don't have the bottom bit, but I'm assuming those people that are applying. So he is just explaining that you can actually apply for one of those items and that we actually are the ones that decide whether or not a journalist can access that information or not. I've got a little note at the side, it says 'Seeks GC'—meaning general counsel's—'advice (a few came in'—in other words, a few requests came in for Fitzgerald inquiry documents '& GC'—meaning general counsel—I think the word 'stayed' and 'PD asked'. I'm not sure what that means. I think it

just stayed in the office with a query—what do we do with these requests, such as Matt Condon's I gather.

Just going back to my little note at the bottom of the second last or third last page, it states 'Seeks GC advice (a few came in & GC stayed + PD)' and then I have an arrow. I think that word is authorised—'auth'. So it's Mr Duell's delegation authority that he authorises the access. In other words, you can get access to 65-year period documents I gather from what he'd said. He gets advice from general counsel and then he authorises the release of that.

**Dr Mellifont:** But that particular aspect of that information surely must already have been known by you?

**Ms Wood:** I think most of everything he said was.

**Dr Mellifont:** Because in your experience within the LSU you would've come across requests by individuals for material and that LSU were asked to provide advice on it? You have no recollection of that ever happening?

**Ms Wood:** The only one I was familiar with was the Brifman transcripts.

**Dr Mellifont:** Mr Duell in his evidence said words to the effect that he was dissatisfied or unhappy with the system because records management felt that they were simply a conduit for requests of this nature through LSU. You don't have any context or familiarity with that kind of process?

**Ms Wood:** I think he would have asked general counsel whether or not 100-year non-publication order material could be released. Just in context, I only got there in May 2011. The Brifman request was, I gather, September 2011. I did receive an email from him saying what's happening and I said, 'I'll ask Rob' and referred him to Rob thinking that those sorts of decisions of a non-publication order should get some advice from general counsel.

**Dr Mellifont:** The final page of your notes, please, and then we'll move off them. So we have 'Commence Project 2007 (PD—IT Mgr)'. Is that what he told you his role was then?

**Ms Wood:** Yes.

**Dr Mellifont:** Not the director of management?

**Ms Wood:** That's right.

**Dr Mellifont:** 'Janet keen to t'fer archives massive undertaking'. What do we see after that?

**Ms Wood:** My photocopy is hard to read.

**Dr Mellifont:** I think it says TCRs. Are you familiar with that term?

**Ms Wood:** No. It was just related to the project and its commencement. Obviously Janet Legg was keen to transfer them to archives. It was a big job. I don't know what TCRs mean.

**Dr Mellifont:** Mr Duell never made you familiar with that terminology TCR?

**Ms Wood:** I would've known when I've written it down but I don't know now. It did not seem relevant to what I was asking anyway.

**Dr Mellifont:** 'To do—copy eg last list docs', is that what it says?

**Ms Wood:** Yes.

**Dr Mellifont:** What does that mean?

**Ms Wood:** So it says copy for example the last list of documents. So he would have had a list of documents and shown me because that was what we were discussing at time.

**Dr Mellifont:** A list of what kind of documents?

**Ms Wood:** They're the list of documents that he eventually sent me later in the afternoon. So the list of documents that were on the Fitzgerald holdings. So essentially I would've asked him, 'Can I look at the list of the documents that now have the 65-year RAP that are the surveillance reports.'

**Dr Mellifont:** So did you only ask him for one list and the nature of the list was Fitzgerald inquiry holdings which now had a 65-year RAP?

**Ms Wood:** I cannot recall specifically that, but I think I said, 'Can I just check that it's a 65-year RAP on your records.'

**Dr Mellifont:** And the next comment is 'Memo—transfer'. What does that mean?

**Ms Wood:** I saw on the file that there was a memo all about the transfer of the Fitzgerald inquiry material and I wanted to look at that memo and make sure that it was a lawful dissemination.

**Dr Mellifont:** Do you know who the memo was to or from—the context of it?

**Ms Wood:** I think it was something like one of the chairpersons'—it must have been Robert Needham's—authority to transfer the Fitzgerald inquiry documents in the first place. Because I put a question mark, I don't know I saw it in the file. I think I was asking—the to do list is chase up the memo that actually authorised the transfer in the first place. I'm not sure if it was or wasn't on the file or if I found it, but essentially I cited something that authorised it by Robert Needham for that transfer to occur.

**Dr Mellifont:** At some point in time when you were checking out the dissemination issue.

**Ms Wood:** That was on my to-do list, so clearly I hadn't done it at that stage. It was either in the file or I cited it or something.

**Dr Mellifont:** But you had satisfied yourself back in May of 2012 that there wasn't an unlawful dissemination issue.

**Ms Wood:** That's right.

**Dr Mellifont:** What was left to resolve?

**Ms Wood:** I thought the project itself—I wondered if there was—I just wanted to cite the delegation or the authority in the first place when it first actually was disseminated from the CMC.

**Dr Mellifont:** Do you know whether after 26 July you actually ever did that?

**Ms Wood:** I took the file with me I think at that stage, that particular one that was located with my notes on it, and perused that file. I obviously found it because I do recall seeing something from Robert Needham.

**Dr Mellifont:** So to the best of your recollection you recall seeing something from Mr Needham authorising the dissemination.

**Ms Wood:** Yes.

**Dr Mellifont:** But you are not sure precisely what that is.

**Ms Wood:** It was a memo but it wasn't a section 62 dissemination.

**Dr Mellifont:** Can I table please that file note?

**CHAIR:** Is leave granted? There being no objection, leave is granted. It is document 87.

**Dr Mellifont:** Now you said that asked Mr Duell for the 'last list of docs' and you have explained that as being a list of documents which demonstrated to you that it was now a 65-year RAP. Is that correct?

**Ms Wood:** Yes.

**Dr Mellifont:** You then received an email at 4.29 pm on 26 July from Mr Duell. Correct?

**Ms Wood:** Yes.

**Dr Mellifont:** And this is the email which you provided in hard copy through your solicitor to the committee. Correct?

**Ms Wood:** Yes.

**Dr Mellifont:** Attached to that email we see four further documents.

**Ms Wood:** Yes.

**Dr Mellifont:** For the record, they are described as 'TCR material v2b.xls'; 'table of holdings v2.doc'; 'QSA item list Fitzgerald statements.xls'; 'QSA item list Fitzgerald exhibits.xls'. The email then reads, 'Sidonie, this link will get you to the QSA database on the holdings,'—and then there is a web link—'Let me know if you need any other information.' I just want to show you these documents so you can satisfy yourself that these are the documents handed to the committee yesterday and these are the ones that you mentioned yesterday in your evidence that you had hard copy of.

**Ms Wood:** Yes.

**Dr Mellifont:** Can I also ask from the table documents for the bundle of A3 spreadsheets that was tendered late yesterday afternoon—tabled document 84? If that could be placed before the witness, please.

**Ms Wood:** Yes, that's them.

**Dr Mellifont:** Are they the hard copy printed out by you in respect of the attachments to the 26 July email we see there?

**Ms Wood:** I didn't print them out myself, but yes.

**Dr Mellifont:** Who did?

**Ms Wood:** My assistant did.

**Dr Mellifont:** So did you tell your assistant, 'Print out the email, print out the attachments and give them to me'?

**Ms Wood:** Yes.

**Dr Mellifont:** And that happened.

**Ms Wood:** Yes because if you print them from my computer I might have been reproducing the material I gave you but you end up with just a little thing that is half of this.

**Dr Mellifont:** Yes, I think we have experienced that from the electronic version sent through from your solicitor this morning. For the record, Mr Cranny sent an email to me this morning of PDFs of documents and, as I understand the situation, they are the documents which are reflected in this email.

**Ms Wood:** That's right.

**Dr Mellifont:** Now you asked from Mr Duell for one list—that is, 'Give me a list of documents showing me that the records are back to 65 years.' You got four enormous bundles of spreadsheets.

**Ms Wood:** Yes.

**Dr Mellifont:** What did you do with that information?

**Ms Wood:** I perused it.

**Dr Mellifont:** And?

**Ms Wood:** Looking for the 65-year notations.

**Dr Mellifont:** Did you find them?

**Ms Wood:** There was one that he'd sent that had 65 years written on it. That was this one here.

**Dr Mellifont:** Can I ask that to be handed up to me so I can identify it for the record? I am going to mark it with a letter 'A' in pink highlighter in the top right-hand corner and I will have it returned. When you looked at that document, what did you do?

**Ms Wood:** I thought there is a document identifying a number of documents being 65 and I think after a time I spoke to Peter Duell just to confirm these are 65 as well and he said yes. The next step was well 'thank you', I think.

**Dr Mellifont:** Let's step that through, please. You looked at that bundle. You simply saw the number 65 appearing in a column repetitively.

**Ms Wood:** Yes.

**Dr Mellifont:** Did you assume from that that what that means is that the CMC records were reflecting 65 years?

**Ms Wood:** Yes.

**Dr Mellifont:** The CMC records in respect of all sensitive information out of the archives subject to the 100 years for non-publications. Is that the assumption you came to?

**Ms Wood:** Yes.

**Dr Mellifont:** Why did you assume that?

**Ms Wood:** Because that's what he told me basically. He assured me that the 65 years had been changed. I just was looking for the number 65 years on our records to ensure that our records actually reflected that RAP change.

**Dr Mellifont:** So, in terms of your assessment of the documents, that is the extent of the cross-check you took?

**Ms Wood:** Yes.

**Dr Mellifont:** You have just said you also had a conversation with Mr Duell.

**Ms Wood:** Yes.

**Dr Mellifont:** Is that after the receipt of this email on 26 July?

**Ms Wood:** Yes.

**Dr Mellifont:** When?

**Ms Wood:** I can't recall.

**Dr Mellifont:** And why did you have that conversation?

**Ms Wood:** Just to follow up to make sure that even though I can't see here written '65' that these were 65 written somewhere.

**Dr Mellifont:** Can you hand me up the bundle you placed your hand on then and just a moment ago when you were talking about 'this bundle here'? I will get that identified for the record. I am going to place the letter 'B' in the top right-hand corner in pen. So how much of this bundle of spreadsheets did you look at before talking to Mr Duell to check to make sure that this was 65 years?

**Ms Wood:** I could tell that he had highlighted the yellow parts which I took as being the surveillance reports that Mr Krosch was referring to. In other words, I had actually asked for him to identify on the spreadsheets the actual surveillance reports that had been released. So those documents that had been released at archives between February and May I wanted to get him to identify them so that I could see what documents had been disseminated wrongly.

**Dr Mellifont:** When did that conversation occur?

**Ms Wood:** During the 26th conversation the purpose of the meeting was that he was going to show me that we had changed our records to 65. I just didn't see that from the records he showed me. He said he would send them to me. I mentioned I will need to see the actual records that were disseminated because these show a number of records—thousands and thousands of records. I was just interested in the records that had been disseminated wrongly.

**Dr Mellifont:** And to your understanding the wrongful dissemination was limited to surveillance records.

**Ms Wood:** Yes.

**Dr Mellifont:** And your understanding in that respect was based purely on Mr Krosch's email to you in May of 2012 telling you that surveillance records had been available in the public domain. Correct?

**Ms Wood:** Yes.

**Dr Mellifont:** And, having been told that by Mr Krosch, that was accepted by you as the extent of the material which was available in the public domain. Is that correct?

**Ms Wood:** Yes.

**Dr Mellifont:** So in this bundle of spreadsheets we do see yellow highlighting.

**Ms Wood:** Yes.

**Dr Mellifont:** Right. Before returning to this spreadsheet, why was it that no interrogation was made of Mr Krosch in terms of his email report to you as to the availability of the surveillance records? Perhaps I should express that question a different way because I can understand why it might be confusing. Mr Krosch is saying to you, 'Look, there are surveillance records out here,' querying whether targets would be happy about that. Why not go back to Mr Krosch—ring him up, send him an email—and say, 'What is it that's out there?' Why not do that?

**Ms Wood:** We acted upon it straightaway. We took it for granted what he said in his email that the surveillance reports were released.

**Dr Mellifont:** Why take it for granted?

**Ms Wood:** He said it in his email, so we accepted that.

**Dr Mellifont:** You didn't know him from a bar of soap though, did you?

**Ms Wood:** Well, that was what our initial inquiry was with Peter Duell—were they released? Obviously he said yes.

**Dr Mellifont:** No. That is a different question. You had no personal knowledge of Mr Krosch or his credibility. Do you accept that?

**Ms Wood:** Correct.

**Dr Mellifont:** Why wasn't it at that point in time, as soon as you became aware by Mr Krosch of the report, that further interrogation inquiry was not made of Mr Krosch as to exactly what it was he was looking at?

**Ms Wood:** I'm not sure why.

**Dr Mellifont:** Weren't you interested?

**Ms Wood:** I accept that wrongfully information had been disseminated. I had some knowledge from the RTI officer there that he had had some dealings with Mr Krosch previously; hence my letter about the Kimmins inquiry information. I think the RTI officer had told me he had worked at the CJC before. I took it that he was reputable. So if he said there was disseminated material out there that shouldn't be out there, I accepted that information.

**Dr Mellifont:** If you took him as being reputable, surely he would have been a good person to ring up and say, 'What is it that's out there?' Do you accept that?

**Ms Wood:** Well he described it as surveillance reports and most people in the area of criminal law have a general knowledge of what a surveillance report is.

**Dr Mellifont:** Yes and a general knowledge of how sensitive it can be, do you accept?

**Ms Wood:** Yes.

**Dr Mellifont:** Were you disinterested in finding from Mr Krosch exactly what it was that he could see and how he could get to it?

**Ms Wood:** Not at all.

**Dr Mellifont:** Why not ring him? Why not find out?

**Ms Wood:** In retrospect that would have been a good idea.

**Dr Mellifont:** Returning to this bundle B, there is a post-it note on the back which reads 'surveillance reports + + yellow access'. Is that your file note?

**Ms Wood:** Yes.

**Dr Mellifont:** When was that affixed?

**Ms Wood:** I don't know.

**Dr Mellifont:** If you look at this bundle and you look even just at the very first entry of it—and you will appreciate I am not going to read out names. If you read the first entry we have got: '\*\* Confidential'—abbreviated—'... memo'—name of a witness—the words 'detoxification program' and 'witness protection'. The first page is littered with names of individuals, entries marked '\*\* Confidential \*\*', entries which don't have that confidential notation at the beginning but have sensitive information. Did you read that page?

**Ms Wood:** I would have perused it, yes.

**Dr Mellifont:** Having read it, you would have thought these descriptions contain extremely sensitive information?

**Ms Wood:** Well they were our records. I would have assumed that we would have needed to have that information to be able to classify it and know what that is. So these are a group of our documents, and I assumed therefore they have got numbers of documents next to them and that they need to have summarised or précised that document so that you knew what document No. 397 was.

**Dr Mellifont:** Did you also assume that these types of descriptions hadn't made their way to the Queensland State Archives?

**Ms Wood:** I wouldn't have thought so.

**Dr Mellifont:** Did you assume that? Did you turn your mind to it?

**Ms Wood:** I don't think I turned my mind to it. I was looking for the 65-year RAP.

**Dr Mellifont:** What did you understand this bundle to be?

**Ms Wood:** They're the sensitive documents and the yellow parts are those that were disseminated.



**Dr Mellifont:** So, if these are the sensitive documents, what did you do to satisfy yourself that, in respect of each of them or collectively as a bundle, they were all now 65 years at least? What did you do?

**Ms Wood:** I asked him to confirm they were under 65 years.

**Dr Mellifont:** As I understand your evidence, Ms Wood, what you asked him to confirm was that the surveillance records were now 65 years; is that right?

**Ms Wood:** Yes, but I would never assume those records were disseminated.

**Dr Mellifont:** You have acted on the assumption that these things simply weren't out there in the public domain in any way?

**Ms Wood:** That is right.

**Dr Mellifont:** Description or document physically?

**Ms Wood:** That is right.

**Dr Mellifont:** But that was never checked; that was just an assumption made by you, is that right?

**Ms Wood:** I relied on Mr Duell to ensure that those yellow documents that were disseminated were 65-year RAP now.

**Dr Mellifont:** But, to answer my question, it was an assumption made by you that this was never out in the public domain in any form?

**Ms Wood:** Well he didn't tell me they were. He would know.

**Dr Mellifont:** I will ask the question for a third time. It is the last time I will ask it. Did you assume that this information here was not out in the public domain?

**Ms Wood:** Of course.

**Dr Mellifont:** If you were aware that this kind of information was out in the public domain, I take it you would have been as distressed by the prospect as you expressed yesterday when shown the metadata?

**Ms Wood:** Absolutely.

**Dr Mellifont:** And there would have been an immediate shutdown?

**Ms Wood:** Yes.

**Dr Mellifont:** Can I take you to the third bundle, which is another spreadsheet which is attached to the 26 July email? You can take your pick.

**Ms Wood:** The colour ones.

**Dr Mellifont:** What did you understand that to be?

**Ms Wood:** I understood this was their record of items for non-publication orders and non-publication information and how they assess them, what items were 100 years, and the other items gathered were 65 years although it wasn't documented. That is what I was following up.

**Dr Mellifont:** Can I ask for that bundle to be handed to me, please? I am going to put the letter 'C' in the top right-hand corner. I am sorry, did you say you took all of these to be the items which were subject to non-publication orders?

**Ms Wood:** No, there is some in—there is an 'access' column, 'C' I think it is, that has items as non-publication orders or not for publication or inspection, 'NFP'.

**Dr Mellifont:** Where did you understand this spreadsheet came from?

**Ms Wood:** I don't know. He has just sent them to me as a list.

**Dr Mellifont:** You don't know why he sent this to you?

**Ms Wood:** No.

**Dr Mellifont:** You didn't ask for it?

**Ms Wood:** No. I asked for two things: one, can I have the list of the disseminated material and, two, show me where we have recorded that they are 65 years.

**Dr Mellifont:** I take it that nothing was done by you to check that the items listed in this spreadsheet which are not marked 'NFP' were now the subject of a 65-year restricted access period?

**Ms Wood:** As part of our conversation, as it would have been brief, I said, 'I'll assume that they're 65 years,' or words to that effect because they were not listed in the item and that was the one that I had seen in his office which was blank, that access period. So I just wanted an assurance that that was 65 years.

**Dr Mellifont:** Did he tell you that everything not marked 'NFP' was in fact 65 years in this list?

**Ms Wood:** They weren't the words but along the lines of: 'So are they all 65-year RAP, are they?' 'Yes.'

**Dr Mellifont:** Was that at the time you were in his office on 26 July or was that subsequent to you receiving the spreadsheets and you having a conversation with him?

**Ms Wood:** I had a really brief conversation afterwards, yes.

**Dr Mellifont:** Did it occur to you at any point in time that some of the information within this type of spreadsheet was available in the public domain?

**Ms Wood:** Not at all.

**Dr Mellifont:** I take it from your previous answers that nothing was done by you to check that; correct?

**Ms Wood:** I wasn't tasked it; that is correct.

**Dr Mellifont:** So the answer is 'yes'?

**Ms Wood:** Yes.

**Dr Mellifont:** I will return that bundle to Ms Wood. Can I take you to the last bundle, which is the exhibit which was tendered yesterday. This was another spreadsheet attached to that email of 26 July.

**Ms Wood:** That is correct.

**Dr Mellifont:** What did you take it to be?

**Ms Wood:** Another bundle of information, of lists of documents that refer to sensitive—well, in the 65-year RAP period.

**Dr Mellifont:** Did you ask for that?

**Ms Wood:** I thought I asked for the disseminated documents that had the 65-year period. He has identified them. However, I may have asked, 'Can I have a look at the list of the 65-year RAP material.'

**Dr Mellifont:** You don't know whether you did or you didn't?

**Ms Wood:** I can't recall.

**Dr Mellifont:** Do you recall being confused by four large spreadsheets being attached to an email of 26 July when—

**Ms Wood:** Definitely. I mean, it is a big task to peruse, to work out. But my focus was only one thing, which was the 65-year RAP change on our documents at the CMC. It was a follow-up.

**Dr Mellifont:** It seems you are fairly clear at least that one thing you really wanted to know was that the surveillance records were back to 65 years.

**Ms Wood:** Yes.

**Dr Mellifont:** And we know from one of the bundles that there has been a yellow highlighting process identifying the documents which were disseminated?

**Ms Wood:** Yes.

**Dr Mellifont:** But beyond that it must have been a source of confusion or frustration to you that, in response to your request, you are bombarded with four spreadsheets without any explanation as to the function of each of them?

**Ms Wood:** Yes.

**Dr Mellifont:** Right. That kind of stuff lands in your email without explanation, you want to know what it is, don't you?

**Ms Wood:** Yes.

**Dr Mellifont:** So did you go back to Mr Duell and say, 'What is all of this stuff?'

**Ms Wood:** Well, I perused it. Again, as I said, my focus was to see whether or not 65 years was recorded on what I would think is sensitive material. I wasn't sure that the yellow highlights were 65 years because it didn't have a number 65 years next to it like, say, this collection of documents. That was my purpose of the conversation: 'Can you assure me that those documents are 65 years? I cannot see the number next to it.'

**Dr Mellifont:** It was impossible for you from your perusal to satisfy yourself that everything disseminated was up to 65 years; you would accept that?

**Ms Wood:** Yes.

**Dr Mellifont:** You again had to rely upon the word of the individual who had made the mistake in the first place?

**Ms Wood:** Yes.

**Dr Mellifont:** Can I have that last bundle back, please? I will return this table to the tabled documents section. Can I ask for that bundle, please? Ms Wood, what I want to show you is our printout of the bundle which has been marked 'B' and it has indeed been printed out in the format you spoke of as being a difficulty. So it is partial but it is sufficient to illustrate the point. If you can accept from me that we have printed what is now document B.

**Ms Wood:** Yes.

**Dr Mellifont:** And if you can go, then, to the tabbed entries.

**Ms Wood:** Yes.

**Dr Mellifont:** Can you just give me a minute, please. For obvious reasons I don't want you to read out what is in the records, so allow me to read out the parts that are sufficiently redacted.

**Ms Wood:** Yes.

**Dr Mellifont:** The first tab, which is page 14, has an entry '\*\*\* Confidential \*\*\* A.F.P file' on named person.

**Ms Wood:** Yes.

**Dr Mellifont:** The second entry, page 16, '\*\*\* A.F.P report' on named judge.

**Ms Wood:** Yes.

**Dr Mellifont:** Payment by X to the credit card provider for the named judge.

**Ms Wood:** Yes.

**Dr Mellifont:** Do you agree that the nature of that information in and of itself is very sensitive?

**Ms Wood:** Very.

**Dr Mellifont:** You would not want that out in the public domain?

**Ms Wood:** Definitely not.

**Dr Mellifont:** This is precisely the sort of thing that would have caused you distress like the metadata did yesterday?

**Ms Wood:** Yes.

**Dr Mellifont:** I take it in perusing the spreadsheet you would have observed sensitive information of a similar nature that would have caused you concern if it had been in the public domain?

**Ms Wood:** Yes.

**Dr Mellifont:** If you can accept this proposition: that is, those documents fall within the series at 18651, which is the inquiry documentation referred to in the letter of 29 May 2012 and which was not returned up to 65 years. Do you accept as a proposition that not checking to see precisely what was in that file—the inquiry documentation file—to satisfy yourself that it didn't contain sensitive information is a very grave error of judgement? Do you accept that?

**Ms Wood:** I wasn't tasked to physically audit or check what was in the files. My task was to ensure the RAP had gone back to 65 years. Those physical audits I assumed had been done previously and they knew what was in each of the series. I made an inquiry about the nature of those documents to check that it was public and I got that confirmation or assurance from Mr Duell.

**Dr Mellifont:** Do you accept that if you had been made aware in May 2012 that this type of information was still out there, you would have taken immediate steps to close it down?

**Ms Wood:** Definitely.

**Dr Mellifont:** But you do not accept that your perception of the narrowness of your brief from Mr Martin has led to any of this?

**Ms Wood:** I do not accept that, no

**Dr Mellifont:** Although your expression of the terms used by Mr Martin to you was to make sure the 20 years was removed, you perceived your role, didn't you, as fixing the problem?

**Ms Wood:** I was not asked to fix the problem. The context of the conversation was, 'It's fixed', 'Make sure it's fixed,' or something along those lines. The words he actually used were, 'Make sure it was removed', that is the RAP.

**Dr Mellifont:** You are talking about the conversation between you and Mr Martin?

**Ms Wood:** Yes.

**Dr Mellifont:** You would have gleaned from that that he wanted the problem sorted?

**Ms Wood:** Yes.

**Dr Mellifont:** You will accept in retrospect that the problem certainly was not sorted?

**Ms Wood:** Certainly was not, no.

**Dr Mellifont:** And do you still stand by your view that you did all that was necessary in order to carry out the instructions of Mr Martin?

**Ms Wood:** Well, in retrospect I possibly would have—there could have been things that I may have been able to do. I cannot think of them. Save for actually doing a physical audit I would not have been able to—someone would have had to have gone back and made sure that series number and the documents in that series number were not sensitive.

**Dr Mellifont:** There is nothing that prevented that occurring, though?

**Ms Wood:** Well, I was not tasked it, but I am not an auditor. I would think that anyone in records—that is what their staff does do. Although I was not tasked it, I possibly could have popped in that series number, for example, looked at—checked what he was giving permission for I guess, yes.

**Dr Mellifont:** You would have to accept that even a cursory glance of any of the records reflected in these spreadsheets would have at least made it clear that there was a lot of sensitive Fitzgerald information within holdings?

**Ms Wood:** It would put anyone on notice, yes.

**Dr Mellifont:** It would have put anyone on notice?

**Ms Wood:** Yes.

**Dr Mellifont:** The covering email of 26 July attaches a link to the Queensland State Archives.

**Ms Wood:** Yes.

**Dr Mellifont:** I think you mentioned before that you might have had a quick look at that. What did you look at?

**Ms Wood:** It had a section called Fitzgerald holdings and then it had a general description of what was in it.

**Dr Mellifont:** When you say 'a general description of what was in it', what are you looking at on the screen?

**Ms Wood:** It had the word 'Fitzgerald holdings' and then it had some sentences about what the holdings were.

**Dr Mellifont:** Did you go beyond that?

**Ms Wood:** I cannot recall.

**Dr Mellifont:** Did you look at any of the metadata for any of the documents that were held at Queensland State Archives?

**Ms Wood:** I do not recall that, no

**Dr Mellifont:** Right. What was the purpose of the link being sent to you?

**Ms Wood:** I cannot recall. I am not sure.

**Dr Mellifont:** So I take it you took no steps at that stage to look at what was available online to satisfy yourself that there was not sensitive information out there in the public domain?

**Ms Wood:** I do not remember whether I did or not.

**Dr Mellifont:** If you can accept this proposition that as at July 2012 the metadata holdings at QSA which were available on their database had precisely the kind of sensitive information that you have been shown this morning, if you had looked, you would remember it. If you had looked and seen sensitive information of a nature you have seen this morning—if you had looked at that in July 2012—

**Ms Wood:** Exactly those words that was on those sheets?

**Dr Mellifont:** Anything to do with informants, surveillance, naming suspects?

**Ms Wood:** Yes.

**Dr Mellifont:** If you had seen anything like that available on a web link at the Queensland State Archives in the context of the Fitzgerald inquiry, you would remember that?

**Ms Wood:** I probably would, yes.

**Dr Mellifont:** You would, wouldn't you, Ms Wood, because you would have closed it down.

**Ms Wood:** I think all I saw were words like 'correspondence', 'files', 'documents' and I, therefore, would not have seen the others. I would have raised it with Mr Duell, yes.

**Dr Mellifont:** So we can take it from that that the extent of your interrogation of that link was just to look at the general description at the front?

**Ms Wood:** Yes. I have to be frank and say there is no way I would have thought those descriptions that I was reading on our documents would be in any way in the archives. I just would not have thought—I assume they were our records and that that description was not anywhere else.

**Dr Mellifont:** Why act on that assumption and not go a little bit further and make some further keyboard strokes to look at what is actually at the archives, at the link?

**Ms Wood:** If someone said go to the archives, I would have, but my task was to make sure that it had been changed to 65, yes. Look, clearly in retrospect, it would have been a great idea to send someone to archives.

**Dr Mellifont:** At least in cyberspace you were directed exactly there, weren't you, by that email on 26 July?

**Ms Wood:** Yes.

**Dr Mellifont:** Can I please table that email of 26 July and the attached spreadsheets, which I have marked as A, B and C?

**CHAIR:** Is leave granted? Leave is granted. It is tabled document 88.

**Dr Mellifont:** They need to be not for publication given the contents of them, please.

**CHAIR:** Not for publication. Do members agree for those documents not to be published? Aye.

**Dr Mellifont:** Have you described in full now the steps you took to satisfy yourself that you had carried out the task of Mr Martin?

**Ms Wood:** Yes, that is my recollection.

**Dr Mellifont:** Did you report back to Mr Martin that, for you, the issue had now been resolved and closed?

**Ms Wood:** I cannot recall the conversation, but I would have been surprised if I had not.

**Dr Mellifont:** But you do not know whether you did or did not?

**Ms Wood:** I do not have a specific recollection of it, only of speaking to general counsel, but they are one and the same.

**Dr Mellifont:** You regard them as interchangeable?

**Ms Wood:** They work together, yes. They were both across it.

**Dr Mellifont:** Appreciating that this was not your only task, did this issue not stand out sufficiently in your mind—this issue of public dissemination of surveillance material and closing it

down—has it not stood out sufficiently in your mind to be able to recall reporting back to your supervisors that it was sorted? Was it not given that level of priority or importance in your mind?

**Ms Wood:** He did not say report back, but I would have reported back orally. It was important. I think I performed the task I was told to do. I found that it was a lawful dissemination, it changed back to 65 and that is what I thought I was tasked to do. If I was asked to do a physical audit or a written report, I would have done it.

**Dr Mellifont:** I want to take you, please, to the issue of the file notes—the original file notes which were destroyed and replaced last week with rewritten versions.

**Ms Wood:** Yes.

**Dr Mellifont:** In your evidence yesterday I asked you to tell us what the points of difference were and it appeared that you were able to do that with quite a significant degree of precision even down to the truncations of words that you would have used.

**Ms Wood:** Yes.

**Dr Mellifont:** You accept that?

**Ms Wood:** Yes.

**Dr Mellifont:** How is it that you are able to be so precise given that the notes were destroyed, apparently last week or thereabouts, and I take it, therefore, you had no point of reference?

**Ms Wood:** I can just recall. It was not that long ago. It was only a week or so ago. I do not usually write words like 'dissemination' down. There is a group of words that I generally use all the time.

**Dr Mellifont:** You are a solicitor of about 16 years experience; is that right?

**Ms Wood:** Yes.

**Dr Mellifont:** Previously worked at Gilshenan and Luton, correct?

**Ms Wood:** Yes.

**Dr Mellifont:** It is a firm that is substantially involved in acting for clients in criminal matters? Would you agree with that?

**Ms Wood:** Yes.

**Dr Mellifont:** And police in respect of various matters including disciplinary proceedings?

**Ms Wood:** Yes.

**Dr Mellifont:** In your work there you would have had direct experience in those areas.

**Ms Wood:** Yes.

**Dr Mellifont:** You would have seen criticism—trenchant criticism I take it—of police officers or investigators who have destroyed original notes in the course of your work.

**Ms Wood:** Yes.

**Dr Mellifont:** Have you seen that?

**Ms Wood:** Yes.

**Dr Mellifont:** It is an area that you would have seen defence counsel and solicitor cross-examine aggressively on I take it?

**Ms Wood:** Yes, on occasion.

**Dr Mellifont:** Yes. And you know that the destruction of original file records instantly raises issues of credibility and suspicion?

**Ms Wood:** Yes, I do.

**Dr Mellifont:** When did you first become aware that there was going to be a report by the CMC to the PCMC in respect of the RAP issues and the declassification? When did you first become aware of it?

**Ms Wood:** Seven March I think.

**Dr Mellifont:** So the 7th is, I think, the Wednesday—

**Ms Wood:** The day I did the memo to general counsel—I was not aware then. I knew there was a media release on that night of 5 March. The next morning—sorry, that was the afternoon, night that he said, 'Can you do a memo?' The next morning I did the memo. I was not aware then. I

think I assumed there was an internal review by us. That is what the media release was that I read on the 6th.

**Dr Mellifont:** You would—sorry. I did not mean to cut you off.

**Ms Wood:** I am just trying to piece together when I did become aware.

**Dr Mellifont:** Your evidence yesterday was that Mr Hutchings asked you to put together a memorandum as to events and he asked you to do that on 5 March and you did it on the morning of 6 March.

**Ms Wood:** Yes.

**Dr Mellifont:** Using that as a reference point, did you know that there was going to be a reference by the CMC to the PCMC prior to Mr Hutchings asking you to put your memo together or after?

**Ms Wood:** After.

**Dr Mellifont:** And if your memo was prepared on 6 March 2013 what would be the outside period of time before which you became aware there was going to be a referral to the PCMC? A day, two days?

**Ms Wood:** I am not sure. I cannot remember. I think when Mr Martin resigned on the Friday afternoon I was aware that there was a PCMC inquiry, but I cannot quite recall.

**Dr Mellifont:** So general counsel—

**Ms Wood:** It might have been after that. I cannot remember.

**Dr Mellifont:** All right. At the time Mr Hutchings tasked you to put together your memorandum on 5 March did he tell you the purpose for that memorandum?

**Ms Wood:** No, but I assumed by looking at the media release that we were going to review the matter and it was going to be an internal review. So I assumed it was for that purpose.

**Dr Mellifont:** All right. So by 5 March, once you have read the media release, you assumed that there had been an internal inquiry launched or that there would be in the immediate future? Is that your assumption?

**Ms Wood:** The night of the 5th I was asked to attend in his office at some stage, say six o'clock at night. I came in, they were drafting a media release and as part of that media release it had a statement that there was an internal review—that we were going to do an internal review. So after that media release was drafted he then turned to me and said, 'Can you do a memo? Tell me everything about the Peter Duell outcome.'

**Dr Mellifont:** When did you rewrite the file notes and destroy the originals?

**Ms Wood:** I discarded those originals and tidied up the file and rewrote the original on the morning of the 6th when I was pulling together my file and putting it into, I guess, more of a formal, comprehensive file.

**Dr Mellifont:** Ms Wood, given your experience as a solicitor, particularly in the field of criminal law and police disciplinary matters, surely it must have occurred to you that nobody was going to care one iota about your poor handwriting on those original file notes.

**Ms Wood:** They were rough. They were scrawly. I did not think anyone would be able to read them, to be frank.

**Dr Mellifont:** That is a different proposition. I understand the reason for rewriting them so as to make the record legible.

**Ms Wood:** Yes.

**Dr Mellifont:** What I do not understand, against the background of your experience and against the background that you knew there was going to be an inquiry—

**Ms Wood:** A review, sorry.

**Dr Mellifont:** A review—an internal review. What I do not understand, and what I am asking you to provide your best explanation to the committee about—this is your opportunity to do so—is why a person of your experience would destroy handwritten original file notes.

**Ms Wood:** Well, I am embarrassed by it and I regret it. I should have noted on it that I had rewritten them and the date that I rewrote them. I accept that.

**Dr Mellifont:** Is it something that you have done before?

**Ms Wood:** I have rewritten a couple of notes before neatly but usually contemporaneously.

**Dr Mellifont:** Was there something in those notes that you did not want to see the light of day, Ms Wood?

**Ms Wood:** Definitely not.

**Dr Mellifont:** Those are my questions at this stage.

**CHAIR:** Thank you, Dr Mellifont.

**Mrs MILLER:** Ms Wood, I am just really interested here, because you are an SO officer, aren't you? What level are you?

**Ms Wood:** Well, under the act they define a senior officer—it is in schedule 2—as being someone who is a senior executive officer, which I am not. I am a level below that.

**Mrs MILLER:** So in relation to Public Service categories, what would closest describe your position? Would it be a PO5, a PO6, an AO8?

**Ms Wood:** We are not under the Public Service Act. We are not employed under that.

**Mrs MILLER:** I am aware of that.

**Ms Wood:** I am one level above a PO6 and I am paid at an SO level.

**Mrs MILLER:** Okay. So we could reasonably assume that—

**Ms Wood:** It is a similar level to a Public Service—

**Mrs MILLER:** Yes, it is an equivalent level to an SO.

**Ms Wood:** Yes. Sorry, yes.

**Mrs MILLER:** That is what I am getting at.

**Ms Wood:** Apologies, yes. That is what I am paid at.

**Mrs MILLER:** It intrigues me, though, that the evidence you have given to this committee appears to be that you do what you are tasked to do and nothing else, yet my experience of officers at the SO level is that they look much broader in relation to issues that come before them. It appears to me that, even though you are an SO level officer, you take your duties or your tasks very literally, like an AO2 or an AO3 would do.

**Ms Wood:** I do, yes, particularly with that task. I did have an area that I was head of which was conducting the litigation. I did confine that to not a physical audit. But I do operate maybe like lawyers generally do, which is, 'What are my instructions?' and I act on those instructions. If I am not sure about the instructions—usually you write them down—I would confirm them with someone. But, yes, it is a narrowed area which is, 'What are my instructions? I will go off and do it.' That is just generally, I think, what most lawyers would do. I do not generally go out of the field apart from what I am instructed to do.

**Mrs MILLER:** Can I just ask this question as well. Certainly in a public sector environment and you being an SO officer, do you take any responsibility at all for this mess-up?

**Ms Wood:** Clearly, if I had my time again I would have done something different about it, yes. So I do take responsibility to the extent of what I was tasked to do. For instance, I am just thinking maybe with the link that I was given I could have followed that through more.

**Mrs MILLER:** Okay.

**Mr DOWLING:** Good morning, Ms Wood.

**Ms Wood:** Good morning.

**Mr DOWLING:** You being the official solicitor for the CMC, we can expect that you are a diligent, suitably qualified, highly intelligent person at your craft.

**Ms Wood:** Yes.

**Mr DOWLING:** Have you demonstrated any of that to this committee over the last two days? Can we consider you a reliable witness? The reason I ask that question is: you keep dual files; you have shredded evidence; you have manufactured evidence; you have failed to close the loop when tasked to do things. I am sorry: I do not support your proposition that you were tasked to do something, you asked someone if it was done so therefore it must be done. I am not entirely sure that you would be what I consider a reliable witness. Explain to me how I am wrong.



**Ms Wood:** Well, I did not have dual files. I had a group of—well, I had an informal file ready for it to be actioned if necessary. Next to that I had Mr Duell's file with my notes on top of that conversation of what that file meant. If it was actioned it would have formed a formal file. In relation to my written notes, I regret not noting on them when they were rewritten. I discarded those two rough handwritten notes. It was done, regretfully. I understand the significance of that now, but at the time it was done to make the file more comprehensible, for the CMC review to occur—so that it was clear chronologically and what was being done on the file and make it clear for whoever was reviewing the matter. Of course, I never meant to mislead. I assumed that it would be asked for eventually by Mr Hutchings. It was for him to review so that it could be much clearer and understandable about the file itself. It was a bundle of file notes as such.

**Mr DOWLING:** Even in your own answer denying that you have multiple files, you have a file that you work up and then you take material out of that to start a file if it becomes a more formal process. And then there are other files. I am just at a loss as to how the process is followed, but I will confess: I do not come from a lawyer background. I am not a lawyer by trade, nor do I pretend to be. You said in answer to one of the questions from counsel that you believed this was the first time you had destroyed evidence. Do you stand by that?

**Ms Wood:** Yes.

**Mr DOWLING:** Did you have a brain snap on this one? Why would this be the first time in your career as a solicitor, if I am to take you at your word—that this is the one you start to shred notes on, to destroy evidence on: the most significant files in Queensland legal history, arguably?

**Ms Wood:** My written notes I did not consider as evidence. I considered it as an instruction note from the chairperson tasked to follow up a 65-year RAP. In my mind at that point in time I considered it important to provide for the commission a clear and comprehensive file. It did not pass my mind that I was actually writing down evidence for this inquiry, for instance. It was not something that had crossed my mind.

**Mr DOWLING:** How would you feel as a prosecuting lawyer, going back to your criminal days: the police have arrived on scene; they find someone shredding or find out that information was shredded, was altered, was tampered with? As a lawyer, you would go after them, wouldn't you? 'What are they trying to hide? What is missing? Why would you do it?' You would go after them like a rottweiler after a piece of steak. I have nothing further.

**CHAIR:** Do you wish to answer that?

**Ms Wood:** No, thank you.

**Mr KAYE:** I would just like you to clarify a few things for me, Ms Wood. Just in relation to those notes that you have admitted that you rewrote, did anybody ask you or suggest to you to do that or did you just do that off your own bat?

**Ms Wood:** No. General counsel said to write the memo. I was using my file notes to peruse to put into that memo.

**Mr KAYE:** I am talking about the original handwritten notes that you destroyed.

**Ms Wood:** No, that was my decision.

**Mr KAYE:** Okay. Just with your indulgence, I would just like Ms Wood to be given exhibits 7, 43 and 77. Ms Wood, I just want you to look at tabled paper No. 7 first, which is a memorandum from Suzanne Sweeper to general counsel. I know it is not your document. Just after the heading, on the right-hand side, there is a file number that starts with 'AD'. Can you just explain what that is about?

**Ms Wood:** Every unit has different file numbers. That would be the file number that records 'opened' in relation to this issue of seeking advice. I would not have been able to access that, for example. Each unit has their own access, so I could not have gone into records to find that out. But she is just putting that there so they have a record of it.

**Mr KAYE:** So would it be safe to assume that every memorandum or every file would be generated a number so it can be identified?

**Ms Wood:** Yes, that is right.

**Mr KAYE:** What purpose does it actually serve? Is it for auditing purposes or is it just so you can find that file?

**Ms Wood:** No. We have a document collection system—they call it TRIM—so that when you open up the file everything that you do on that file is recorded.

**Mr KAYE:** Okay.

**Ms Wood:** So when a letter comes in you do an email, then they are recorded on that number so that it is captured. People can pop in and see your file—in your unit.

**Mr KAYE:** So it is probably considered just standard practice that that number gets assigned?

**Ms Wood:** It is.

**Mr KAYE:** Well, can you have a look at tabled papers 43 and 77. They are your memorandums or notes to file?

**Ms Wood:** That is right.

**Mr KAYE:** On both of those I notice that they have 'AD-12-\*\*\*'.

**Ms Wood:** That is what I do before the file is opened, so when you do not know the file number. That is to be inserted. In other words, that material does not have a formal file. And it is not until, I guess, in our unit we get instructions that it is to be opened as a file—we do not open it as a file. In other words, obviously I categorise this as a preliminary inquiry before the file opened.

**Mr KAYE:** So has that one since been assigned a number?

**Ms Wood:** It has.

**Mr KAYE:** Okay. I would just like you to look at exhibit 87. That is your handwritten file notes. And I think you said earlier in your evidence that you wrote those notes at the time you had that meeting.

**Ms Wood:** Yes.

**Mr KAYE:** And that was on 26 July 2012.

**Ms Wood:** That is right.

**Mr KAYE:** So they were all written during that meeting?

**Ms Wood:** Yes.

**Mr KAYE:** Can you just explain why, when you look at the date, the day is obviously different to the style of writing for the month and the year? It almost even appears to be a different pen. Up the top there it says '26/7/12', on the actual date. To me it looks like the '7' and '12' have been written in and then at a later time '26' has been written in.

**Ms Wood:** I'd have to look at the original note, but it looks the same to me.

**Mr KAYE:** I do beg to differ on that.

**Ms Wood:** Sorry, can I just say they were. I haven't seen these. I didn't actually see these when I wrote the email. These were actually in the file next to it which was on top of the file I'd taken from Mr Duell, so I haven't actually seen this file note before and between when I'd obviously looked at it in July/August to now. So it was a surprise to me that I actually went to the meeting. I can't recall it. So this material I have not seen until—between when I wrote it, probably, and now. But no doubt you could easily tell from the original whether it was inserted or not. I might've gone back to the room and included the date, but I'm pretty sure I would've written the date at the time that I wrote the note.

**Mr KAYE:** Would you like to have a look at the original document?

**Ms Wood:** Sure.

**Mr KAYE:** Is that okay, Madam Chair?

**CHAIR:** Sure. For the record, this is from the file AD080172—a yellow document.

**Ms Wood:** Thank you. I'm looking at it now.

**Mr KAYE:** I may be wrong, but just to me it looks like the 26th has just been put in as an afterthought at some other time. It certainly seems to have been done in a hurry compared to the 7 and the 12.

**Ms Wood:** Looks like it's the same pen and same time to me, but, look, I'm happy to—that just looks exactly the same.

**Mr KAYE:** No, that is all right. Also, too, when you were reading off those file notes you seemed a little bit vague in what some of the things actually meant.

**Ms Wood:** Well, I write in shorthand. I'm writing as someone's talking. That generally is a lawyer thing. You use abbreviations. What I'm trying to do is capture everything that was said at the time. It's pretty difficult to do in long hand. You end up doing shorthand, and going back to it six months later I may not recall exactly who BB is, but if I looked in the context—oh, yes, that's Brendan Butler. So I'm just looking back in time going—working out what those abbreviations are. But, as a general rule, I do try to take down everything that I think is important during the meeting.

**Mr KAYE:** So it'd be fair to say that your file notes are really only a guide of your conversation and they certainly don't give you an accurate representation of what was said.

**Ms Wood:** I think it's very accurate. I think it's very, very accurate. I could type it out if you wanted me to, but essentially—

**Mr KAYE:** But there's certainly a bit of leeway for you to put a bit in, take a bit out. A person like myself reading it wouldn't really know what it's about.

**Ms Wood:** If I typed up the notes straightaway afterwards, there might've been a little bit of information I could add because I didn't write it down. For instance, if I had a conversation with him while he's looking at those list of documents, there might've been something that he said that I didn't grab my paper and write down, but essentially you can be guaranteed that's a pretty good record of what was said. During the meeting I didn't miss things out. I try and write down as people speak exactly what's said. I think it's probably more than the average person does, to be frank, at least from my experience.

**Mr KAYE:** All right. I have no further questions; thank you.

**Mr KRAUSE:** Ms Wood, you were a schoolteacher before you became a lawyer, weren't you?

**Ms Wood:** That's right.

**Mr KRAUSE:** And when you were teaching was one of the things—as I understand, one of the things educators encourage your students to do is to show initiative in the way they learn and the way they carry out their tasks; is that correct?

**Ms Wood:** I would hope that's one of the things that I taught, yes.

**Mr KRAUSE:** How long were you a teacher for?

**Ms Wood:** I can't recall—a while, say five, six years.

**Mr KRAUSE:** Sorry?

**Ms Wood:** I can't recall—a few years.

**Mr KRAUSE:** Okay. I just wanted to touch on that because from all of the evidence we've heard here today and yesterday it doesn't appear that you've taken a very proactive role in carrying out Ross Martin's instructions, did you? You followed them to the letter and—

**Ms Wood:** That's what I do.

**Mr KRAUSE:**—and done no more, no less. Well, in fact, you may have done less, but you certainly didn't do any more.

**Ms Wood:** I would've thought I've done a lot more. I understood his task was just, 'It's being fixed. Make sure it's fixed. Check it's 65, not 20.'

**Mr KRAUSE:** It wasn't fixed though, so—

**Ms Wood:** By looking at the documents, for example, I thought I'd actually gone far much further than he'd originally tasked. I wanted to make sure that our documents reflected that, that QSA had recorded them. I went through the file. I made sure the delegation was there. I thought I was very, very thorough.

**Mr KRAUSE:** But you've conceded in earlier testimony that there was more that could have possibly been done to address the problem but—

**Ms Wood:** Of course in retrospect—

**Mr KRAUSE:**—but you weren't tasked to do that. We've heard you say a few times you weren't tasked to do things. We also heard this morning you couldn't—well, in the first instance at least you couldn't recall whether or not you went back to Rob Hutchings and Ross Martin with a report as to whether the issue had been addressed—either verbally or in writing. A matter like this, why wouldn't you put something in writing? Is this the way the CMC works—that when you're asked

to do something, when you report back you don't put it in a memo or in an email; you just have a corridor conversation?

**Ms Wood:** This wasn't a formal file and I had been given a side task of it.

**Mr KRAUSE:** I understand it's not a formal file, Ms Wood, but it was an instruction about an important issue. Regardless of whether it's a litigation file or not, surely you would put something in writing.

**Ms Wood:** I did report back orally.

**Mr KRAUSE:** Sorry?

**Ms Wood:** I did report back orally to Mr Martin.

**Mr KRAUSE:** Are you sure?

**Ms Wood:** Yes.

**Mr KRAUSE:** Because earlier on today you couldn't recall.

**Ms Wood:** Well, I don't recall whether I reported back to him right at the end—in other words, after I'd looked at the list of documents and been sent the link. I don't recall speaking to him then. I may have. I would think I would've. I just don't have a specific recollection of that conversation. What I recall is having a conversation with General Counsel, but it's a vague recollection about what specifically was discussed. But I definitely reported back.

**Mr KRAUSE:** So you definitely reported back now? Okay.

**Ms Wood:** But what the nature was of the detail et cetera I don't recall and I didn't take a note of that conversation. At that stage, on 29 May, everyone was aware that the RAP had been changed. I was doing, I guess, the paper trail part of it.

**Mr KRAUSE:** Ms Wood, you have said that you were involved in litigating CMC matters. What does that involve, just briefly?

**Ms Wood:** Yeah. Well, usually someone serves us with an application. We attend the court, so that would involve obtaining or drafting prospects of advice of our success. We would attend all the court matters involved in that. That includes drafting submissions. If it's a serious matter, we retain counsel. I would be responsible for appearing in court, particularly the preliminary matters, and it would include basically following through on a court matter from go to woe.

**Mr KRAUSE:** Does it involve—this is for my information—dealing with complaints about external people? No?

**Ms Wood:** No, it's usually in the nature, for example, of a judicial appeal of a decision that's been made by the CMC—say, for example, a decision about a witness being called to a closed hearing and they might seek a judicial review of that decision that they were called before a hearing. Other types of matters are, say, for example, in the nature of if someone refuses to give an answer in a closed hearing then those matters proceed to the Supreme Court by application for those contempts. We get a lot of instructions obviously from Misconduct in relation to police matters. Those are filed in QCAT now in that jurisdiction, so we would commence an appeal of that decision in relation to—that's made with that police officer. We have a whole range of jurisdictions including appeals courts as well. Obviously we appear in inquiries and act on behalf of the commission—for example, the child protection inquiry. So it's quite a wide-ranging type of litigation. I have done personal injuries files there, family law files in relation to witness protection et cetera.

**Mr KRAUSE:** Okay. I think we get the idea. Would these matters involve occasions when an individual's evidence or conduct is called into account or a statement of opinion about how things are to operate? What I'm getting at is in your role as official solicitor you would often need to test people's version of events or test their opinions about things—about whether, for example, a witness should be compelled to appear—and if there's a review of that lodged in court then obviously you'd need to go and talk to the person who's issued that notice, wouldn't you, to find out the grounds for that person issuing a notice to appear and to review it, critically?

**Ms Wood:** In my previous job that did occur. However, this—many of these matters are appeals, reviews and that would be a matter of, for example, making an application for fresh evidence and calling a witness. So I don't do that as much in terms of cross-examining witnesses and getting witness statements, if that's what you're asking.

**Mr KRAUSE:** No, but what I'm asking is you do test evidence though, don't you?

## Inquiry into the CMC's Release and Destruction of Fitzgerald Inquiry Documents

**Ms Wood:** In police misconduct matters, yes. A statement's been taken, that matter's been looked at and decisions are made and we in appealing those would look at that evidence, yes.

**Mr KRAUSE:** And if a decision of an individual is being contested, you don't just rely on that person's version of events; you look further into it, don't you?

**Ms Wood:** On review you could only use what evidence is in front of you, so most of my matters are what the evidence is in front of you. But I understand what your point is.

**Mr KRAUSE:** Because it just appears in this case, Ms Wood, that you've relied completely on Mr Duell's version of events in conducting your own 'review' into the matter. I put it to you that when you've dealt with this matter internally you've come at it from a different level of diligence than you would have if you were dealing with an external matter.

**Ms Wood:** This is quite an unfamiliar area to me. I was tasked this. But in response to your question, I just followed my instructions. In relation to could I have gone down this avenue or this avenue, interview other witnesses, find out if what he said was correct, in my understanding that wasn't what I was asked to do.

**Mr KRAUSE:** But when you're dealing with external matters, you would have documentation of a whole series of steps. You would put all correspondence in writing.

**Ms Wood:** Yes.

**Mr KRAUSE:** Everything would be documented. You would have a formal file of it.

**Ms Wood:** Yes, yes, that's right.

**Mr KRAUSE:** And you haven't done that in this internal matter, have you?

**Ms Wood:** Well, I've kept notes, yes.

**Mr KRAUSE:** We'll get to the notes. You said also this morning that Peter Duell would need approval from the Legal Services Unit to approve the release of files.

**Ms Wood:** The chairperson actually. What happens is there's a policy in place where the person wanting to release the information has to fill out what's called a dissemination form and that's pretty much an application to the chairperson to say these are the reasons why that release should occur.

**Mr KRAUSE:** Was this approval granted for the change of RAP in this case when he changed it from 65 to 20 years?

**Ms Wood:** He didn't need it. It was a form underneath—under the Public Records Act where the chairperson's authority could be delegated and that delegate who was whoever was the director of information management, and whoever he named on that form that was the statutory requirement.

**Mr KRAUSE:** So a dissemination notice or approval is only needed for what—records that aren't subject to the Public Records Act?

**Ms Wood:** Well, it's really a question of law whether—what's stated in the Public Records Act and if it conflicts with what's in the CM Act. In other words, our provision says—62—that there's a restriction on accessible information. So if you think that information fell within 62, which was information that's in the possession of the CMC, if you said it was in the possession—

**Mr KRAUSE:** So Fitzgerald?

**Ms Wood:** If you think it fell in 62—

**Mr KRAUSE:** The Fitzgerald files do not fall under section 62?

**Ms Wood:** That's what I'm saying. It's a question of law. Obviously, the interpretation that Brendan Butler and Mr Needham had was, clearly, the records act covered it.

**Mr KRAUSE:** Has that issue ever been determined within the CMC?

**Ms Wood:** Yes.

**Mr KRAUSE:** Post Mr Butler? So what I am getting at is was it ever determined whether these files which were released were subject to section 62 or not?

**Ms Wood:** I don't think it's a real question. I think I'm just commenting that it passed my mind. I thought it was a 62 dissemination and that's why I raised it with the chairperson, but it is since discovered that they can transfer this information under the Public Records Act. All my comment was it's an interesting question that you can have a restriction of access, a secrecy provision in the CM Act, but then you have this other act, whether it be the right to information, or

records act, where you can transfer it without going through that express authorisation of the chairperson. But the added express authorisation by the chairperson to change the RAP meant in any event he'd satisfied 62.

**Mr KRAUSE:** But could you look at it another way and say that the authorisation given to Mr Duell through that form, which was sent to the State Archives—

**Ms Wood:** Yes.

**Mr KRAUSE:** Was merely a formality for the State Archives purpose of record keeping and that there actually needed to be an authorisation internally for Mr Duell to sign, though, to change the RAP?

**Ms Wood:** There was. Yes, there actually is on the file an authority delegation given from Mr Needham to Mr Duell. There is actually an authority on the file that says that. So on that file I understand it says something along the lines that Mr Needham—

**Mr KRAUSE:** Okay. Thank you. I understand that now. Thank you for clarifying that. The other thing is you made some reference to a media release being prepared by the CMC.

**Ms Wood:** I was made aware of it.

**Mr KRAUSE:** On about 5 March.

**Ms Wood:** The late 5th I was called in.

**Mr KRAUSE:** And I think Mr Martin was quoted in the media release as saying that there was an administrative error.

**Ms Wood:** Yes.

**Mr KRAUSE:** Which led to the release of these files.

**Ms Wood:** That's it.

**Mr KRAUSE:** There was more than just one error that caused this to occur, wasn't there? There were multiple errors of process, wasn't there?

**Ms Wood:** There was one big error.

**Mr KRAUSE:** One big error involving the CMC.

**Ms Wood:** One big error of release of information. So in other words the error they were referring to was the inappropriate release.

**Mr KRAUSE:** Yes, okay. But there was more than just Mr Duell's error in doing that, wasn't there; there were other people who made errors along the way that led to that.

**Ms Wood:** That's a matter for the inquiry.

**Mr KRAUSE:** I am asking for your opinion, if I could.

**Ms Wood:** I am not sure what errors that you are referring to.

**Mr KRAUSE:** Well, we could point to a few—like your error, in my view, of failing to report back in writing to the chairman about this. We will talk about some other things. Can I ask you, too, about your memo?

**Ms Wood:** Sorry, can I just respond to that part? I wasn't tasked to write a written report. I'm happy to have reported back, but if Mr Martin said, 'Get me a written report,' I would have done it and if it was implied, I would have picked up on that and given him a written report.

**Mr KRAUSE:** I find that an incredible statement, Ms Wood. I have worked in legal practice as well and it is just not common practice in legal practice for these sorts of things to be dealt with verbally. For you to sit there and say, 'If I had been asked to give a written report I would have,' I think is just incredible. That is my opinion, but we can take your evidence on board. In relation to the file note of 29 May, it took a little bit of jogging of your memory to remember when the file note of 29 May was actually written. You said it could have been sometime between, I think, 6 and 10 March—5 and 10, perhaps; is that correct?

**Ms Wood:** Well, I was tasked to write the memo on the 5th. I wrote it on the morning of the 6th. I recall I didn't transcribe the note into the file note that day, because I have a specific recollection I didn't. But in gathering—I mean, I don't know at what stage I thought, 'I'll convert that.' It could have been the next day where I thought, 'There's no way they'll read that handwriting.'

**Mr KRAUSE:** Can I contrast that to your immediate and quite clear recollection of what was on your handwritten notes, the post-it notes which have now been destroyed.

**Ms Wood:** Yes.

**Mr KRAUSE:** Does this not beg the question of why is there a difference between your recollection of when you actually did the file note of 29 May, which was created in March sometime? Why is it hard for you to recall that but you can recall with crystal clarity what was on those handwritten notes, which we do not have anymore?

**Ms Wood:** As to what date I actually did the note to file?

**Mr KRAUSE:** No, why is there a difference in your memory, in the level of your recollection between the two?

**Ms Wood:** Well, the question of when I did the note to file, as in typed up my handwritten notes, I don't recall, because when we were served with the summons I think we did lots of work. We worked until midnight a couple of nights, I think, and I don't recall much during those couple of days. So I think we were served the 10th, 11th, 12th. So before that was a weekend and before that I don't recall, to be honest.

**Mr KRAUSE:** Okay.

**Ms Wood:** I think I thought, obviously, at the end of that week we were getting a review done. So I think I would have typed it then. I don't recall.

**Mr KRAUSE:** Well, I think it draws on your credibility, Ms Wood, that there is a difference in that gap. Can I also put this to you. Is it possible that, when making your file note of 29 May in March, the content of the file note was coloured by what transpired in the seven or eight months between May and March?

**Ms Wood:** How I did that file note was to read my handwriting and to convert it to—and my account of the questions I asked and what the responses were. So if it was coloured, I had meant it to be not exact transcription but to summarise what the question—the main questions that were asked and what the answers were. So if I said, for example, 'How was it disseminated?', if that's how it reads, so basically I rewrote it from my handwritten notes to reflect the handwritten notes. And if I—

**Mr KRAUSE:** We still have those handwritten don't we?

**Ms Wood:** Yes.

**Mr KRAUSE:** From 29 May.

**Ms Wood:** Yes. They are an exhibit.

**Mr KRAUSE:** It is just that when we were talking about the 26 July note earlier this morning I think in certain parts of it you had some doubt or confusion about what you meant in some of these notes. It is possible, in my mind, that your file note of 29 May, which has now been typed up very nicely, has been coloured by the events which transpired between May and March. We have not gone into your handwritten notes. Perhaps we should. I just wanted to make that point that it was disingenuous on your part, I think, to make a file note of 29 May without actually referring to the fact that it was being prepared in March after all of this had come to light. I do not want to throw too many barbs at you, Ms Wood, but it is bordering on dishonest to do that, in my view, because it is such an important time in the process. You are making a file note to Rob Hutchings, your immediate boss, about events in May but you are making it in March when all the proverbial is hitting the fan and you do not even make mention of the fact that it has not been prepared contemporaneously. How do you reconcile that with your role as a legal practitioner?

**Ms Wood:** Well, my original notes are on the file. Everyone who reads those will know they are the contemporaneous original notes. I'm conscious that they—that the typed note to file was—could be regarded as made in time and—

**Mr KRAUSE:** Also Ms Wood—

**Ms Wood:** And obviously I should have written on the bottom, and would normally say, when we were typed up—but if they were not contemporaneous, that is.

**Mr KRAUSE:** But personal handwritten notes, too, are really personal to you. You are the only one who really knows what they mean.

**Ms Wood:** Yes.

**Mr KRAUSE:** And I know that from my experience in the law. But you did not make any illusion to that at all in your file note. Can I just ask this? You prepared this before the parliamentary inquiry was established—the file note of 29 May, did you not?

**Ms Wood:** I don't know when I prepared it. As I said, sometime between 7 and—

**Mr KRAUSE:** You said before it was the 5th or 6th. When was it?

**Ms Wood:** No, no, sorry.

**Mr KRAUSE:** Will that be in TRIM? Would we be able to find out in TRIM when you prepared it?

**Ms Wood:** Yes, I guess so.

**Mr KRAUSE:** Perhaps we should, because I put this to you. Did you prepare that file note before this parliamentary inquiry was established and before your documents were summonsed in the belief that you were cleansing the history of this matter and the reason you did not make a reference to the fact that it was not a contemporaneous note was because you going to present it to an internal inquiry as a contemporaneous note?

**Ms Wood:** I can't recall what date I typed the note on.

**Mr KRAUSE:** Okay. Sure.

**Ms Wood:** But I may have been aware that the inquiry had started when I typed it, if that's your question.

**Mr KRAUSE:** Okay.

**Ms Wood:** Yes.

**Mr KRAUSE:** Thank you, Ms Wood.

**Mr WELLINGTON:** The member for Beaudesert has commented on what he thinks is common practice in a legal office. Every legal office is different with different resources and support staff. We have heard this morning and yesterday about the range of duties that you and your officers were responsible for. I was wondering if you could paint a picture for us of a typical day in your office when all of this was unfolding. Is it the case that you may have had, say, five active files, you had to go to court, or is it the case that you spent the day simply doing paperwork? Do you have support staff? Secretarial staff? Perhaps if you could—

**Ms Wood:** Okay. Our office is extremely busy. We would have two or three court matters on a week. There is myself and another solicitor, of course. So my normal day would be, whatever court matter that is on at that point in time, we would be attending court that morning—so usually if it's an application, or whatever process that particular court matter was up to. So it wouldn't be unusual that we were out of the office, that most of the time we are at court. I don't know what proportion of time—say half the time. We would be running a normal litigation file. There's no doubt that it's extremely busy. Any other task, of course, we would fit in around that, but as a general rule we are focused on those particular matters. In terms of staffing, we have one admin staffer who would photocopy briefs to counsel, photocopy submissions and whatever cases or authorities we would be handing up that day. So it would be fairly busy and reasonably long hours for the deputy and I, yes.

**Mr WELLINGTON:** So it is not like—

**Ms Wood:** We generally type our own stuff. We don't have a dictating machine, for example. We would type stuff out ourselves, including submissions. Any of the court processes, all the legal processes themselves, we would type ourselves. We have precedents banks, of course. The role of the assistant isn't a paralegal, if you know what I mean.

**Mr WELLINGTON:** Thank you.

**Ms TRAD:** Ms Wood, when you were first analysing the transfer of the Fitzgerald holdings to the Queensland State Archives, was it apparent to you that there was no advice from general counsel about the transfer and the documents?

**Ms Wood:** I didn't see an advice, no.

**Ms TRAD:** So did you call up a file about the transfer which would have intimated or suggested that general counsel advice had been requested and not received?

**Ms Wood:** No, I saw on the file a—I would say a memo type thing from Robert Needham approving that transfer. I can't remember what format it's in now, but he gave his authorisation for the transfer of the material.

**Ms TRAD:** The reason for my—



**Ms Wood:** By the way, it might be Brendan Butler, but I can't recall specifically now. I think it was 2007 Mr Needham.

**Ms TRAD:** But that was an authorisation not advice per se.

**Ms Wood:** Sorry, no, there wasn't an advice on there.

**Ms TRAD:** I understand the authorisation, but general counsel advice about the transfer and the type of documents that would have been included in the holdings transfer.

**Ms Wood:** And I didn't locate an advice. I don't think that crossed my mind, to be frank.

**Ms TRAD:** The reason for my question is that quite clearly you have a very comprehensive understanding of the types of documents, the categories of documents, that would have been transferred over: those that would have been public, those that would have been subject to a not for public release and others that would have been submitted but should not have been released publicly because of a whole range of reasons. So you understood that?

**Ms Wood:** Yes.

**Ms TRAD:** But what we are—I will speak on my behalf—what we are seeing is that that was not common knowledge across the organisation, particularly in records management where I think that knowledge would have been critical. So I'm just wondering whether or not in your conversations with Peter Duell you said that you had a sense of confidence that he understood the Fitzgerald holdings, that it was the CMC's baby—

**Ms Wood:** Yes.

**Ms TRAD:**—and that he was all over it.

**Ms Wood:** Yes.

**Ms TRAD:** In his testimony to this committee I certainly did not get that impression. He certainly did not know that there was that third category and I'm just wondering how he convinced you or how he gave you assurances, what sort of assurances he gave you, that he actually understood that there was another category of documentation?

**Ms Wood:** I'd have to look at my handwritten notes, but—and I wrote it down at the time when I asked that question, but the way I recall him expressing it was that now he knew there was another category that were—was in amongst the exhibits and he realises now that they are a confidential category and that he did have the version of two groups but then now he's aware that in that main group there is a confidential group of other documents or documentation and it seemed clear to me that he'd got that right.

**Ms TRAD:** That was in your discussions.

**Ms Wood:** That was on 29 May with my scrawly handwriting discussion.

**Ms TRAD:** We'll have to go back and crosscheck that with his testimony before this committee because that's certainly not my impression.

**Ms Wood:** I am happy to look at my notes and point out where it was that he actually said he understood.

**Ms TRAD:** I think that would aid the committee's deliberations.

**Ms Wood:** I think so.

**Dr Mellifont:** Would you like that to occur now with tabled document 80?

**Ms TRAD:** Thank you, Yes.

**Ms Wood:** So from where my notes start, which just starts off 'records project', the next page, the top of that page says 'restricted access 65 years', halfway down there he's giving a chronology by the way—sorry, are we on the same page?

**Ms TRAD:** Sorry, what number page is that?

**Ms Wood:** I didn't number them, sorry. If you call page number one is my statement that says 'meeting re Fitz material', two 'records project', three, 'restricted access', on that page he's going through a chronology of how it all came about and the top of that page, the chronology is 'restricted access is 65 years all other stuff.'

**Ms TRAD:** Sorry, I'm actually at the wrong document. I'm sorry, just bear with me. I have the wrong file note. 'Records project', yep.

**Ms Wood:** And halfway down it says two cases—sorry, on the next page?

**Ms TRAD:** Yes.

**Ms Wood:** So in him giving the history of how it all came about he said—at the top it said of course it had a restricted access period of 65 years for all the other stuff and then if you go halfway down the page—he goes through there are non-publication orders, then he says so there are two cases at that stage for him, non-publication order and normal. What he meant by normal I don't know if I asked him or what further information, but I clearly thought at the time he thinks there's non-publication orders and then there's another category that fits the transcripts and exhibits and other stuff. And then he goes through and then if you go to the next page, halfway down, and he says there's a memo Suzanne Sweeper to—sorry, it should be Peter Duell, he says, and then that category was other and it was grouped with the exhibits and transferred. So that at that point he was making the point to me that the other group was inadvertently grouped with the exhibits when it was transferred, but he realised that that's the mistake that was made which was in that other group they had inadvertently grouped with the word 'with exhibits'. Now, the exhibits were the public exhibits so he thought the public exhibits and the public transcripts, who were grouped with this other group of documents but they shouldn't have gone. So in other words he realised at that stage that other category of documents he shouldn't have grouped with exhibits. So that's the discovery that he now know—knew that there was another category apart from exhibits. So he had mentally categorised all of that together.

**Ms TRAD:** And so in your subsequent discussions how did he satisfy you that he had fixed that problem? I mean, if he had grouped sensitive documentation with public exhibits within a series but hadn't physically gone down or audited the documents physically, how did he then reassure you that it had been fixed?

**Ms Wood:** What he said was there was a series numbers—they were series numbers that were grouped with the public exhibit numbers and the person writing out the form for him to sign had included with that series number—there were series numbers in there that were the sensitive material and they didn't realise that the series numbers of the sensitive material was different to the series numbers for the public exhibits and public transcripts. So then in the letter to the archives he's excising all those series numbers that refer to all of the sensitive materials. So, I understood from what he said that he understood now that there was a whole category of other material that had series numbers that was confidential.

**Ms TRAD:** Sorry, I mean, that just says to me that classified information was grouped with public information within a series, and you can't simply fix a problem by taking or excluding a whole series. Like, the documents have to be uncoupled. It's not just about a series approach but it's about a document by document approach.

**Ms Wood:** Oh, no, sorry, so that—how—what he'd explained was that those series had already been categorised, it's just that the person inadvertently didn't realise that they weren't public exhibit series. So with those numbers, whoever put it down in the form didn't realise they weren't public exhibits.

**Ms TRAD:** Okay. I just have one last question. Just in relation to—and we have canvassed this in great detail so sorry about having to go back here, but I just wanted to know that in terms of the destruction of your contemporaneous notes, those post-it notes?

**Ms Wood:** Yes.

**Ms TRAD:** At the time that you discarded them, were you at all conscious that this matter may, in fact, be subject to a 329 section of the Crime and Misconduct Act?

**Ms Wood:** No. No, I wasn't.

**Ms TRAD:** That the public availability of sensitive Fitzgerald documents and the destruction of sensitive Fitzgerald documents—or we don't know if they're sensitive, but the destruction of some of the original Fitzgerald documents may have been subject to a 329?

**Ms Wood:** My knowledge at the time was that the CMC were going to conduct a review so I was pulling my file together for that review and for general counsel who I assumed would do the review.

**Ms TRAD:** But you would be aware of the Crime and Misconduct Act, wouldn't you, Ms Wood?

**Ms Wood:** Yes.

**Ms TRAD:** And section 329 places an obligation on the organisation to inform this committee when there is significant maladministration or misconduct.

**Ms Wood:** Yes.

**Ms TRAD:** And that all of the evidence, all of the documentation around such an event may, in fact, be of interest to this committee?

**Ms Wood:** At the time I was putting—pulling my file together so it was more comprehensible for that review, the—what I thought was an internal CMC review. And so that I knew others would read the file and I was hoping to make sense, it was legible, it was clear, that it looked like a file and someone could read it and understand it, basically.

**Ms TRAD:** And, look, I understand that and it's completely reasonable, but you have to accept that it's quite reasonable for us to expect that this event would trigger a 329 and that all of the material that the CMC holds would have been of interest to this committee. So, you know, I guess I just need to make that point.

**Ms Wood:** I regret that and I understand that now, yes.

**Ms TRAD:** Thank you for your time.

**CHAIR:** Ms Wood, it was my recollection that you said you kept documentation at the time because you expected there could be a 329.

**Ms Wood:** I kept his file. Oh, sorry, I had my own informal file, but I hung onto his file just thinking one may come. But I had at some stage realised that may not occur. However, if I was told, I could, you know, act upon it, I guess.

**CHAIR:** So you kept some information because you thought there might be a 329?

**Ms Wood:** Sorry, that was initially. So after I'd finished that inquiry I thought I'll hear back if there is. I half expected there may be. But I'm usually told, 'Oh, look, there's a 329 investigation'. Sometimes they're internal, sometimes they're external. There's a variation of how that might occur. So it was sitting there, basically

**CHAIR:** But six, seven or eight months later you are asked to do a report, you tidy up your notes, it's about the same issue and it doesn't occur to you that not retaining your original documentation may be a mistake because there's an internal inquiry? It doesn't inform your decision to destroy your records?

**Ms Wood:** In hindsight I clearly wouldn't, but at the time I did it with a thought of—with a view of just making it comprehensive and people could read my notes, basically.

**CHAIR:** Sure. What time on 5 March were you told or requested to do a report? What time; when you saw the press release being prepared?

**Ms Wood:** I can't recall—say, six or seven o'clock at night. I think I was called in at about six, at the end of the press release. They had drafted it and just asked me a couple of questions. I knew from—they asked me to read the press release to check whether or not the facts were correct.

**CHAIR:** How long do you reckon the press release had been prepared?

**Ms Wood:** Sorry?

**CHAIR:** How long do you think the press release had been prepared?

**Ms Wood:** It was being prepared, so they had drafted something. They asked my advice about how to express it and sentences. I'd had, obviously, some involvement so they wanted to know some facts, so I assisted in that process a bit.

**CHAIR:** When you did your report dated 6th March, the memorandum—

**Ms Wood:** Yes.

**CHAIR:** Did you look at all at your file notes that you created on 13th July and 26th July to help you with that file note to Rob Hutchings?

**Ms Wood:** Well, I just looked at the whole of it. I mainly did it from an overview of what had happened on the file.

**CHAIR:** So you had looked at your file notes in order to compile this, because—

**Ms Wood:** Yes.

**CHAIR:** So in this 6th March memorandum, you don't mention your written file note of 13th July, you don't mention your written file note of 26th July, but you believe that that would have informed your—

**Ms Wood:** I would have read—seen them, read them. In other words, it would've formed my view, but I was probably writing it from the vein of what was Peter Duell's evidence, basically; what did he say to me.

**CHAIR:** So we issued a summons or we authorised—sorry, because the committee only authorises. We authorised the summons on 13th March. It said—sorry, the date of service is 13th March. Relating to the transfer, we wanted all of the documentation including documents, data held in electronic form such as emails and attachments. We got this email, this file note, from you yesterday. That's all. I am a bit frustrated, and I can only speak for myself, that we are being drip fed this information from the CMC.

**Ms Wood:** Sorry, can I just explain that note?

**CHAIR:** Sure.

**Ms Wood:** That note was placed on the top of a records file which was the file that I took from Mr Duell. It was in my office. I didn't have it at the time I did my notes. The reason I didn't was because, a week or so before that, someone had asked that they could have the Fitzgerald—that particular part of the file back. When they took that file, they took with them my file note that was placed on the top of it. So I didn't have that 26th July note when I did the memo and I didn't have it—and, to be frank, I didn't remember the meeting, whether it was a meeting or a telephone call. So it was only yesterday that it was brought to my attention. However, it falls within the summons, so when they extracted parts or all of that file for the summons, someone should have seen my file note and given it to me or included it in the—or just scanned it. They scanned everything else.

**CHAIR:** So you are effectively changing what you said a moment ago. You didn't use your file notes, of at least the 26th, to inform your—

**Ms Wood:** Sorry. That's the only file note I didn't have at the time. I wasn't even aware of it. I had a notation down that I did confer with him and a summary of what I said, but I'd placed the actual notes on top of the file that I had taken from him, and that file was next to my file, so that it formed—that's the section of the Duell section in my concertina files.

**CHAIR:** That is another set of files that you keep?

**Ms Wood:** No, sorry. The way the files are sitting, I have my informal file. It was actually something like—in something like that. And then next to it is Mr Duell's file, that looks like this. His is a bit thicker, of course. So they are placed together like that in my concertina file. So someone then comes in and says, 'Can I have the Fitzgerald file?' My assistant said, 'Records need it'. I thought they needed it to put something on it. So then they take that file. When they took that—I can't recall; it could've been a week before, it could've been during the time that they had the summons. I don't recall. But I had all my notes in there. What I didn't know was that, placed at the top of that file, was my file note and I never saw it. So when they took that file away to be—well, whether it was because they got that file a week before, but you would find out because they write down who's got the possession of the file and all that is documented. I guess what I am saying is, I had placed my full notes inadvertently at the top of that file and they had taken that and I was not aware that they existed until yesterday.

**CHAIR:** Did you use the notes of 13th July to inform your report of 6th March?

**Ms Wood:** Sorry, could you say that again?

**CHAIR:** Did you use your file notes of 13th July—you've already said 26th July you didn't use because you didn't know where they were.

**Ms Wood:** No.

**CHAIR:** The 13th July, you've file notes regarding a conference with Ross.

**Ms Wood:** Yes

**CHAIR:** Did you use them to inform your memorandum to Rob Hutchings?

**Ms Wood:** I would have perused them, yes.

**CHAIR:** It's no mention of anything about July. It all relates to May.

**Ms Wood:** That was my understanding of—see, I didn't recall the conference with him in July and I didn't have a note on my file, as in the collection of files that I—the collection of notes that I had. I didn't realise I had a second conference with him. So the only source of information I had on my file was that I had a meeting with Mr Duell on 29th or thereabouts of May and they were the notes from 29th May. I assumed that was my main source which was, 'What did he say on 29th

May?', as I was tasked. Much of it came from that meeting on 29th May, because that is what I thought he was asking, which is, 'What did Mr Duell say about the mistake?'

**CHAIR:** So you had forgotten about the file note that you rewrote from a post-it note, 'very accurately', was your testimony yesterday?

**Ms Wood:** No, sorry. I had those on file. I looked at all of those. What I gleaned was the only time I got instructions from Mr Duell was on 29th May. I didn't have on my collection of notes in something like this—I didn't have in there my full notes of 26th July. They were placed at the top of Mr Duell's file and so I didn't realise that those notes were part of Mr Duell's file, so I didn't look in his file.

**CHAIR:** But if you are doing a file note—now, you already know that this is going to be at least an internal investigation.

**Ms Wood:** Yes.

**CHAIR:** You are doing a briefing to Rob Hutchings who you say is your boss.

**Ms Wood:** Yes.

**CHAIR:** And you don't mention in your briefing note to Rob Hutchings of 6th March that you had a conference with Ross Martin on 13th July, directly in relation to the Fitzgerald issue. And your file note says, 'Conference Ross, how's Fitz material? PD fixed issue 29th. Mistake reclass—'. Shouldn't that, the fact that you talked, purportedly, to the chair of the CMC, be in your briefing to Rob Hutchings, given that there was a problem—this is 6th March, a week or so ago?

**Ms Wood:** I could have put that in there, but I thought my task was, 'What did Peter Duell say?'

**CHAIR:** Goodness me.

**Ms Wood:** I assumed that my—it wasn't a chronology of what happened in the file. What he's asked me was, 'Can you put a memo'—'Can you give me a memo about what Peter said'.

**CHAIR:** This is a fairly pointed comment, but I'm going to make it anyway. If you are working somewhere and you're asked—if I'm working somewhere, I ask someone with whom I work or who works for me for a briefing on something, I expect as fulsome a briefing as possible, especially something as sensitive as this. If I subsequently say, 'Well, you didn't mention that you'd talked to the chair of the CMC', your response is going to be, 'But you didn't ask?'

**Ms Wood:** I would have been happy to do a briefing, a thorough briefing note. What I thought he was asking was, 'What did Peter say?' I was giving a version of what that interview was that I—well, my meeting was with Peter. In other words, did he say he fixed it up? I thought the issue was, 'How come it's not fixed? I thought he said it was fixed up.'

**CHAIR:** Okay. Member for Redlands?

**Mr DOWLING:** Ms Wood, you have two folders there that you have just brought up to the top of the table. What are in those two folders?

**Ms Wood:** The first one is a copy of my file and just some notes. The second one is a copy of AD070193, which is the material that was provided under the summons from that file that you received yesterday.

**Mr DOWLING:** The information in the green folder, would that be of interest to the committee and have we received it?

**Ms Wood:** It is a copy of what the summons material was. Yes, you have received it; everything.

**Mr DOWLING:** Thank you.

**CHAIR:** Dr Mellifont, do you have any other questions?

**Dr Mellifont:** I need to table the last document that you took Ms Wood to, which is the large bundle in A4 format with the two post-it notes, please. May I have leave to table that? I think it is 89.

**CHAIR:** Is leave granted? Leave is granted.

**Dr Mellifont:** Again, not for publication, please, because of the sensitive nature of the information contained.

**CHAIR:** Given the nature of the material, is it agreed that it is not for publication? Leave is granted. It is document 89. Member for Greenslopes, you have one further question?

Inquiry into the CMC's Release and Destruction of Fitzgerald Inquiry Documents

**Mr KAYE:** Ms Wood, with the section 329 notifications, as the Office of General Counsel, and yourself as being part of that office, do you have direct input into the preparation of material that comes to this committee?

**Ms Wood:** I don't recall being involved, but I have had limited involvement in one matter where I assisted an external investigator with some legal notices. But the General Counsel position is generally responsible for all the 329 matters. I usually just do the litigation.

**Mr KAYE:** So it's fair to say that you've had no involvement in 329 notifications that have come to this committee?

**Ms Wood:** I have no knowledge at all of the PCMC's workings, generally.

**Mr KAYE:** Thank you.

**CHAIR:** Ms Wood, you are stood down under your continuing undertaking to reappear if required.

**Ms Wood:** Thank you.

**CHAIR:** The hearing is adjourned until 12.30.

**Proceedings suspended from 12.13 pm to 12.42 pm**

**HUTCHINGS, Mr Robert, General Counsel, Crime and Misconduct Commission**

**CHAIR:** Mr Hutchings, you understand you are still sworn?

**Mr Hutchings:** Yes, Madam Chair.

**Dr Mellifont:** Madam Chair, I understand Mr Eberhardt, barrister at law, seeks leave to represent Mr Hutchings in these proceedings.

**CHAIR:** There being no objection, leave is granted.

**Dr Mellifont:** The first document I wish to show you is a copy of your curriculum vitae. Can I hand that up to you, please. The first page has been redacted for personal information. Is that a copy of your CV?

**Mr Hutchings:** It is.

**Dr Mellifont:** So you completed a Bachelor of Laws in 1991?

**Mr Hutchings:** That's right.

**Dr Mellifont:** Admitted as a solicitor in January of 1994.

**Mr Hutchings:** Yes.

**Dr Mellifont:** And you commenced as Acting General Counsel from July 2011 at the CMC, is that correct?

**Mr Hutchings:** Yes, I'm not sure if it was very late July or very early August.

**Dr Mellifont:** Very well. And you are currently appointed to that substantive position?

**Mr Hutchings:** Yes.

**Dr Mellifont:** You may have said so yesterday, but can you remind me when you were appointed to the substantive position?

**Mr Hutchings:** I think it was sometime in April 2012.

**Dr Mellifont:** April 2012?

**Mr Hutchings:** Yes.

**Dr Mellifont:** I will have to ask you to keep your voice up Mr Hutchings so we can all hear, thank you.

**Mr Hutchings:** Sorry.

**Dr Mellifont:** Was there a cross over period where Jan Speirs was also working there as General Counsel during your time?

**Mr Hutchings:** No. She had left either several days or a small number of weeks prior to me commencing.

**Dr Mellifont:** Prior to you commencing in approximately July 2011?

**Mr Hutchings:** That's my recollection.

**Dr Mellifont:** Prior to working at the CMC you were Assistant Crown Counsel at Crown Law in the constitutional law team, is that correct?

**Mr Hutchings:** That's correct.

**Dr Mellifont:** And that was late 2005 through to 2011?

**Mr Hutchings:** That is what's here, yes.

**Dr Mellifont:** You managed a team of lawyers in that role?

**Mr Hutchings:** Yes, I did.

**Dr Mellifont:** And during that time you gained some specific experience in advising on claims of public interest immunity, correct?

**Mr Hutchings:** Yes, I did.

**Dr Mellifont:** And so you are familiar with the legal principles relating to PII and the rationales underpinning immunity, I take it?

**Mr Hutchings:** I have some understanding of it, yes.

**Dr Mellifont:** You understand the importance of protecting police methodology, identity of informants.

**Mr Hutchings:** I'm sorry, I missed the first part of your question.

**Dr Mellifont:** You understand the importance of protecting police methodology and informant identities, I take it?

**Mr Hutchings:** Of course.

**Dr Mellifont:** I seek leave to tender the curriculum vitae, please.

**CHAIR:** Is leave granted?

**Mr Hutchings:** Madam Chair, could I ask that that be kept confidential and not for publication?

**CHAIR:** Are you wanting the whole curriculum vitae or just the identifiers kept confidential?

**Mr Hutchings:** The whole curriculum vitae.

**CHAIR:** We can give that some consideration. We will certainly table it as document 90. In terms of the consideration of the privacy issues, we will come back to this hearing.

**Mr Hutchings:** Thank you, Madam Chair.

**Dr Mellifont:** Can I show you this document, please. It is a position description for General Counsel. Are you familiar with that document?

**Mr Hutchings:** Yes, I have seen that.

**Dr Mellifont:** Is that the job you applied for and got?

**Mr Hutchings:** I believe if it's not the very position description I applied on it looks very close to it.

**Dr Mellifont:** All right. As General Counsel your role requires you to report directly to the chairperson, correct?

**Mr Hutchings:** That's correct.

**Dr Mellifont:** And you supervise the Official Solicitor and Legal Services Unit staff, is that right?

**Mr Hutchings:** I do although I don't have intimate involvement in the day-to-day activities of the Official Solicitor and the Deputy Official Solicitor as their general role is to run the litigation that the CMC's involved in and they have the discretion to run that, subject to the chairperson's direction, in the way that they see fit.

**Dr Mellifont:** And insofar as the Legal Services Unit staff is comprised, apart from the Official Solicitor who is there, position wise?

**Mr Hutchings:** The Deputy Official Solicitor and there's a senior lawyer role in the role of telecommunications interception and access applications. There's a substantive AO4 law clerk who is a compliance officer.

**Dr Mellifont:** Can I take you to the schematic on page 3. The schematic appears to be what might be construed as a flat structure between yourself and the Official Solicitor.

**Mr Hutchings:** Yes.

**Dr Mellifont:** But I take it there is some supervisory role by you over the Official Solicitor subject to the qualification you've just mentioned?

**Mr Hutchings:** I'm not sure I understand what you mean by supervisory role.

**Dr Mellifont:** Well we see on the front page that the position supervises the Official Solicitor.

**Mr Hutchings:** Yes.

**Dr Mellifont:** Well, you tell me. What is the supervisory role?

**Mr Hutchings:** I don't think I can explain it much better than what I already have. My role sometimes has some involvement with the Official Solicitor and her official duties but often does not. I'm generally managing my own practice if you like and reporting direct to the commission and chairperson. So I don't have a routine role in supervising the day-to-day activities, but I can concede that PD does say that I do supervise that person, but, on a day-to-day basis, it doesn't involve much more than approving leave and those sorts of administrative things.

**Dr Mellifont:** So for the most part the Official Solicitor in carrying out her duties acts autonomously?



## Inquiry into the CMC's Release and Destruction of Fitzgerald Inquiry Documents

**Mr Hutchings:** I wouldn't say autonomously, but she does involve me in matters of significance to seek my opinion on matters.

**Dr Mellifont:** One of the primary objectives of the role of General Counsel is to provide expert, independent and professional legal advice on complex issues to the chairperson. Do you agree with that?

**Mr Hutchings:** Yes.

**Dr Mellifont:** And that role includes providing independent legal advice to the chairperson and to the commission. Would you agree with that?

**Mr Hutchings:** Yes.

**Dr Mellifont:** May I seek leave to table that document please.

**CHAIR:** There being no objection, leave is granted. It is document 91.

**Dr Mellifont:** Mr Hutchings, an internal inquiry by the CMC was commenced into the declassification of documents in recent times, correct?

**Mr Hutchings:** I'm not sure I know what you mean by an internal inquiry.

**Dr Mellifont:** All right. It coming to your knowledge that there had been a declassification of sensitive material, was then an internal review commenced in respect of how that came about?

**Mr Hutchings:** If you are referring to what I now understand to be the case, which is that the chairperson tasked Ms Wood to investigate certain matters, then I have become aware of that. I'm not sure when I became aware of that, but it was either towards the end of last year or this year.

**Dr Mellifont:** The events to which you are currently referring, I take it, are related to the Krosch communication in May of 2012?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Perhaps I could focus my question more directly. On 5 March 2013 it became apparent at least to you that there had been an issue in terms of sensitive material being available to the public, correct?

**Mr Hutchings:** Yes.

**Dr Mellifont:** And did you in response to that set about a process or set about steps to start to review what it was that in fact had transpired?

**Mr Hutchings:** Yes.

**Dr Mellifont:** I'm calling that an internal review. Is that a proper description of what was started?

**Mr Hutchings:** That is a fair description.

**Dr Mellifont:** So it was the intention that a full internal review would be conducted by the CMC as to how that came about?

**Mr Hutchings:** My role was a bit more specific than that, but I expect that is what the chairperson had in mind, yes.

**Dr Mellifont:** How did your role come about?

**Mr Hutchings:** I was told about the prospect that there were Fitzgerald documents accessible by the public and—

**Dr Mellifont:** Told by who?

**Mr Hutchings:** I think it was the chairperson. I can't recall who was at the first meeting. But I think Ross did tell me. Things went from there.

**Dr Mellifont:** So what were you asked to do?

**Mr Hutchings:** I was asked to get out to State Archives basically and see what documents had been made accessible to the public.

**Dr Mellifont:** And what else were you asked to do?

**Mr Hutchings:** There were numerous little things that had to be done. I don't know what you—

**Dr Mellifont:** Did you ask Ms Wood to do anything?

**Mr Hutchings:** Did I ask Ms Wood to do anything? I can't recall asking her to do anything specific.

**Dr Mellifont:** Did you ask Ms Wood to put together a briefing note in respect of events which had transpired?

**Mr Hutchings:** I remember asking Sidonie to get the file together. I don't recall asking her to specifically put together a briefing note, but I do recall her saying that she had intended to prepare a report for Ross in respect of some investigative work she'd done previously. And then she subsequently provided me with that note.

**Dr Mellifont:** Did she get the file together for you?

**Mr Hutchings:** Which file sorry?

**Dr Mellifont:** You asked her to get the file together. Did she get a file together for you?

**Mr Hutchings:** She didn't get it for me. I don't think I recall ever receiving it. But she would have gone off and put it together, I assume, and it would have been then available for people to have access to. But I don't recall having anything to do with that particular file. I remember seeing the note but not the file.

**Dr Mellifont:** When did you ask her to get the file together?

**Mr Hutchings:** I think it was on the evening of the 5th of March.

**Dr Mellifont:** And when did you get her note?

**Mr Hutchings:** I think it was early the next morning.

**Dr Mellifont:** Did you ask Mr Duell to put together any briefing note?

**Mr Hutchings:** No.

**Dr Mellifont:** All right. Insofar as the internal review was concerned were you tasked or asked to do anything else apart from what you have stated to the committee now?

**Mr Hutchings:** I don't recall being asked to do anything else.

**Dr Mellifont:** So who was driving the internal review?

**Mr Hutchings:** It would have been Ross.

**Dr Mellifont:** You say it would have been Ross; it would have been Mr Martin. Why do you say 'would have been'?

**Mr Hutchings:** There were a number of meetings held at that time. Ross was present at at least one of them. We had a teleconference I recall with him on another occasion. He was ill at the time and was at home, I think, or in hospital. But Warren was around and we were working together, the three of us, to address the issue that had arisen.

**Dr Mellifont:** I'm trying to get a sense of what that means. You were asked to go out to the archives. Mr Martin was at home unwell but available on telephone from time to time and Mr Strange had some role?

**Mr Hutchings:** Yes.

**Dr Mellifont:** All right. Apart from you being asked to go out to the archives, what were you tasked to do with this internal review?

**Mr Hutchings:** Well I was asked to report back on what documents were available.

**Dr Mellifont:** What documents were available at the archives?

**Mr Hutchings:** That's right.

**Dr Mellifont:** Yes.

**Mr Hutchings:** I don't recall specifically being asked to do too much else.

**Dr Mellifont:** Can I ask please that Mr Hutchings be shown tabled document 6, tab 4, in the committee's bundle? This is a briefing note prepared by Mr Duell dated 7 March 2013 and an addendum of 13 March 2013. Are these documents with which you are now familiar?

**Mr Hutchings:** Yes, they are.

**Dr Mellifont:** Have you in recent times had the opportunity to peruse the contents of those file notes?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Are you in disagreement with any aspect of them?

**Mr Hutchings:** Well I haven't got in my mind at the moment the specific things that I might disagree with. Can I read it again?

**Dr Mellifont:** Please.

**Mr Hutchings:** Do you want me to deconstruct the whole thing as we go through or do you want me to do something else?

**Dr Mellifont:** To make things more efficient we will put aside for the time being and we will come back to it. Obviously you will be back at four o'clock this afternoon to finish your evidence—

**Mr Hutchings:** Sure.

**Dr Mellifont:**—but what I want you to do is to read it carefully and I will give you a copy to take for that purpose.

**Mr Hutchings:** I can immediately say to assist the committee that on page 2 paragraph 2 there are some matters that I don't agree with.

**Dr Mellifont:** There are probably some areas here that you don't have any knowledge of. My questions this afternoon will be directed to you specifically insofar as these are matters within your knowledge to identify any points of disagreement.

**Mr Hutchings:** Sure.

**Dr Mellifont:** So if the tabled document can please be returned to the records. Can I show you now please this document, tab 6 in the committee's bundle, a statement prepared by Robert Russell Hutchings signed on 17 March 2013 with annexures and the email address is redacted for some personal information. Is that a statement you have prepared this weekend just passed?

**Mr Hutchings:** That's correct.

**Dr Mellifont:** And provided through your legal representative to the committee.

**Mr Hutchings:** That's correct.

**Dr Mellifont:** Is the statement true and correct to the best of your knowledge?

**Mr Hutchings:** It is.

**Dr Mellifont:** You don't wish to make any amendments to it?

**Mr Hutchings:** There are issues I could expand upon that have become clear to me since I made the statement, but I could do that at an appropriate time.

**Dr Mellifont:** All right. Well let's go through that. Which areas do you want to expand on, please?

**Mr Hutchings:** Can I just refresh my memory, please? Since preparing this statement, I think I have indicated by the preparation of another statement that I have located some emails that might have been incorporated in the original tranche of documents that was provided pursuant to the summons that the CMC responded to last Wednesday.

**Dr Mellifont:** Yes.

**Mr Hutchings:** But in any event I have produced them to cover off any possibility that they are not there.

**Dr Mellifont:** Yes. I will take you to the supplementary statement in a minute. But, yes, go ahead.

**Mr Hutchings:** I have found a note of a meeting I had with Judge Moynihan which is relevant to my comment in paragraph 23 of this statement.

**Dr Mellifont:** I will be taking you to paragraph 23. We will deal with that now. What further observation do you wish to make in respect of paragraph 23, please?

**Mr Hutchings:** If I could just find the document.

**Dr Mellifont:** Just to get the record straight, first of all, can I show you the supplementary statement provided to the committee this morning dated 20 March 2013, together with the annexures, and we will get that tabled with leave. Is that a copy of the supplementary statement that you provided?

**Mr Hutchings:** That's it, yes.

**Dr Mellifont:** In essence, what you have sought to do is to have an interrogation of your email records including deleted files—

**Mr Hutchings:** That's right.

**Dr Mellifont:**—so as to recover any further emails relevant to the matters before the inquiry.

**Mr Hutchings:** That's right. This would have been provided earlier but for some issues with actually getting backup tapes from archives due to the deletion of some of my emails for the period August 2011 to March 2012. They were deleted last year because my mail boxes were full. That was produced to me yesterday and there were some matters yesterday that impinged on my ability to search those emails—I did that last night—and they were produced today.

**Dr Mellifont:** So essentially you instigated a process of retrieval of the backup tapes for what would have been in your inbox or what would have been in your deleted file items and you went through that yesterday and you have produced a statement overnight.

**Mr Hutchings:** That's correct.

**Dr Mellifont:** Madam Chair, I seek leave to table that bundle.

**CHAIR:** Is leave granted? There being no objection, leave is granted. It is document 92.

**Dr Mellifont:** Mr Hutchings, it might be easier if we progress through the statement from the beginning. I will take you to some paragraphs and that will give you the opportunity if I miss a paragraph you want to comment on to take you to it.

**Mr Hutchings:** Sure.

**Dr Mellifont:** I wish to start with paragraph 8. Did you have any comments you wanted to make prior to that paragraph? Did you have anything you wanted to comment about paragraphs 1 through 7?

**Mr Hutchings:** No.

**Dr Mellifont:** In paragraph 8 you say that prior to commencing employment at the CMC you had no knowledge of the contents of the Fitzgerald holdings. I take it you were of course aware there was a Fitzgerald inquiry.

**Mr Hutchings:** Of course, yes.

**Dr Mellifont:** And that it concerned matters including allegations of things like corruption and prostitution.

**Mr Hutchings:** Yes.

**Dr Mellifont:** And there were a great deal of many sensitive allegations made in the course of that inquiry.

**Mr Hutchings:** That's correct.

**Dr Mellifont:** While at the CMC—and I am talking about the period prior to when you were tasked in March of this year to go out to the archives—did you at any stage gain an understanding of the contents of the Fitzgerald holdings?

**Mr Hutchings:** No.

**Dr Mellifont:** Before providing your email advice of 23 December 2011, did you take any steps at all to familiarise yourself with the nature of the holdings?

**Mr Hutchings:** I asked Zora Valeska to undertake the location of the Brifman transcripts which was one of the two main areas on which advice was sought. But other than that, and other than knowing that there were public transcripts available and publicly tendered exhibits available, I didn't know about the form or size of the rest of the documents.

**Dr Mellifont:** Apart from tasking Ms Valeska with the role you have just indicated, did you take any other steps at all for you to personally familiarise yourself with the nature of the Fitzgerald holdings at the CMC or held on behalf of the CMC at the archives?

**Mr Hutchings:** No.

**Dr Mellifont:** Did you look yourself?

**Mr Hutchings:** No.

**Dr Mellifont:** I will return in due course to the Brifman issue. As you are aware there is a series of emails. We will come back to that. The next particular aspect of your statement I wanted to

take you to is at paragraph 14. Is there anything between paragraphs 9 and 13 you wanted to comment on?

**Mr Hutchings:** No.

**Dr Mellifont:** In paragraph 14 you refer to Ms Valeska having brought to you an archive box containing the Brifman transcripts.

**Mr Hutchings:** Yes.

**Dr Mellifont:** And you say, 'But I do not now specifically recall reading them in any detail.' Did you open the box?

**Mr Hutchings:** The box was open at at least one point when Zora and I were discussing the Brifman transcripts.

**Dr Mellifont:** Did you conduct an examination of the contents of the archive box that Ms Valeska brought to you?

**Mr Hutchings:** I don't recall examining the documents in the box other than—I don't even recall examining Brifman transcripts but they weren't really the focus of the request for advice. The real focus was the schedule of exhibits that were marked 'not for publication or inspection'.

**Dr Mellifont:** Can I just clarify my understanding of your evidence? At this point in time is it your evidence that you don't know whether you actually looked at the contents of the box—you don't have any recollection of doing that or you simply don't know whether you did that?

**Mr Hutchings:** I recall the box being in my room. I don't have any specific recollection of going through the box. But one of the purposes of obtaining the box was to ascertain that the Brifman transcripts existed, so that was the forensic exercise I was undertaking to make sure that they were there. There was a far more important focus of my inquiry though which was the genesis of the not for publication or inspection order. So, in terms of what the Brifman transcripts contained, that was not really my concern. I never got there because of the conclusion I'd reached about the order that applied to those transcripts and the other transcripts in that category.

**Dr Mellifont:** Accepting that the focus of your advice was at least in part the genesis of the not for publication status of the documents, did it not occur to you to have a look in the box to see if there were identifiers placed on the transcripts, identifiers placed on exhibits, which would have given you some understanding and context of how these things were designated as NFP?

**Mr Hutchings:** I don't recall doing that but, in any event, the request for advice didn't require me to conduct an exhaustive examination of the content of the transcripts because the advice sought was could the order be lifted.

**Dr Mellifont:** That was not the question I asked, Mr Hutchings, with respect. Did it occur you to look in the box so as to get some understanding of the context and genesis of NFP marked material? Did it occur to you at the time?

**Mr Hutchings:** It may have. I may have looked at the transcripts. In fact—I just can't recall.

**Dr Mellifont:** Can I take you please to paragraph 15 of your statement. You say—

The issue which I was concerned with was the terms of Commissioner Fitzgerald's non-publication order and the question of whether it could, rather than whether it should, be set aside or varied. I recall seeing a spreadsheet which set out a significant number of Fitzgerald exhibits which were marked not for publication or inspection. I do not recall how the spreadsheet came to my attention, but I note there is reference to such a document at page 2 of the 7 September memorandum.

The memorandum you are referring to is the memorandum of Ms Suzanne Sweeper dated 7 September 2011.

**Mr Hutchings:** That's right.

**Dr Mellifont:** What can you recall of this spreadsheet?

**Mr Hutchings:** I can recall it was double sided, quite densely typed, contained several hundred exhibits that were relevant to various Fitzgerald witnesses. To my recollection, every document was marked 'not for publication or inspection' and in recent times I have noticed on that schedule that there were some exhibits that were marked 'not for publication or inspection' but that order had been varied by the commissioner at some point. But the focus of my inquiry was the entry for Brifman transcripts.

**Dr Mellifont:** I take it from your answer you have looked at the same spreadsheet in recent times. Is that right?

**Mr Hutchings:** I think I looked at it last week when it came to my attention somehow.

**Dr Mellifont:** Do you know where it is now that spreadsheet?

**Mr Hutchings:** No.

**Dr Mellifont:** I am going to ask you to make some inquiries during the break to see if you can bring to the committee, as best as you can recall, a copy of the spreadsheet that you think you looked at in recent times.

**Mr Hutchings:** I think where I have seen it is in the documents that were provided pursuant to the summons.

**Dr Mellifont:** If you can try to identify in the CMC index of the material provided—you will understand that a lot of spreadsheets have been provided under summons.

**Mr Hutchings:** Sure.

**Dr Mellifont:** If you can try to identify what that document is precisely, that would be of some assistance to assist our understanding.

**Mr Hutchings:** Certainly.

**Dr Mellifont:** On the spreadsheet you speak of, were there any documents at all which were not marked 'not for publication'?

**Mr Hutchings:** I don't recall. There were several hundred documents in the spreadsheet.

**Dr Mellifont:** Did you satisfy yourself at the time that they were all marked 'not for publication' or you didn't go that far in terms of looking at the document?

**Mr Hutchings:** I don't recall going that far. I was concerned with Brifman, but I noticed that there were many other documents that were subject to the same order.

**Dr Mellifont:** I want to take you now to paragraph 18, unless there is something you want to comment on with respect to paragraphs 16 or 17?

**Mr Hutchings:** Only in respect of 17 that I have produced that subsequent email today about my discussion with Judge Moynihan.

**Dr Mellifont:** In the supplementary statement which has been handed up, can you identify the email you are speaking of, please?

**Mr Hutchings:** Yes. It is an email of Tuesday, 27 September 2011 at 10.15 am.

**Dr Mellifont:** How far into the bundle, please, Mr Hutchings?

**Mr Hutchings:** Sorry, it is about a third of the way in and it is an email from me to Leanne Hardyman. It has a '2' at the bottom.

**Dr Mellifont:** I have it. So the first email in the chain in terms of the top of the first document is 27 September 2011 at 10.55 am. The chain continues for seven pages ceasing with a sign-off by Mr Condon; is that the one?

**Mr Hutchings:** Yes, that is right.

**Dr Mellifont:** How does this assist us in terms of the meeting with Mr Moynihan?

**Mr Hutchings:** In my email of 27 September 2011 at 10.15, it encapsulates what was discussed at the meeting.

**Dr Mellifont:** So that is the second page of the document?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Can I take you through that, please? Who was Leanne Hardyman?

**Mr Hutchings:** She was the former media adviser at the CMC.

**Dr Mellifont:** 'Managed to catch Martin about it last Thursday.' You are talking about Justice Moynihan there?

**Mr Hutchings:** Yes.

**Dr Mellifont:** 'I explained to him the dilemma ...' What was the dilemma?

**Mr Hutchings:** Well, it was my dilemma because I was being persuaded to release documents that were the subject of a non-publication or inspection order.

**Dr Mellifont:** When you say you were 'being persuaded', what do you mean?

**Mr Hutchings:** People had advocated that.

**Dr Mellifont:** Mr Kenzler and Mr Duell?

**Mr Hutchings:** Mr Kenzler and Mr Duell through his briefing note had recommended it.

**Dr Mellifont:** All right. You were being sought to be persuaded of that and your dilemma was, as I understand it from your material, that you had some difficulty in how an NFP could be lifted?

**Mr Hutchings:** Correct.

**Dr Mellifont:** ' ... and showed him the exhibit list.' What are you talking about there?

**Mr Hutchings:** That would have been a reference to the list I was just talking about—the exhibit list for documents marked not for publication or inspection.

**Dr Mellifont:** The spreadsheet I have asked you to chase up?

**Mr Hutchings:** Yes.

**Dr Mellifont:** And then the email continues—

Although he did not have a concluded view, he had a leaning toward not disclosing the documents at all. The potential embarrassment to living persons appeared, understandably, to be an issue for him. The fact that the record of interview will inevitably contain hearsay (ie the material in the transcripts will not have been tested in court) was another. Also, there is the fundamental problem that there appears to be a non-publication order over a significant number of exhibits tendered at the Inquiry. In these circumstances it seems there's no s.62 option available to the Chair.

Is this what Justice Moynihan was communicating to you in terms of your queries of him about the release of Brifman transcripts?

**Mr Hutchings:** It is what we discussed, yes.

**Dr Mellifont:** Can I diverge for a moment? These types of considerations—that is, the untested nature of information within records of interview, potential embarrassment to living persons—are precisely the sorts of things that you would have wanted to see protected and not in the public domain?

**Mr Hutchings:** Correct.

**Dr Mellifont:** Can I take you to the second paragraph? 'Unless someone can explain how we got around that'—

**Mr Hutchings:** Get around that.

**Dr Mellifont:** You're talking about the non-publication—

**Mr Hutchings:** Sorry, I think you said 'got'. The word is 'get'.

**Dr Mellifont:** I am sorry; I did say 'got'. Let me try again—

Unless someone can explain how we get around that, I can't see any way forward in releasing these documents.

You're talking about getting around the NFP?

**Mr Hutchings:** Correct.

**Dr Mellifont:** I want to ask you about the next sentence. 'If the journo already has them'—are you talking about Mr Condon or the author of the book he refers to?

**Mr Hutchings:** I think I would have been referring to the author of the book. I am not sure where I ...

**Dr Mellifont:** I will finish the sentence and I will ask you the question and then you can go looking.

**Mr Hutchings:** Sure.

**Dr Mellifont:** 'If the journo already has them (as was suggested to me), it would be interesting to know how he got them.' I want to know what you meant by 'as was suggested to me'.

**Mr Hutchings:** I have a vague recollection of reading an email or someone telling me that there had been a suggestion that someone actually had these transcripts, but there was nothing more—I don't have any other memory of what the content of that discussion was.

**Dr Mellifont:** Look two pages over and see if this assists you. It is an email from Mr Duell to Mr Condon dated 15 August 2011 at 3.25 pm. Mr Condon is telling you—

I have recently read a manuscript that has been submitted to a local publisher ... and the book freely uses extracts from Brifman's transcripts.

**Mr Hutchings:** Yes, I see it.

**Dr Mellifont:** 'I have no idea how the author secured that information ...'. Does that jog your memory in terms of—

**Mr Hutchings:** Yes.

**Dr Mellifont:**—what you had in mind as to what was suggested to you?

**Mr Hutchings:** Well, that does jog my memory about what I wrote in my email to Leanne, but it has been pointed out to me that that email was written to Peter Duell, not to me.

**Dr Mellifont:** Yes, but it is in an email chain in which you are subsequently a party; agreed?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Do you have any recollection as to what the reference to 'as was suggested to me' might be other than that 15 August 2011 email we have just referred to?

**Mr Hutchings:** No.

**Dr Mellifont:** At this point in time obviously your interest had been engaged to know how it was that somebody had managed to get transcripts of the Fitzgerald inquiry—the very transcripts you were being asked to advise on?

**Mr Hutchings:** Well, yes, it had been engaged but it was a journalist asserting something that may or may not have been true. So it may not have engaged my interest to a significant degree.

**Dr Mellifont:** Well, it engaged your interest enough to articulate to Ms Hardyman that it would be interesting to know how he got them. You agree with that?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Did you set about a train of anybody investigating how it was that this author had managed to get his hands on these transcripts?

**Mr Hutchings:** No.

**Dr Mellifont:** Why not?

**Mr Hutchings:** I don't recall. I actually didn't recall writing this email until I found it last night so I cannot assist you with why I wouldn't have done anything more.

**Dr Mellifont:** Just going back to that time frame, though, obviously at this point in time you had at least an indication from the then chairperson of a reluctance to disclose transcripts and information that in respect of the very same material was out there in the public domain. Why wouldn't you have put in place any mechanism to check how it was that this material was out there?

**Mr Hutchings:** Well, journalists say many things to us. I mean, this is a bald assertion that someone has some documents that to my knowledge at the time were the subject of an order.

**Dr Mellifont:** But it is clear from your email that by at least this stage you had formed the suspicion at least that the documents were in fact out there.

**Mr Hutchings:** I said in my email 'if the journo already has them'.

**Dr Mellifont:** That's a suspicion, isn't it?

**Mr Hutchings:** That's a suspicion, but it is merely reflective of my view at the time that it was a statement from a journalist and I would have viewed it with some scepticism.

**Dr Mellifont:** It is pretty clear, isn't it, from the email from Mr Condon to Mr Duell that what the journalist was saying was not simply a lack of detailed comment but more so that there was looming a manuscript which had been submitted to a local publisher on a named person which freely uses extracts from Brifman's transcripts? Surely that information contained within that email was sufficient for you to suspect that there was information out there and perhaps likely to be published containing precisely the sorts of transcripts over which there was an NFP. Do you agree with that?

**Mr Hutchings:** If that was right.

**Dr Mellifont:** What did you do to check to see if it was?

**Mr Hutchings:** Well, nothing.

**Dr Mellifont:** So you just ignored it?

**Mr Hutchings:** I didn't do anything else.



**Dr Mellifont:** In retrospect, do you agree it would have been a good idea to do something else?

**Mr Hutchings:** Knowing what I know now, it may very well have been something that we would have investigated. If at that time we had investigated it, there may very well have been something that came of it, and I accept that, but I can't say that there would have been because, as I said, we get told many things by journalists.

**Dr Mellifont:** And if you had investigated it at the time it might have become apparent to you that there was other sensitive material out there in the public domain; do you accept that?

**Mr Hutchings:** Well, at the time that this occurred it doesn't appear and I don't have any recollection that there was any evidence that there was anything in the public domain that would have prompted my action to do anything.

**Dr Mellifont:** Apart from the email in the chain to you; is that right?

**Mr Hutchings:** Apart from that email, yes.

**Dr Mellifont:** So you didn't think, 'If there is stuff out there fitting that description, what else is out there?' Did any of that kind of thought process cross your mind at that particular point in time?

**Mr Hutchings:** No. There was nothing to suggest that there was anything else out there.

**Dr Mellifont:** Well, you made no inquiries in that respect; correct?

**Mr Hutchings:** No.

**Dr Mellifont:** You are agreeing with me?

**Mr Hutchings:** I made no inquiries at that time in that respect; that is right.

**Dr Mellifont:** I see that it is 1.30. Might that be a convenient time, Madam Chair?

**CHAIR:** Yes, it is. I will adjourn the hearing until 4 pm.

**Proceedings suspended from 1.30 pm to 5.11 pm**

**SWEEPER, Ms Suzanne, Principal Information Officer, Strategy and Policy, Crime and Misconduct Commission**

**CHAIR:** I call Mr Davis.

**Mr Davis:** Now, Ms Sweeper, you have already been sworn, haven't you?

**Ms Sweeper:** I have.

**Mr Davis:** And you understand that in this part of the hearing you are again on your former oath?

**Ms Sweeper:** I do. Mr Davis, can I just say that when I made by affirmation last night I think I may have made an error when I gave the dates of my present position. I believe I said I commenced in the position in January 2011. That should have been January 2012.

**Mr Davis:** Thank you. If you have a look at that file, which is document 93, you recognise that as a file of the CMC?

**Ms Sweeper:** I do.

**Mr Davis:** And that is a file that contains documents that were generated by you?

**Ms Sweeper:** It does.

**Mr Davis:** Now, when you received a request for release of documentation, what would you physically do?

**Ms Sweeper:** Normally the requests had QSA item numbers on them. So I would go to the QSA website, search the QSA catalogue, print off those catalogue records and provide them to the appropriate person for consideration.

**Mr Davis:** Who would the appropriate person be that you would refer it to?

**Ms Sweeper:** Depending on what the restricted access period was. For items that had a restricted access period of 65 years they went to Peter Duell, the Director of Information Management, and for items that had a 100-year restricted access period they went to Legal Services Unit.

**Mr Davis:** Now, could I take you to document which is tabbed B.

**Ms Sweeper:** Yes.

**Mr Davis:** Now, what is that document?

**Ms Sweeper:** That is a printout from the Queensland State Archives catalogue.

**Mr Davis:** Now, when you look at that document you will see that there is a word 'Description' on the face of the document?

**Ms Sweeper:** Correct.

**Mr Davis:** And what then follows are some words. Do you see that?

**Ms Sweeper:** Yes.

**Mr Davis:** Those words are directly from the QSA website; is that right?

**Ms Sweeper:** Correct.

**Mr Davis:** So those words are how the QSA website describes those documents?

**Ms Sweeper:** Yes.

**Mr Davis:** Or that document. Now, if you have a look at that document at tab B, did you cause those documents to be generated from the QSA website?

**Ms Sweeper:** I did.

**Mr Davis:** Now, what did that relate to—the documents at tab B? They were a request from whom?

**Ms Sweeper:** '...'.

**Mr Davis:** And was that in relation to documents from Boggo Road?

**Ms Sweeper:** '...' was doing—I cannot remember whether it was a PhD—supervised research on graffiti at Boggo Road, so she had obviously searched the Queensland State Archives for that term and come up with a number of documents that she had requested access to.

**Mr Davis:** Could you look at the document which is tab A, please. That is an email forwarding documents on to another person?

**Ms Sweeper:** No, it is not forwarding documents. It is an email advising a requester that their request had been granted.

**Mr Davis:** I see. Now, in relation to that particular document, that is a Mr Reeves, isn't it?

**Ms Sweeper:** Correct.

**Mr Davis:** And those documents had been the subject of a search by you through the QSA website?

**Ms Sweeper:** Yes.

**Mr Davis:** Were those documents 65-year RAPs or 100-year RAP documents?

**Ms Sweeper:** 65-year RAPs.

**Mr Davis:** So the issue as to whether or not those documents ought to be disclosed, was that issue passed on to Peter Duell?

**Ms Sweeper:** Yes.

**Mr Davis:** Very well. Now, if I could show you this document, please. That appears to be an email from you to Peter Duell?

**Ms Sweeper:** Correct.

**Mr Davis:** And it refers to a draft memo to general counsel?

**Ms Sweeper:** Yes.

**Mr Davis:** And that draft memo is attached to the email there. Do you see that?

**Ms Sweeper:** Yes.

**Mr Davis:** And is that a draft email that was prepared by you?

**Ms Sweeper:** It was.

**Mr Davis:** I now want to show you another document. Now, that document is a document which has been tabled as exhibit 7 and that document is a memorandum to general counsel from you through Mr Duell. Do you see that?

**Ms Sweeper:** Correct.

**CHAIR:** One moment, please. I just seek clarification of Mr Fox's involvement, please. Are you seeking leave to give assistance?

**Mr Fox:** No, I am sorry. There was a technical matter.

**CHAIR:** Thank you. Thank you, Mr Davis.

**Mr Davis:** That document which I have just given you is the memorandum that was actually sent through to general counsel from you and through Mr Duell; is that right?

**Ms Sweeper:** Correct.

**Mr Davis:** That is also a document which was prepared by you?

**Ms Sweeper:** Yes.

**Mr Davis:** Now, if you look at the first document that I gave you, which was the draft, and you look at the second document, which is now tabled as exhibit 7, there are a couple of differences. If you look at the paragraph on page 1: 'In March 2010 QSA wrote'. Do you see that? This is on the document which is the draft.

**Ms Sweeper:** Yes.

**Mr Davis:** And if you look then also at the same paragraph on the document which is exhibit 7, you will see that there is just a formal difference in that there is a paragraph break.

**Ms Sweeper:** Yes.

**Mr Davis:** But that seems to be the only difference in relation to that. If you then look over the page of the draft document you will see a heading 'Recommendations'?

**Ms Sweeper:** I do.

**Mr Davis:** And if you go to the document which is presently exhibit 7 on page 2 you will also see a heading 'Recommendations'?

**Ms Sweeper:** Yes.

**Mr Davis:** If you look down under the heading 'Recommendations' to paragraph 1 in the draft, you will see that the recommendation is 'consider removal of the restricted access period of 65 years'?

**Ms Sweeper:** Yes.

**Mr Davis:** Do you see that?

**Ms Sweeper:** Yes.

**Mr Davis:** If you look over to page 2 of the document which is exhibit 7 and look under the heading 'Recommendations', paragraph 1, it has now become 'reduce the restricted access'. Do you see that?

**Ms Sweeper:** Yes.

**Mr Davis:** So there has been a change in the recommendations from considering to reducing. So it has been firmed up somewhat?

**Ms Sweeper:** Yes.

**Mr Davis:** How did that come about?

**Ms Sweeper:** I do not recall having a discussion about the changes to the recommendation at the time. It is something that I have become aware of since—the differences in the two documents.

**Mr Davis:** If you have a look at the first document that I handed you, in particular the email to that draft, you are sending this draft to Mr Duell in effect for him to settle; is that right—for him to make any changes?

**Ms Sweeper:** Correct.

**Mr Davis:** Do you know whether there was any discussion between the pair of you before the final document was prepared?

**Ms Sweeper:** I cannot recall any discussion. And if it helps, I have the time line of when the document was sent and when it came back.

**Mr Davis:** Oh, yes? Tell us about that.

**Ms Sweeper:** At 9.52 on 7 September—

**Mr Davis:** That is the date of that email and the time of that email. Yes?

**Ms Sweeper:** At 9.52 the draft was sent to Peter Duell requesting final amendments. At 11.05 the amended draft was returned to me. At 11.28 I saved that document as an electronic document into TRIM and then at 11.29 it was printed.

**Mr Davis:** So the changes that were made to the document between the draft and the final document, they were changes that were actually made by Mr Duell?

**Ms Sweeper:** Correct.

**Mr Davis:** And you do not know if there was any discussion between you and him about that?

**Ms Sweeper:** I cannot recall.

**Mr Davis:** Where did you get those time lines from?

**Ms Sweeper:** From TRIM. The timing of the emails are on the email.

**Mr Davis:** Yes.

**Ms Sweeper:** And there is an audit log in TRIM that tells you when documents were saved.

**Mr Davis:** And do you have that document with you, do you?

**Ms Sweeper:** I do.

**Mr Davis:** Could I have a look at that, please?

**Ms Sweeper:** That document has been accessed a lot of times since then.

**Mr Davis:** So how does this work? Does this tell you whenever a particular document is accessed on the system?

**Ms Sweeper:** Correct.

**Mr Davis:** So if you open it, change it, close it or send it, it is all on this log?

**Ms Sweeper:** Yes.

**Mr Davis:** Very well. I seek leave to table the document headed 'Active Audit Events'.

**CHAIR:** Is leave granted? Leave is granted. It is tabled document 94.

**Mr Davis:** Have a look at this document for me, please. That seems to be a copy of the final draft that seems to be signed.

**Ms Sweeper:** Correct.

**Mr Davis:** How did that come into existence?

**Ms Sweeper:** That would have been—

**Mr Davis:** It was printed off, obviously.

**Ms Sweeper:** It was printed off, signed by me and passed to Peter Duell.

**Mr Davis:** Who then presumably passed it on to general counsel?

**Ms Sweeper:** Correct.

**Mr Davis:** I seek leave to table that document. It is actually part of another exhibit but it is best, I think, to tender this one separately as she has identified it.

**CHAIR:** Is leave granted? Leave is granted. It will be document 95.

**Mr Davis:** Now, going back to the other end of this process, when you were first instructed to undertake the activity which ended up generating the memorandum of 7 September, what were you told to do and who were you told by?

**Ms Sweeper:** I do not recall that I was ever given specific instruction to produce the document. From going back through the files and my emails, I believe that the reason the memo came about was because there were a number of outstanding requests. There were a couple of requests that arrived during my time, when I was relieving as records manager. There was no set process in place for dealing with these requests and there were a couple of requesters that were anxious about the process of their requests and were in communication with Peter Duell. So I imagine it was all of those things together that brought about the memo.

**Mr Davis:** But you must have been asked by someone to undertake the investigation which led to the memo?

**Ms Sweeper:** There would have been discussions between Peter Duell and myself.

**Mr Davis:** Okay. Can you remember what you were told to do?

**Ms Sweeper:** No.

**Mr Davis:** Can you recall what advice or instructions you were given about the nature of the Fitzgerald documents that you were considering?

**Ms Sweeper:** I do not believe I would have been given any advice about the nature. I had been at the commission for some time. I knew about the Fitzgerald holdings in a general sense.

**Mr Davis:** Well, you knew that there were Fitzgerald holdings?

**Ms Sweeper:** Correct.

**Mr Davis:** You knew that some of the documents that were held were documents that had been tendered at the public hearings of the Fitzgerald inquiry?

**Ms Sweeper:** Correct.

**Mr Davis:** You knew that some documents were ones that had been marked confidential?

**Ms Sweeper:** Yes.

**Mr Davis:** What else did you know about the documents?

**Ms Sweeper:** That probably is the extent of it.

**Mr Davis:** Did you think that those two categories of documents together—namely, the ones that had been tendered at the Fitzgerald inquiry and the ones that had been marked confidential—made up all the holdings?

**Ms Sweeper:** No. My understanding was that there were two restricted access periods—100 years and 65 years. And my understanding was that material that had been given 65 years was either tendered at the public hearing or non-controversial.

**Mr Davis:** Where did you get that idea from?

**Ms Sweeper:** From my research through the files and—

**Mr Davis:** When you say your 'research through the files', what files are you talking about?

**Ms Sweeper:** The history of the transfer of the material to State Archives. There were a number of spreadsheets that related to the confidential exhibits. And I did speak to a couple of people as well.

**Mr Davis:** Who?

**Ms Sweeper:** I had a couple of emails with Janet Legg, who was the previous records manager.

**Mr Davis:** Yes.

**Ms Sweeper:** And I spoke to State Archives, but that was more generally to understand restricted access periods.

**Mr Davis:** You would not have been speaking to them about the contents of the documents?

**Ms Sweeper:** No. It was more about restricted access periods in general. Russell Kenzler, who was the right to information coordinator: I believe I had a discussion with him.

**Mr Davis:** And did all these people tell you that the 65-year RAP documents were all either publicly available at the time of the Fitzgerald inquiry or were non-contentious?

**Ms Sweeper:** No. I cannot recall the exact discussions that I had with these people, but that was my conclusion from the information that was available.

**Mr Davis:** Did you ever see a printout of the indexes that were held by the QSA—the indexes of the documents?

**Ms Sweeper:** Do you mean the printouts that we were discussing before?

**Mr Davis:** No, I mean a full printout. Did you ever look at that?

**Ms Sweeper:** No.

**Mr Davis:** Very well. Did you ever do a physical audit of the documents before 7 September 2011?

**Ms Sweeper:** No.

**Mr Davis:** So you had this idea when you were doing the memo of 7 September 2011 that all the 65-year RAP documents were, one way or another, non-contentious?

**Ms Sweeper:** I did.

**Mr Davis:** You knew that originally when there was a transfer of the files to the QSA from the CMC the 65-year RAP was placed on those documents?

**Ms Sweeper:** I did.

**Mr Davis:** Why did you think the 65-year RAP was placed on the documents at that point if they were all non-contentious?

**Ms Sweeper:** On the transfer to archives file?

**Mr Davis:** Mmm.

**Ms Sweeper:** Janet Legg had requested legal advice as to what restricted access period should be placed on the document.

**Mr Davis:** Yes.

**Ms Sweeper:** I do not believe that that advice was ever forthcoming. For that category of material the restricted access period guidelines state zero to 65 years.

**Mr Davis:** Yes.

**Ms Sweeper:** So I believe Janet had erred on the side of caution and placed 65 years on all of that material.

**Mr Davis:** So by the time you looked at the matter on 7 September, you had determined that all of the documents that she had classified 65 years RAP could all be released because they were non-contentious?

**Ms Sweeper:** We spoke before about the differences between the draft memo and the final memo.

**Mr Davis:** Yes.

**Ms Sweeper:** The draft memo says 'consider removal of the 65-year restricted access period'. I was well aware that there were not a lot of people still at the commission who had personal knowledge, intimate knowledge, of the holdings. So my memo was suggesting that consideration be given to that option—further examination.

**Mr Davis:** Further examination of the documents or further examination of the issue?

**Ms Sweeper:** Of the issue.

**Mr Davis:** Did you make it clear in either the draft or the final memo that definitely further consideration needed to be given before the documents were released?

**Ms Sweeper:** No. It was really just that sentence. Actually, the final sentence of the memo says—

**Mr Davis:** Which one is this? Is this the draft or the one that was sent?

**Ms Sweeper:** I have a different copy of that memo that is not either of these.

**Mr Davis:** All right. What we might first do is I will seek leave to table the first version, which is the draft version that I showed Ms Sweeper.

**CHAIR:** Is leave granted? Leave is granted. It is document 96.

**Mr Davis:** And could you please show me the version that you have?

**Ms Sweeper:** Sorry, that was my mistake. They are the same.

**Mr Davis:** They are the same? All right. So what was your intention with this draft memo? Let's work on the draft memo, because the draft memo is actually your memo and the final version is actually Mr Duell's, isn't it?

**Ms Sweeper:** Correct.

**Mr Davis:** Were you intending someone to go and look at the documents to consider this issue about whether they should be released?

**Ms Sweeper:** I did not make any recommendation as to what the process should be, just that it should be further considered.

**Mr Davis:** Why did you not turn your mind to the process?

**Ms Sweeper:** I guess—I mean, there are a number of other items in that memo that do refer to the process of dealing with these requests, but the process of making that determination I did not cover. I guess, I was in the role for five months. It was not my area of expertise.

**Mr Davis:** Mr Duell must have known that, that you were fairly new to the role?

**Ms Sweeper:** Correct.

**Mr Davis:** And when you say it was not your expertise—sorry, I do not mean to be rude, but what is your expertise?

**Ms Sweeper:** At the time I was the business analyst. So project management, business processes.

**Mr Davis:** Again, do not take offence to this, but as at the time you were writing your memo of 7 September 2011 what knowledge did you have of the general workings of a commission of inquiry?

**Ms Sweeper:** None.

**Mr Davis:** You never had any experience with commissions of inquiry?

**Ms Sweeper:** No.

**Mr Davis:** And yet it was you who was tasked, it seemed, by Mr Duell to determine whether documents generated by I think what can be regarded as a fairly important commission of inquiry ought to be reclassified?

**Ms Sweeper:** Correct.

**Mr Davis:** And really, what you have done, I suggest—again, do not take offence to this—is you have just assumed from some knowledge that you had gained that the 65-year RAP just was applying to non-contentious documents?

**Ms Sweeper:** Correct.

Inquiry into the CMC's Release and Destruction of Fitzgerald Inquiry Documents

**Mr Davis:** And therefore your memorandum of 7 September 2011 really just sets out a bureaucratic way for the release of the documents?

**Ms Sweeper:** Correct.

**Mr Davis:** A bureaucratic process; is that right?

**Ms Sweeper:** Yes.

**Mr Davis:** It did not occur to you to go and look at the documents or look at the indexes?

**Ms Sweeper:** No.

**Mr Davis:** It did not occur to you to turn your mind to whether these documents were in fact contentious?

**Ms Sweeper:** No.

**Mr Davis:** You must have been in that frame of mind, as in not to look at those things, because those things you believed were outside your role; is that right?

**Ms Sweeper:** Outside my role or outside my expertise?

**Mr Davis:** Well, and/or both.

**Ms Sweeper:** Yes, yes.

**Mr Davis:** And that comes back to the question of what you were really asked to do by Mr Duell. There was never any written instruction to you?

**Ms Sweeper:** No.

**Mr Davis:** There was never any briefing—

**Ms Sweeper:** No.

**Mr Davis:**—in a real sense where you were told what these documents were and how commissions of inquiry worked?

**Ms Sweeper:** No.

**Mr Davis:** What documents were generated by the commission of inquiry?

**Ms Sweeper:** No.

**Mr Davis:** Nothing?

**Ms Sweeper:** No.

**Mr Davis:** Very well. Could we go, please, to document No. 9, which is exhibit 7. I just want to ask you some questions about the substance of this document—the contents of it. If you look at the second paragraph, commencing 'Most of the material related to the Fitzgerald Inquiry'. Do you see that?

**Ms Sweeper:** I do.

**Mr Davis:** And you refer there to the Public Records Act 2002. And you refer there to a 65-year RAP being given to some documents and then the remainder of the material being the subject of various non-publication orders.

**Ms Sweeper:** Yes.

**Mr Davis:** Do you see that?

**Ms Sweeper:** Yes.

**Mr Davis:** Were you aware when you were doing this memo that the documents that had the 65-year RAP not only included documents that had been made public during the Fitzgerald inquiry but also included such things as documents that had been generated during the investigations and had never made their way to the public hearings? Were you aware of that?

**Ms Sweeper:** Yes.

**Mr Davis:** It did not cross your mind that documents that were generated during the investigation of a commission of inquiry may have been contentious?

**Ms Sweeper:** I knew there were contentious documents. I thought they had been given a 100-year restricted access period—erroneously.

**Mr Davis:** I see. Very well. If you then go a little further down you will see a paragraph commencing 'Due to staffing issues in LSU at the time, no legal advice in relation to these matters was received.' Do you see that?



**Ms Sweeper:** Correct.

**Mr Davis:** Now, that paragraph really records your view that the 65-year restricted access period had been imposed almost as a matter of convenience, rather than by way of a considered judgement after a consideration of the documents?

**Ms Sweeper:** Yes.

**Mr Davis:** How did you come to know those things that are set out in the paragraph commencing 'Due to staffing issues'? Did you look at documents or were you told things?

**Ms Sweeper:** I believe it was probably looking at the transfer files.

**Mr Davis:** Very well. That is your best memory of it at this point?

**Ms Sweeper:** Yes. That is definitely how I knew that no legal advice had been received.

**Mr Davis:** If you look at the next paragraph it states, 'The effect of the implementation of this restricted access period is that members of the public wishing to access'—do you see the word you have highlighted—'ANY Fitzgerald Inquiry records'. Do you see that?

**Ms Sweeper:** Yes.

**Mr Davis:** Given the recommendations that you then make, it must have been in your mind that, other than the 100-year RAP documents, there was no reason why any of the other documents could not be made available to the public; is that right?

**Ms Sweeper:** Yes.

**Mr Davis:** If you go over the page, to page 2, and your issues No. 1, you say this—

Given that much of the material relating to the Fitzgerald Inquiry was tendered as part of a public hearing, is there a need to apply a 65 year restricted access period which requires members of the public to submit requests for access in writing ...

Do you see that?

**Ms Sweeper:** I do.

**Mr Davis:** That would logically lead, perhaps, to the removal of the 65-year RAP as it relates to publicly tendered documents.

**Ms Sweeper:** Yes.

**Mr Davis:** But how logically does that statement lead to a removal of the 65-year RAP in relation to all documents that were not marked 'confidential'?

**Ms Sweeper:** I guess I can only say that it was my misunderstanding of the situation.

**Mr Davis:** If you go down the page, to your recommendations, paragraph No. 1 starts 'Reduce the restricted access period'. Now, this is the part that has been altered by Mr Duell?

**Ms Sweeper:** Correct.

**Mr Davis:** But, again, the removal of the restriction is being recommended by you on this assumption that we now know to be incorrect, that all of the 65-year RAP documents were non-contentious?

**Ms Sweeper:** That was my understanding, yes.

**Mr Davis:** And then if you go down a little bit further you will see a recommendation No. 4: 'Put a documented process in place to deal with requests for access to Fitzgerald Inquiry records subject to non-publication orders'. Do you see that?

**Ms Sweeper:** Yes.

**Mr Davis:** 'And to streamline the process and reduce the response time'. So in your mind there were the 65-year RAP documents, which were all non-contentious, and there were some 100-year RAP documents that may very well be subject to a valid determination to disseminate; is that right?

**Ms Sweeper:** Sorry, could you repeat that question?

**Mr Davis:** In your mind there were two categories of documents. There were the 65-year RAP documents which in your mind were all non-contentious; is that right?

**Ms Sweeper:** Correct.

**Mr Davis:** And of the documents that had the 100-year RAP—namely, the ones marked 'confidential'—in your mind you thought some of those might also have been suitable for publication?

**Ms Sweeper:** No. That recommendation is about requests with LSU. That was more trying to deal with the fact that some of those requests were taking a number of months to process—more than a year. And that request was really for LSU, about putting a process in place for dealing with the requests that they were receiving.

**Mr Davis:** But it must have been in your mind that some of those documents would have been suitable for release because, otherwise, why have a process? I mean, if none of them are, well, why have a process?

**Ms Sweeper:** Well, two things. Some of the non-publication orders had been lifted in the past.

**Mr Davis:** Yes.

**Ms Sweeper:** And I think it was unclear how or by whom or why, from the information on the files. So I assumed if some had been lifted in the past there was the possibility that some may be lifted in the future.

**Mr Davis:** Did you ever see any protocols for lifting the 100-year RAPs or was it all done document by document, in an ad hoc fashion?

**Ms Sweeper:** Document by document in an ad hoc fashion.

**Mr Davis:** Could you look at page 3 of the document. That is just a conclusion by you. Perhaps it is obvious, but it just means that the 65-year restricted access documents would all be available and then the CMC would only have to deal with requests in relation to the documents the subject of the non-publication orders?

**Ms Sweeper:** Correct.

**Mr Davis:** So bureaucratically the procedure became simpler?

**Ms Sweeper:** Yes.

**Mr Davis:** Very well. Could I take you to document No. 7, please.

**Ms Sweeper:** Document No. 7 on the file?

**Mr Davis:** I am sorry. I will hand you this document. It is document 7 in our bundle. That is an email from Peter Duell to Tony Reeves. Have you seen that before?

**Ms Sweeper:** No.

**Mr Davis:** You are not surprised, though, that an email like that has been sent, because that is obviously part of the implementation of the recommendations in the memo of the 7th?

**Ms Sweeper:** Do you mean I am not surprised that there is email contact between—

**Mr Davis:** From this—

**Ms Sweeper:** No.

**Mr Davis:** I seek leave to table that document. I have a sneaking suspicion it has already been tabled. We think another version of it is exhibit 29, so I will not table that. We will just have the witness look at 29. Perhaps if I could see it on the way through. It is the same document. You do not need to concentrate on that. That is just the same document as the one I showed you earlier. You can just hand that back. Could you have a look at exhibit 43 for me, please. This is a note to file from Sidonie Wood, 29 May 2012. By this stage some difficulties have arisen. Have you seen this document before?

**Ms Sweeper:** No.

**Mr Davis:** Could you look at the second paragraph, the paragraph commencing 'I asked how they disseminated confidential Fitz', which I think is a reference to Fitzgerald material. If you just look a bit further down, about five lines down, it states—

The requests for information were then dealt with by the Records Manager (Suzanne Sweeper; Janet Legg; Cathy Rowe) who would then liaise with General Counsel and possibly the RTI officer Russell Kenzler as to the appropriate access (may make an exception for that exhibit).

And it goes on. That is true as far as you are concerned? That is how the system worked? You would deal with the request and would liaise with general counsel?

**Ms Sweeper:** That is not what I did, no.

**Mr Davis:** It is because it leaves Mr Duell out of the equation, doesn't it?

**Ms Sweeper:** It does.

**Mr Davis:** So, really, what was happening was you were dealing with the request to the extent that you would go on to the QSA website and you would download those documents that we identified earlier, being the descriptions of the documents, and then it would be passed on to Mr Duell?

**Ms Sweeper:** Correct. Unless there was a restricted access period of 100 years, in which case they were passed on to general counsel.

**Mr Davis:** And he would then pass it on and deal with it?

**Ms Sweeper:** No, I would pass it directly.

**Mr Davis:** Sorry, in relation to 65-year RAPs, would Mr Duell seek advice from general counsel or just make a decision himself, to your knowledge?

**Ms Sweeper:** To my knowledge he would make a decision himself.

**Mr Davis:** Very well. Could you look at the next paragraph: 'Peter Duell explained'. Do you see that?

**Ms Sweeper:** I do.

**Mr Davis:** Do you know anything about that? Nothing?

**Ms Sweeper:** No.

**Mr Davis:** If you look at the next paragraph: 'I asked how the change in access period came about.' You are mentioned there towards the end of the paragraph. Do you see that?

**Ms Sweeper:** I do.

**Mr Davis:** Is there anything you can say about that paragraph?

**Ms Sweeper:** It is a bit convoluted. He said they made a lot of requests for legal advice from the then general counsel. The only requests I am aware of are the ones early on in the piece relating to what RAP should be applied at the commencement of the process.

**Mr Davis:** And if you look down a little bit further you will see: 'The request was a Memo from Susanne Sweeper to Peter Duell proposing a reduction of the RAP to 20 yrs'. Now, that is obviously the 7 September document.

**Ms Sweeper:** Correct.

**Mr Davis:** But even that is a little bit out of context as it is put in this memo because you were actually asked by Duell to look at the issue and your suggestion, or at least originally, was just that it should be considered?

**Ms Sweeper:** Correct.

**Mr Davis:** It was in the later version of the document that was settled by Duell that the firm recommendation was made?

**Ms Sweeper:** Correct.

**Mr Davis:** If you look at the next paragraph: 'They met with Warren Strange'. Do you see that?

**Ms Sweeper:** Yes.

**Mr Davis:** Were you involved in that meeting?

**Ms Sweeper:** No.

**Mr Davis:** I will show you this next document. This is document 12A in the bundle. Now, this is a transcript of evidence, 14 March 2013, page 10. You are mentioned at the bottom of page 10.

**Ms Sweeper:** Yes.

**Mr Davis:** You will see there Mr Duell says, 'I thought it was worthy of a research review of them to be conducted'. If you have a look a couple of lines further up, Mr Duell gives this answer to a question. He says—

Yes. Well, at the time I was not sure about a change to RAP. I was just trying to get a feel for what the holdings were about. Do you see that?

**Ms Sweeper:** I do.

**Mr Davis:** And then it continues that you were given that job. And then over the page Mr Duell states, 'We talked about it. Suzanne was also involved'. Do you see that line there?

**Ms Sweeper:** Yes.

**Mr Davis:** Now, did he pass on information about what the documents were—what he had been told?

**Ms Sweeper:** We may have had general discussions, but I do not recall anything specific.

**Mr Davis:** You see, what he says on page 10 is that he was just trying to get a feel for what the holdings were about, and then he seems to suggest a little further on that he gave that job to you. But you did not look at the documents and you did not consider the content of the documents. What you did was to just simply assume that the 65-year RAP documents were not contentious. That is right, isn't it?

**Ms Sweeper:** Correct.

**Mr Davis:** Well, did Mr Duell ever sit down and explain to you that what he was asking you to do was tell him how sensitive, for instance, the documents were?

**Ms Sweeper:** Not at all.

**Mr Davis:** If you go to page 11, about halfway down, you will see that there is a reference to what is a memo of the 7th. Do you see that?

**Ms Sweeper:** Where the file number is?

**Mr Davis:** I say, 'Could you go, then, back to your briefing note' et cetera. And then if you go down a little bit further it states, 'Now, there is a memo to general counsel'. Do you see that?

**Ms Sweeper:** Yes.

**Mr Davis:** Just take it from me that that is a reference to the memo of the 7th. And then I asked the question: 'So you relied purely on this report?' Do you see that?

**Ms Sweeper:** Yes.

**Mr Davis:** Well, from what you have told us it was never your intention that he rely purely on the report in the sense that you wanted the position to be that there be consideration of changing the RAPs?

**Ms Sweeper:** Correct.

**Mr Davis:** Not a definite recommendation. Is that right?

**Ms Sweeper:** Correct.

**Mr Davis:** Very well. Could you go over the page to page 12? You will see the third entry down, 'Mr Davis: What were your instructions to her in relation to conducting this review? What did you ask her to do?', and the answer is, 'To get across the Fitzgerald inquiry holdings with the transfer and the RAP that was applied at the time and see if it was appropriate for the documentation.' Then he has asked, 'You have used the term "to get across",' and his answer is, 'Get an understanding of what that material was and whether that 65-year blanket RAP applied to all documentation.' Were you ever told to do that?

**Ms Sweeper:** To my recollection, no.

**Mr Davis:** Were you ever told to do an audit of the documents?

**Ms Sweeper:** No.

**Mr Davis:** Were you ever told to do an audit of the indexes?

**Ms Sweeper:** No.

**Mr Davis:** Just have a look further on. I ask, 'So get across the documents? You expected her to go and look at the 19,000 documents?' He says, 'No.' 'Well, what did you expect her to do?' 'To go through the records and find out about the transfer and the summaries of the series.' Do you remember getting that instruction?

**Ms Sweeper:** No.

**Mr Davis:** A bit further down I ask, 'Is there a document where you clearly give her guidance as to how to go about that task?', and he says, 'No.' Now, you would agree with that, wouldn't you? There has never been a proper briefing note to you?

**Ms Sweeper:** No.

**Mr Davis:** Then he goes a bit further down—if you go a bit further down you will see that he said he gave you oral instructions. Do you see that?

**Ms Sweeper:** Yes.

**Mr Davis:** I will take that document back. There is no need to tender that because it is part of the transcript. I will show you this next one, which is 12B. You are mentioned just past half distance down the page.

**Ms Sweeper:** Yes.

**Mr Davis:** You see that?

**Ms Sweeper:** Yes.

**Mr Davis:** So there is some verbal agreement between the acting chairperson and the general counsel about the recommendation of Suzanne Sweeper's memo. You would not have been party to any of that, would you?

**Ms Sweeper:** No.

**Mr Davis:** You just knew that in the end what was implemented was what was recommended in the memo, or did you have some other involvement?

**Ms Sweeper:** No. I actually went on maternity leave on 9 March 2012.

**Mr Davis:** Right. I will not tender that document because it is part of the transcript, but I will show you this document. There is a highlight there, but I would like you to actually—you will see that I ask Mr Duell whether he viewed any of the Whiskey Au Go Go documents before he signed the authorisation for their release?

**Ms Sweeper:** Yes.

**Mr Davis:** He says, 'No.' I ask, 'Why not?' 'They had been looked at by the acting records manager and it was her recommendation.' The acting records manager is you, isn't it?

**Ms Sweeper:** Correct.

**Mr Davis:** Were you ever tasked by Mr Duell to look at the Whiskey Au Go Go documents?

**Ms Sweeper:** Never.

**Mr Davis:** Make any consideration about whether they were contentious?

**Ms Sweeper:** No.

**Mr Davis:** Make any consideration as to whether they should be released to the public?

**Ms Sweeper:** No.

**Mr Davis:** Very well. Was that your role as an acting records manager, to make those sorts of recommendations?

**Ms Sweeper:** No.

**Mr Davis:** What you have told us is that really all that you did in this process was just simply access the Queensland State Archives records and download descriptions of the documents.

**Ms Sweeper:** Correct.

**Mr Davis:** And then when that was all bundled up you then passed it back up the chain to Mr Duell.

**Ms Sweeper:** Correct.

**Mr Davis:** Please do not take this the wrong way, but you do not seem to be engaging in any assessment of the documents at all.

**Ms Sweeper:** No.

**Mr Davis:** Were you ever told by Mr Duell to engage in an assessment of the documents?

**Ms Sweeper:** No.

**Mr Davis:** Did you understand that it was Mr Duell who was assessing the documents and determining whether they were appropriate to release?

**Ms Sweeper:** Correct.

**Mr Davis:** There was just one further matter, please. You said at one stage in answer to one of my questions that, if there was a 65-year RAP document that was under consideration, then that matter went to Mr Duell and if it was a hundred-year RAP document, it went to the legal department. Is that right?

**Ms Sweeper:** Correct.

**Mr Davis:** That policy, was that written down somewhere?

**Ms Sweeper:** No.

**Mr Davis:** It was just something that was understood by you and by Mr Duell?

**Ms Sweeper:** Yes.

**Mr Davis:** No policy written down about that, no instruction, no protocols?

**Ms Sweeper:** No.

**Mr Davis:** It is just something that everybody was supposed to know?

**Ms Sweeper:** Yes.

**Mr Davis:** They are the questions I have for this witness.

**CHAIR:** Thank you, Mr Davis. I just have a couple of questions. On the document dated 7 September 2011 from Suzanne Sweeper, yourself, to general counsel—it is tabled paper exhibit 7—it says in the second paragraph, 'The applicable restricted access period for this type of material ranges from a minimum of nought years to a maximum of 65 years. The remainder of material—see attached spreadsheet—was subject to various non-publication orders which were made during the course of the original inquiry.' What was the spreadsheet, please?

**Ms Sweeper:** I believe that is a spreadsheet listing the restricted exhibits of the inquiry and items that had a non-publication order placed on them.

**CHAIR:** So did it have a string of information that indicated the sensitivity of the documents?

**Ms Sweeper:** I do not—it did not—my recollection is it did not contain a lot of information, a lot of detail about the items. But the spreadsheet was entitled something like 'restricted exhibits' or 'non-publication orders', so by the nature of the document everything in there fell into that category.

**CHAIR:** So there was no information on that spreadsheet attached to each of the entries to say whether it was a surveillance file, whether it included witness protection issues, whether it was confidential?

**Ms Sweeper:** I do not believe so. I would have to have a look at the spreadsheet.

**CHAIR:** There is a second question I have and then I will pass over. In the transcript of 14 March on page 11, Mr Duell says, 'We talked about it'—this is with Suzanne Sweeper. 'Suzanne also was involved in looking at these requests that were coming in from members of the public to get access to the documents. She was also an authorised officer for changing the RAP.' Is that the case?

**Ms Sweeper:** I do not believe so. As part of my preparation for being here I looked at the RAP document. I was not an authorised officer until 10 October and I finished in the role on 15 October.

**CHAIR:** So 10 October. Which year?

**Ms Sweeper:** 2011.

**CHAIR:** Okay. And you finished?

**Ms Sweeper:** On 15 October 2011.

**CHAIR:** Thank you very much. I call the member for Bundamba.

**Mrs MILLER:** Thank you for being here this evening, Ms Sweeper. How old were you in 1989?

**Ms Sweeper:** How old was I in 1989?

**Mrs MILLER:** Yes.

**Ms Sweeper:** Nineteen.

**Mrs MILLER:** It is just that it amazes me that you were studying obviously at the University of Queensland then—

**Ms Sweeper:** Correct.

**Mrs MILLER:**—and Fitzgerald started in 1987. The biggest news story in Queensland was all about Fitzgerald and the Fitzgerald inquiry, and yet you said that you did not really know a lot about Fitzgerald.

**Ms Sweeper:** I did not know a lot about the holdings. I know about the Fitzgerald inquiry and what it was about and—

**Mrs MILLER:** So you would have—I am just trying to flesh this out a bit. You would have known the sensitive, I presume, when you were young about the Fitzgerald inquiry and the ramifications of the report, the fact that, as a result of the Fitzgerald report, Queensland fundamentally changed in public administration, police, et cetera? You would be aware of that?

**Ms Sweeper:** I would have been aware of it on some level as a late teenager, yes.

**Mrs MILLER:** Good. It is just I suppose—you know, I was young once, too, but I would still be—I suppose what I am trying to get to here is that anything to do with Fitzgerald—and I notice that you did work in the Police Service as well—that the holdings, I would have presumed that you would have thought that they would have been sensitive in any case.

**Ms Sweeper:** I realised that some of the material was sensitive, but I also knew that the transcripts of the public hearing, which were available in 1989, fell under the 65-year restricted access period.

**Mrs MILLER:** Yes.

**Ms Sweeper:** So they in themselves had been public documents 30 years before, but now were restricted in their access.

**Mrs MILLER:** So getting to the RTI coordinator within the CMC, it seems to me that RTI coordinators in other government agencies deal not only with RTI or FOI applications, but they also deal with what is termed 'administrative access to documents', which is like the emails that came from Tony Reeves or emails that come from anybody else. In other words, they tend to come in through the RTI process whether they are applications under the RTI act or whether they are what we would classify as 'administrative access'. But that does not seem to happen here in the processes of the CMC.

**Ms Sweeper:** Correct.

**Mrs MILLER:** Can you tell me why not? Do you have any idea why that does not happen?

**Ms Sweeper:** I would have thought that in relation to that material the Fitzgerald holdings had been held at the CMC up until 2007 I think. There were a couple of staff within the Information Management area who had a good knowledge of that material and I suspect that, because of that, historically requests had come through records management—Information Management.

**Mrs MILLER:** So the RTI officer of the CMC only handles applications under RTI?

**Ms Sweeper:** As far as I understand, yes.

**Mrs MILLER:** Doesn't that seem a bit messy to you? In other words the RTI—

**Ms Sweeper:** There are two different streams.

**Mrs MILLER:** Yes. Can I just say that I do not believe that this happens in other government agencies. So all outside requests for information, whether they come under the RTI act or administrative access or maybe even through the State Archives, would come through that one area. It just seems a bit messy that the CMC has all these different people dealing with requests for access to documents, whether it be Fitzgerald or not.

**Ms Sweeper:** I do not know that I am really in a position—I do not really know that I have an understanding of how those requests are dealt with throughout the organisation to be able to answer that.

**Mrs MILLER:** So is there a central repository where all these outside requests for information are kept within the CMC, or do you have some—the 100 years go to the general counsel and then the RTIs go to the RTI, Mr Kenzler, and then these other ones somehow come through Information Management?

**Ms Sweeper:** I would imagine that that is the case.

**Mrs MILLER:** So there would not be one—

**Ms Sweeper:** No.

**Mrs MILLER:** Anyone could be getting anything and no one would know what was going on. That could be the potential, couldn't it?

**Ms Sweeper:** That would be a potential.

**Mrs MILLER:** Thank you.

**Mr DOWLING:** If I can take you back to your document or briefing note or memorandum through to Peter Duell and then on to general counsel where Duell changed the word from Brisbane

'consider'—basically from 'consider removal' to 'reduce the restricted access period'. So it is quite a significant change. Did he advise you of that change, or was it just something you noticed?

**Ms Sweeper:** I do not recall having a discussion about that change at the time. It is something that I noticed in the process of preparation for attending.

**Mr DOWLING:** You noticed at the time that there was the change?

**Ms Sweeper:** No. I do not recall noticing at the time there was the change.

**Mr DOWLING:** Is it customary for a manager—you—to provide a report or a memorandum—for them to then change it, alter it and then not advise you of the change and reasons for that? Was there no explanation offered at the time? I suppose if you did not notice it and he did not advise you then you clearly were unaware of it and it went straight up the line then. Is there a reason why Peter Duell would not have actually put it up under his name to general counsel, because he has now amended the recommendation? While you have done most of the research, why would he still put your name on it, even though he has now manipulated it to say something quite significantly different to the intent that you had?

**Ms Sweeper:** I guess I had undertaken the research and produced the main body of the memo.

**Mr DOWLING:** Part of the grounds that you give is that so much of this information is available through the State Library anyway, particularly the transcripts of the Fitzgerald inquiry. Why was it such an issue in processing RTI? Why could you not just say, 'Go to the library like everyone else'?

**Ms Sweeper:** The transcripts were available in a couple of libraries—the Supreme Court Library and the State Library—but that is all the material that was available elsewhere.

**Mr DOWLING:** So they did not have the exhibits as part of their display or part of their library? They did not have the references and the other bits and pieces that people were looking for?

**Ms Sweeper:** No.

**Mr DOWLING:** Okay. Thank you. I have nothing further.

**Mr WELLINGTON:** I am just keen to get a picture in my mind of what was happening in your office during the time that the committee is investigating. Can you share with us your thoughts about how busy it was? Was it 9 to 5, go home, no stress, no worry, or were you flat out with hundreds of active files?

**Ms Sweeper:** I did find the period challenging. I was new to the role. It was at a higher classification. There were approximately 13 staff members to supervise. There were three—the three positions below me were all currently being filled by more junior staff who were also relieving at a higher level. There were a lot of issues to deal with at the time. So yes, it was busy and challenging.

**Mr KAYE:** Ms Sweeper, over what period of time did you deal with—or have you dealt with requests for Fitzgerald inquiry information, for documents?

**Ms Sweeper:** Purely during that five months between May and October 2011.

**Mr KAYE:** How would you describe the number of requests over that period of time? Were there a lot, a few?

**Ms Sweeper:** There was a couple.

**Mr KAYE:** So you certainly were not rushed off your feet with requests for Fitzgerald inquiry?

**Ms Sweeper:** No.

**Mr KAYE:** Thank you.

**Ms TRAD:** Thank you. Hello, Ms Sweeper. Can I just ask you: you were aware at the time you did the research review that there was no advice from general counsel at the time that the holdings were transferred to the QSA?

**Ms Sweeper:** Yes.

**Ms TRAD:** Can you recall at all having a discussion with Mr Duell about the possibility of seeking advice at that particular point in time to inform your research review?

**Ms Sweeper:** About why no—

**Ms TRAD:** No, about whether or not—



**Ms Sweeper:**—it was appropriate?

**Ms TRAD:**—whether or not belated legal advice may have been appropriate?

**Ms Sweeper:** I guess the intent behind my recommendation was to seek that—to provide the information and subsequently seek that advice.

**Ms TRAD:** Okay. Was it common also for conversations to be had between people requesting access and people within Information Management at a very informal level on the phone, as a precursor or follow-up to email requests or written requests?

**Ms Sweeper:** I am not sure. I know that there were a couple of requests that had been outstanding for a long time and those people were definitely contacting Peter Duell to find out about the process of their request. I do not recall that I ever spoke to anybody who had requested information. It was all via email.

**Ms TRAD:** I think Mr Reeves suggests that you had assisted him on an occasion in terms of a query he had and that was via email?

**Ms Sweeper:** Yes.

**Ms TRAD:** So to the best of your recollection you did not actually have conversations with people requesting access to the Fitzgerald—

**Ms Sweeper:** I did not, no.

**Ms TRAD:** But Mr Duell did?

**Ms Sweeper:** In relation to the two outstanding requests, I know that he did, yes. Apart from that, I could not be sure.

**Ms TRAD:** Can I give you back the active ordered events from TRIM to have a look at this? I just want to understand some of the references in this document.

**Ms Sweeper:** Sure. I do not know how much help I am going to be. I had to have help to interpret this document as well.

**Ms TRAD:** I can fully appreciate that, Ms Sweeper. Can I start with the last page of the printout?

**CHAIR:** Member for South Brisbane, what item is that, please?

**Ms TRAD:** Sorry, it was the one that was just recently tabled, No. 94.

**CHAIR:** Thank you.

**Ms TRAD:** If we start with the last page, you obviously created the document at 11.28 am; is that right?

**Ms Sweeper:** That is when the document was saved into that TRIM container.

**Ms TRAD:** Okay. And where it says 'document attached off line records', what does that mean?

**Ms Sweeper:** I could not tell you.

**Ms TRAD:** Where it says 'contact added'?

**Ms Sweeper:** I do not think I am going to be of any assistance with any of these. I had to sit down with someone from Records Management to explain what these meant. I am sorry.

**Ms TRAD:** That is okay. Where it says things like 'owner changed' or 'checked out offline'? Okay. All right. I might get a further explanation from Records Management. Thank you.

**Mr KRAUSE:** Ms Sweeper, just a couple of questions. When you wrote—or started drafting the memo we have been talking about dated 7 September, did you feel under any pressure from Mr Duell to write a memo with a particular conclusion?

**Ms Sweeper:** No.

**Mr KRAUSE:** The other question was did you say earlier that you were the authorised officer for the QSA in relation to RAPs?

**Ms Sweeper:** Not until 10 October.

**Mr KRAUSE:** Of 2011?

**Ms Sweeper:** Correct.

**Mr KRAUSE:** Until?

**Ms Sweeper:** I believe those authorisations last for a year.

**Mr KRAUSE:** Okay. And that was the period, too, I believe when Mr Duell's authorisation was also created around October 2011. Do you know that?

**Ms Sweeper:** I would have thought it would have been renewed.

**Mr KRAUSE:** Yes, because it lapsed—

**Ms Sweeper:** Correct.

**Mr KRAUSE:**—for a period between June and October. So you were authorised at the same time as he was?

**Ms Sweeper:** Correct.

**Mr KRAUSE:** Okay. Finally, you mention one of the issues was the fact that—one of the issues you perceive was the fact that the public transcripts, which were openly available to the public in other places, were restricted at the QSA and through the CMC and that was as a result of the 65-year RAP period being put on it back in 2009 by Janet Legg—

**Ms Sweeper:** Correct.

**Mr KRAUSE:**—who was the records manager at that time. Now, it is my understanding that the reason that 65-year period was put on was because there was no legal advice received from LSU about the whole suite of documents; is that correct?

**Ms Sweeper:** That was my understanding, yes.

**Mr KRAUSE:** So in an abundance of caution by Janet Legg, she put a 65-year RAP on all of them. Now, your recommendation in your memo was actually to receive legal advice about it as well, wasn't it—

**Ms Sweeper:** Correct.

**Mr KRAUSE:**—before the RAP would be reduced?

**Ms Sweeper:** Correct.

**Mr KRAUSE:** But that legal advice was not forthcoming again, was it?

**Ms Sweeper:** I do not believe so. As I said, after 15 October—

**Mr KRAUSE:** As far as you know?

**Ms Sweeper:**—I had nothing further to do with the role.

**Mr KRAUSE:** Sure. So on both occasions in 2009 and 2011 legal advice has been requested about the whole suite of documents with a view to sorting out the RAPs for them and it has not been received. Eventually, the RAP was decreased, but for the whole suite instead of actually just targeted documents. That is correct, isn't it?

**Ms Sweeper:** That is my understanding, yes.

**Mr KRAUSE:** I do not have any more questions. Thank you.

**CHAIR:** Mr Davis, do you have any more questions?

**Mr Davis:** Could you look at this document for me, please? It is exhibit 84 marked not for publication. Is that the spreadsheet of the confidential—the documents marked 'confidential'?

**Ms Sweeper:** Is the spreadsheet—sorry?

**Mr Davis:** Is that the spreadsheet of the Fitzgerald documents that are marked 'confidential'?

**Ms Sweeper:** I am not sure.

**Mr Davis:** All right. I will just return that document. May this witness be excused?

**CHAIR:** As opposed to stood down?

**Mr Davis:** Perhaps in an abundance of caution she should be stood down.

**CHAIR:** Ms Sweeper, you are stood down on your own undertaking to reappear if required.

**Ms Sweeper:** Okay.

**CHAIR:** Thank you.

**Mr Davis:** I call Jan Speirs.

**SPEIRS, Ms Janet**

**CHAIR:** Ms Speirs has not been sworn in. Ms Speirs, you will be sworn in now.

**Ms Speirs:** I swear that the evidence I shall give before this committee shall be the truth, the whole truth and nothing but the truth so help me God.

**CHAIR:** Mr Davis?

**Mr Davis:** Could you tell the committee your full name, please?

**Ms Speirs:** Jan Louise Speirs.

**Mr Davis:** And do you live in Brisbane?

**Ms Speirs:** Yes, I do.

**Mr Davis:** You are a lawyer?

**Ms Speirs:** Yes, I am.

**Mr Davis:** Now, could you have a look at this document for me, please? There are actually two documents there. One is your—I beg your pardon, you only have the one document. That is your CV?

**Ms Speirs:** Yes, it is a very detailed CV.

**Mr Davis:** Yes.

**Ms Speirs:** And it is quite old now—2006.

**Mr Davis:** What have you done since 2006?

**Ms Speirs:** Well, this I believe would have been my CV at the time I applied for the position of general counsel at the CMC. I applied for that position in December—sorry, in two thousand and—

**Mr Davis:** You obtained that position, anyway?

**Ms Speirs:** Yes, I believe in 2007.

**Mr Davis:** And you held it until mid-2011?

**Ms Speirs:** That is right, yes.

**Mr Davis:** Can you remember what date you left the CMC?

**Ms Speirs:** Look, I do not remember exactly which date, but I think it was either the end of June or two weeks into July.

**Mr Davis:** Very well. What position do you hold now?

**Ms Speirs:** I am currently a member of the Migration Review Tribunal and Refugee Review Tribunal.

**Mr Davis:** That is a Commonwealth tribunal under the Migration Act, isn't it?

**Ms Speirs:** Yes.

**Mr Davis:** I seek to table the curriculum vitae.

**Ms Speirs:** Could I ask that the details in my curriculum vitae not be published? There are some sensitive investigations that I have worked on in the past and the usual CV that I use publicly does not have that level of detail in it.

**CHAIR:** Ms Speirs, if you could provide us with an indication of which parts are sensitive, we will certainly deidentify them as having already been redacted. So if you can advise us in writing of those parts that you wish to have deidentified or removed.

**Ms Speirs:** All right. I will need to obtain a copy. I don't still have a copy.

**Mr Davis:** We will give Ms Speirs a copy.

**CHAIR:** Is leave granted? Leave is granted subject to confirmation or indication from Ms Speirs in relation to those matters she wishes to have redacted. It is exhibit 97.

**Mr Davis:** You were general counsel at the time there was a transfer of Fitzgerald document holdings from the CMC to the Queensland State Archives; is that right?

**Ms Speirs:** I don't have any direct knowledge of that, no.

**Mr Davis:** The transfer occurred in 2010—2007, I am sorry. Well, over a period of time—from 2007. So you were in fact general counsel over that period?

**Ms Speirs:** I was.

**Mr Davis:** And you have no knowledge at all—

**Ms Speirs:** No.

**Mr Davis:**—of the transfer of those documents?

**Ms Speirs:** No. Well certainly no recollection as of now. If there is anything that you wish to show me, I can comment.

**Mr Davis:** As you sit there, you have no memory of that event at all?

**Ms Speirs:** No.

**Mr Davis:** Could the witness please see exhibit 14? It is document 6 in the bundle. I appreciate that that document came into existence after you left the CMC.

**Ms Speirs:** Yes, that is correct.

**Mr Davis:** Could you read the document to yourself and tell me whether you have any direct knowledge of any of the matters contained therein?

**Ms Speirs:** I do have a vague recollection of the advice that was prepared by Lisa Brereton, the legal assistant.

**Mr Davis:** Where are you referring to in the document?

**Ms Speirs:** The bottom of page 2. I do not believe that advice went anywhere. At the time the Legal Services Unit was very short-staffed. Lisa was a law student working as an administrative assistant and that is the sort of thing that sometimes when we are very short-staffed legal assistants were asked to help out by doing some preliminary work on a matter.

**Mr Davis:** When you say it didn't go anywhere, does that mean that she prepared a draft advice, it went to you but the advice was never signed off by you? Is that what—

**Ms Speirs:** I believe so.

**Mr Davis:** Very well. You will see on page 3 a reference to an email from Janet Legg about the restricted access periods. Do you see that?

**Ms Speirs:** Yes, I do.

**Mr Davis:** Do you remember receiving such an email?

**Ms Speirs:** No, I don't.

**Mr Davis:** We will show you some further documents in a moment. Can you ever remember giving any advice or seeing advice from your subordinates about setting restricted access periods?

**Ms Speirs:** No, I don't.

**Mr Davis:** Could the witness please see exhibit 63, which is tab 7 of this witness's bundle of documents? That document is an email from Sidonie Wood to Rob Hutchings of 6 March 2013, obviously well after your time.

**Ms Speirs:** Mmm.

**Mr Davis:** And there is an email from Zora Valeska to Sidonie Wood of 29 May 2012, again after your time. But there is a reference in that email to a request from Janet Legg dated 16 April 2010. Is that email from Zora Valeska—I beg your pardon, Janet Legg attached to that email at the back or not? It should be.

**Ms Speirs:** Yes, it is.

**Mr Davis:** So this is Zora Valeska forwarding, it seems, a copy of that email, and that is an email from Janet Legg to you of 16 April 2010. After having a look at that email, do you now recall receiving it?

**Ms Speirs:** Look, I can't say that I do recall receiving that email, no.

**Mr Davis:** Do you recall ever giving any advice pursuant to that email?

**Ms Speirs:** No, I don't. From my request to Lisa Brereton to do that preliminary work, I gather that this may have occurred but in the scheme of things—in the scheme of an extremely busy period at the CMC—this doesn't register in my memory.

**Mr Davis:** The evidence we have heard is that there was, in effect, no response to this email so Janet Legg then placed a 65-year RAP on some documents. You are not in a position to contradict the suggestion that this email wasn't responded to?

**Ms Speirs:** No, I'm not in any position at all to say either way but—

**Mr Davis:** You mention the office was very busy. Were you properly staffed?

**Ms Speirs:** I think at that time we had a deputy official solicitor leave and for a time that position was vacant. It was also, as I recall, a very busy period with various criminal trials that we were involved in at that time.

**Mr Davis:** That is two thousand and—

**Ms Speirs:** 2010.

**Mr Davis:** Yes.

**Ms Speirs:** And the introduction of, or not long after the introduction of, telecommunications interception as well.

**Mr Davis:** Very well. And you were advising in relation to those sorts of matters; is that the idea?

**Ms Speirs:** That is right. And something like this would have perhaps sat on a file waiting for somebody to be able to take it up.

**Mr Davis:** If you look at the next document, it is a memorandum to you from Lisa Brereton.

**Ms Speirs:** Yes.

**Mr Davis:** Is that the draft advice that was not acted upon by you ultimately for whatever reason?

**Ms Speirs:** Look, I can't say one way or the other without seeing it on the file but it does appear to be.

**Mr Davis:** You do remember receiving a document like that anyway—advice from her?

**Ms Speirs:** Yes.

**Mr Davis:** Draft advice from her. All right. The next document in that bundle should be a document headed 'Fitzgerald Holdings Project'. Can you remember ever seeing that document?

**Ms Speirs:** No, I don't. Were you aware of the Fitzgerald Holdings Project, which was the project whereby the documents were to be transferred from the CMC to the Queensland State Archives?

**Ms Speirs:** I don't have any recollection of that from that time, no.

**Mr Davis:** Very well. Could the witness please see exhibit 13? These are emails—unfortunately page 2 is missing—after your departure from the CMC.

**Ms Speirs:** Mmm-hmm.

**Mr Davis:** If you look on page 3 you will see an email from Peter Duell to Matthew Condon, who is a person requesting information or documents. The third paragraph of that email states, 'I have discussed your request with staff from the Legal Services Unit on several occasions ...' What is happening here is that Mr Condon wants access to documents. Mr Duell, it appears, is asking the Legal Services Unit for advice on that. Do you have any knowledge of any of these requests or requests like them?

**Ms Speirs:** I certainly don't recall any requests from Mr Duell for legal advice on this issue.

**Mr Davis:** The evidence we have heard is that there were restricted access periods of 65 years and 100 years. Where there was a request for a document with a 65-year RAP, that would be dealt with by Mr Duell at his own discretion. Where it was a 100-year RAP, a request would be made for advice from the Legal Services Unit. Do you know anything about this process?

**Ms Speirs:** Certainly not, no.

**Mr Davis:** You have never given any advice on the release of documents that have a 100-year RAP?

**Ms Speirs:** I don't recall doing that ever.

**Mr Davis:** Very well. I'll just show you this document. Could I possibly see exhibit 13, she has not got that. If you look at the bottom of page 27 there is a reference at the bottom of page 27—this is the transcript of proceedings on 14 March 2013 in this committee—to an email of 15 August 2011. Could you just read for me to yourself over to page 28 down to that passage where I ask the question: 'Take over what—the Condon request?' Do you see that? Could you just read up to there.

**Ms Speirs:** Yes.

**Mr Davis:** I'll give you back exhibit 13. The relevant email that has been referred to in that passage of evidence is at the bottom of page 3. This is one I had taken you to earlier. You will see in that email that Mr Duell is saying, 'I have discussed your request with staff from the Legal Services Unit.' I ask him who during the proceedings and at page 28 he says—

Jan Speirs, who was General Counsel—and I'm not sure whether the Official Solicitor was Dominic Murphy ... but it was with the Official Solicitor. I also recall discussing it with Rob Hutchings ...

Did he discuss the matter with you, to your memory?

**Ms Speirs:** I don't recall.

**Mr Davis:** Very well.

**Ms Speirs:** And I spoke to Mr Duell so rarely in a professional sense I would have remembered it I'm sure.

**Mr Davis:** They're my questions for this witness.

**CHAIR:** Thank you, Mr Davis. Ms Speirs, do you have any lingering memory of being concerned about the handling of the Fitzgerald inquiry documentation?

**Ms Speirs:** No, I don't. It was not something that I came across other than what I have been shown here. I know it was one of those issues that was perhaps identified as something that we would work on at some stage when we had the resources available. That's my only recollection.

**Mr KAYE:** Did you keep file notes of your conversations that you had with people back then?

**Ms Speirs:** Yes, I did.

**Mr KAYE:** And did you go back through and see if you had any with Mr Duell?

**Ms Speirs:** No, I haven't had the opportunity to do that.

**Mr KAYE:** So if you did have a conversation with Mr Duell you would have file notes on that?

**Ms Speirs:** I would have, yes.

**Mr KAYE:** Would you be able to check for those file notes?

**Ms Speirs:** Yes. I'm not going to have opportunity to do that for a few days. I'm in Sydney tomorrow and Friday.

**Mr KAYE:** We will take it as it comes.

**CHAIR:** If you can get it to us early next week that would be very welcome.

**Mr KRAUSE:** I notice from your CV you were in the Legal Services Unit before you were the General Counsel?

**Ms Speirs:** No, that was a position in the misconduct division.

**Mr KRAUSE:** Okay. So when did you become General Counsel?

**Ms Speirs:** I think it was in around March or April 2007.

**Mr KRAUSE:** And that was around the time when we understand the Fitzgerald inquiry documents were transferred to archives. Let me be clear, there was not any communication between LSU or General Counsel and records around that process?

**Ms Speirs:** No, unless it had come to me through the chairperson or the commission members, I won't have been involved in anything like that.

**Mr KRAUSE:** You also made reference to some difficulty recruiting a replacement staff member for LSU—a deputy solicitor-general or similar type of position—

**Ms Speirs:** Deputy Official Solicitor.

**Mr KRAUSE:** Deputy Official Solicitor. Was there any particular reason why there was a difficulty recruiting?

**Ms Speirs:** I think it was just the usual time it takes to go through the process. As I recall, the person who held the position had various periods of leave up until the time when he left and so there was that gap that had to be filled during that period as well.

**Mr KRAUSE:** How long did it take to fill that position?

**Ms Speirs:** I can't recall. I'm sure it was two or three months. I don't know specifically.

Inquiry into the CMC's Release and Destruction of Fitzgerald Inquiry Documents

**Mr KRAUSE:** Was there any line of communication at all between LSU and other departments or sections in the CMC—for example, records?

**Ms Speirs:** With records?

**Mr KRAUSE:** Yes.

**Ms Speirs:** Very little. It was more an administrative area. They didn't seek advice on very much that I can recall.

**Mr KRAUSE:** That is all, thank you.

**CHAIR:** Do you have any further questions, Mr Davis?

**Mr Davis:** May this witness be stood down, please?

**CHAIR:** You are stood down on your own undertaking, bearing in mind you are going to supply us with some additional information, to reappear if required. Do you give that undertaking?

**Ms Speirs:** Yes, I do.

**CHAIR:** You are stood down.

**Mr Davis:** The next witness to be recalled by Dr Mellifont is Mr Hutchings, but I notice the time.

**CHAIR:** I think we can adjourn until eight o'clock.

**Proceedings suspended from 6.52 pm to 8.00 pm**

**HUTCHINGS, Mr Robert, General Counsel, Crime and Misconduct Commission**

**CHAIR:** The hearing will now resume. I call Dr Mellifont.

**Dr Mellifont:** Mr Hutchings, this afternoon you had the opportunity to locate the spreadsheet to which you made reference earlier in your evidence today. Is that correct?

**Mr Hutchings:** That's correct.

**Dr Mellifont:** Can I place a copy before you. Now, this is the spreadsheet referred to in paragraph 15 of your statement; is that correct?

**Mr Hutchings:** That's correct.

**Dr Mellifont:** All right. Now, you state in your statement that you don't recall how the spreadsheet came to your attention. Do you know who brought it to your attention?

**Mr Hutchings:** I don't have a specific recollection of who first gave it to me, but it may well have been Zora Valeska.

**Dr Mellifont:** And do you know its provenance? Do you know where this has been printed from or gathered from?

**Mr Hutchings:** I don't, no.

**Dr Mellifont:** Do you know what the file folder references are in the left-hand column?

**Mr Hutchings:** No, I don't.

**Dr Mellifont:** Do you have a recollection of what it was explained to you that this was, or if in fact you received an explanation as to what this was?

**Mr Hutchings:** I don't have a specific recollection of having a discussion at the time, but I recall this schedule being the one that was discussed at the time and I have that recollection because I specifically recall the column 'restrictions' which was consistently marked 'not for publication or inspection'.

**Dr Mellifont:** With some exceptions though that there could be some aspects of some documents inspected but with deletions of some details; do you accept that?

**Mr Hutchings:** That's right.

**Dr Mellifont:** All right. I seek leave to table that document please and can it be marked 'not for publication' given the sensitive nature of its contents.

**CHAIR:** Is leave granted on the basis that this is a not-for-publication document because of its sensitivity? Leave is granted. It is document 98.

**Dr Mellifont:** Thank you, Madam Chair. Can I take you please to paragraph 19 of your statement.

**Mr Hutchings:** Yes.

**Dr Mellifont:** Now, you speak there about having a meeting with Mr Strange on 21 December 2011—

**Mr Hutchings:** Yes.

**Dr Mellifont:**—but having no specific recollection of it. This is just two days prior to your email of advice. Does that assist you in terms of a recollection of the meeting?

**Mr Hutchings:** The advice, having been written two days after that meeting, I expect would have quite accurately reflected the salient parts of the conversation I had with Mr Strange.

**Dr Mellifont:** Right. But beyond what is recorded in that advice, you've got no recollection of the meeting; is that reasonable to say?

**Mr Hutchings:** No—no independent recollection at all, but I do have a brief file note of it.

**Dr Mellifont:** Yes. Now the file note is in fact attached to the statement which you provided to the commission.

**Mr Hutchings:** That's right.

**Dr Mellifont:** And you've recorded, 'Fitzgerald inquiry transcripts of interview—Shirley Brifman, Russell Kenzler. His view on Fitzgerald documents.' There's then a reference to an RTI response in another—

**Mr Hutchings:** Another unrelated matter that should remain confidential.



## Inquiry into the CMC's Release and Destruction of Fitzgerald Inquiry Documents

**Dr Mellifont:** Yes, I won't mention the name. At paragraphs 21 through 22 of your statement, you set out Mr Kenzler strongly advocating for release of the Brifman transcripts and you say—

The issue was sufficiently concerning to me to raise it with Mr Strange. It was an issue about which I felt I might have been missing something obvious.

What do you mean by that?

**Mr Hutchings:** What I meant by that was that senior officers in the CMC had approached me at least on one occasion and advocated reasonably strongly for the release of the Brifman transcripts.

**Dr Mellifont:** Are you talking about Duell and Kenzler, or somebody else?

**Mr Hutchings:** Well, I have a specific recollection of Russell. I don't have a specific recollection of Peter Duell, but the issue that I thought I might've been missing was whether there was something that easily permitted the Brifman transcripts to be publicly available and I simply could not see that based on Commissioner Fitzgerald's order.

**Dr Mellifont:** Perhaps I've had the same experience in respect of being a lawyer: you think there's something out there but you can't put your finger on it. Is that what you were thinking, or that—

**Mr Hutchings:** No, I didn't think there was something out there. I was new to the commission. I thought it was prudent to raise it with a senior officer—a more senior officer than I—and I did so and he raised no concern with my proposal which was to keep the Brifman transcripts confidential as suggested or as ordered by Commissioner Fitzgerald.

**Dr Mellifont:** Now, can I take you please to tabled document 18, which is tab 8 in the committee's bundle. This is an email from yourself, Mr Hutchings, to Ms Valeska—a copy will be placed before you in a minute—dated 16 May 2012 at 12.36 pm, subject heading 'RE: Matt Condon'.

**Mr Hutchings:** Yes, I've seen that.

**Dr Mellifont:** In terms of orienting you, you're familiar that there was the request by Mr Matt Condon in respect of the Brifman transcripts?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Right. You say in the first line—

There has been a little difficulty getting a view from the Commission, as custodian of the documents, on the attitude to be taken to documents the subject of non-publication orders.

What did you mean by reference to the 'little difficulty'?

**Mr Hutchings:** It was a problem getting to see Martin—Judge Moynihan—because in the later part of 2011 he'd had some health issues.

**Dr Mellifont:** I see. Can I take you please to the second paragraph in your email where you have set out at Nos 1 and 2 what appears to be two categories of documents.

**Mr Hutchings:** Correct.

**Dr Mellifont:** Right. In your conversations with Mr Kenzler, did he at any stage speak about there being other categories or other types of documents out of the Fitzgerald inquiry which were part of the CMC holdings?

**Mr Hutchings:** I simply don't recall. I do recall a specific discussion around Brifman transcripts which would've fallen into category 2, but I don't recall much else about the conversation. The only reason I recall that in specific detail was, I suppose, a somewhat surprising desire to get them out there—well, not a desire on his part. Sorry, I'll rephrase that. It wasn't a desire; he was of the view that there would be no harm if they were out there.

**Dr Mellifont:** And you found that somewhat surprising, I take it, because of the types of considerations referred to in the four dot points at the bottom of your email.

**Mr Hutchings:** Well, we clearly had different views.

**Dr Mellifont:** In respect of the four dot points at the bottom of that email, these are precisely the kinds of considerations relevant to the consideration as to whether sensitive material might be released or not.

**Mr Hutchings:** Correct.

**Dr Mellifont:** Could I take you to paragraph 24 of your statement.

**Mr Hutchings:** Yes.

**Dr Mellifont:** You say you have no recollection of ever seeing the previous request for advice from Janet Legg to Jan Speirs referred to in the Sweeper memo of 7 September. Did you ever ask for it?

**Mr Hutchings:** No.

**Dr Mellifont:** Any reason why you didn't?

**Mr Hutchings:** No.

**Dr Mellifont:** Do you know if in fact such a—sorry, I'll withdraw that. Can I take you please to paragraph 32.

**Mr Hutchings:** Yes.

**Dr Mellifont:** Now, to set this in context, you provided an email advice of 23 December 2011 and in that email advice you alluded to the prospect of providing further advice. What had you in mind at that stage—that is, at the stage of 23 December 2011 providing in the future?

**Mr Hutchings:** Well, it's generally my approach to provide advice that's in a slightly more formal form.

**Dr Mellifont:** So not in email form?

**Mr Hutchings:** That's right.

**Dr Mellifont:** But in terms of content, had you envisaged an expansion on that which we see on 23 December 2011?

**Mr Hutchings:** I don't know if I'd considered anything at all because I sent the email and obviously events moved on and I wasn't asked to provide a formal advice.

**Dr Mellifont:** Why wasn't the further—sorry, perhaps you've just answered the question, but why wasn't the further advice provided? Did it just go by the wayside?

**Mr Hutchings:** I just don't recall. Obviously other matters were required to be attended to in January and earlier in the next year.

**Dr Mellifont:** Right. So rather than a deliberate decision or turning your mind deliberately to not providing a further formal advice, other events overtook your priorities.

**Mr Hutchings:** Correct. It certainly wasn't a deliberate decision not to provide further advice.

**Dr Mellifont:** Can I take you please back to that email of 16 May—

**Mr Hutchings:** Yes.

**Dr Mellifont:**—which is tabled document 18 in tab 8 of the bundle. Just on the second page—

**Mr Hutchings:** Sorry, I have tabled document 15 here.

**Dr Mellifont:** Can I have a look at that please? That's the right document, Mr Hutchings.

**Mr Hutchings:** Thank you.

**Dr Mellifont:** Sorry, I'm going to withdraw the question. I think I've dealt with it already; my apologies. I'm going to take you now please to tabled document 19 which is tab 9 in the committee's bundle. This is a bundle of emails. I want to take you please to the second last page in the bundle which should be an email dated 6 February 2012 from Mr Duell to yourself.

**Mr Hutchings:** Yes.

**Dr Mellifont:** You have that?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Thank you. This is an email from Mr Duell to you—

Further to our discussions early last week, would you please advise when all the State Archives/Fitzgerald Inquiry exhibits and access request files will be available for collection.

What's he talking about?

**Mr Hutchings:** I think what he's referring to is the archive boxes of documents that were sitting in my room.

**Dr Mellifont:** The Brifman box that you think came up via Valeska, I think you said?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Then he says—

I am wanting to prepare responses to the requests for access to the material and some of those requests have been with the Legal Services Unit for well over twelve months.

Does that accord with your knowledge as to how long requests were with LSU for?

**Mr Hutchings:** Well, when I started at the CMC the only live request that I was made aware of was the Condon request, and that was brought to my attention very shortly after I commenced. I knew nothing of a Bishop or any other request as far as I can recall and I suspect that what might be referred to here when it's spoken of some of these requests having been at the Legal Services Unit for well over 12 months—I simply don't know whether that means there were requests elsewhere in the Legal Services Unit or whether Peter's referring to the issue with delay in getting advice from the LSU so that he could respond to requests.

**Dr Mellifont:** Did you make any further inquiry as to Mr Duell's statement in the email that some of the requests had been with the LSU for over 12 months?

**Mr Hutchings:** I don't specifically recall making any other inquiries. But my reaction now is that he's speaking of an inability to respond to what might have been a number of requests that he'd received because he hadn't received legal advice for some time. But of course he received my advice in the December prior. In fact I'm reminded in my statement of this morning the first email contains a reply by me to that email where I offer to write the letter.

**Dr Mellifont:** Yes, quite so. I was about to take you to that.

**Mr Hutchings:** Sorry.

**Dr Mellifont:** That's all right. So essentially Mr Duell sends you the email on 6 February, you respond on 13 February telling him that 'If you're uncomfortable I'll write the letter'—

**Mr Hutchings:** The reference to being uncomfortable was the second paragraph in Mr Duell's email. I do recall being a little surprised at the tone of it.

**Dr Mellifont:** To get the context here, Mr Duell is saying to you in his email of 6 February 2012, which is part of the document we were just looking at—tabled document 18—

... if you would prefer to arrange the responses from with the LSU it would be very much appreciated as I find responding after a such delay to be difficult to explain without embarrassing the CMC.

Your response was, one week later, 'If you're uncomfortable I'll write the letter.' Then his response two days after that was he had replied in the previous week.

**Mr Hutchings:** That is correct.

**Dr Mellifont:** When you say you found the tone of his letter, was your word surprising—I cannot recall the word you just used—

**Mr Hutchings:** Yes.

**Dr Mellifont:** What do you mean by that? Why did you find it surprising?

**Mr Hutchings:** Well, I couldn't really understand why the CMC would be embarrassed about taking time to get the answer to this issue correct.

**Dr Mellifont:** Mr Duell in his evidence has expressed, what I infer to be, a sense of dissatisfaction that the records management section were nothing really but a conduit to the LSU for these individual requests—that they weren't value adding. Have you any observation or comment to make in response to that?

**Mr Hutchings:** I do apologise. I missed where you were in the middle of that question. Could you repeat it?

**Dr Mellifont:** I'll give it another crack.

**Mr Hutchings:** Sorry.

**Dr Mellifont:** Mr Duell has informed the committee in his evidence of his dissatisfaction, as I perceive it, that records management were nothing really but a conduit for these individual requests for Fitzgerald inquiry documents—just a conduit to the LSU and not value adding. Are you able to provide any context or comment in response to that dissatisfaction expressed by Mr Duell?

**Mr Hutchings:** No, I can't comment on how he might have felt.

**Dr Mellifont:** From your observations of your time there is that how you perceived the relative roles as between LSU and records management in respect of individual requests?

**Mr Hutchings:** No, I really had no understanding of the number or type of requests that the records management area might have been receiving except for the Condon one. We were asked for specific legal advice on that which I would have expected would have been taken away, considered and perhaps acted on.

**Dr Mellifont:** I now want to take you forward in time to late May 2012. Did you have a comment you wanted to make?

**Mr Hutchings:** Well, I was going to mention this before. In my 13 February email I used the singular 'letter' not 'letters'. I don't have any specific recollection of writing that email now, but it would have indicated that I only had one reply in my mind at that time.

**Dr Mellifont:** All right. Moving forward please to late May 2012 when the fact that surveillance records were in the public domain was brought to the attention of the CMC by Mr Krosch. You are oriented in time?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Did you have any discussions with Mr Martin about the issue?

**Mr Hutchings:** I don't specifically recall any discussions with Ross about it.

**Dr Mellifont:** What do you recall happening at that point in time so far as your involvement is concerned?

**Mr Hutchings:** I don't have a specific recollection of these events, but my memory has been prompted by some emails.

**Dr Mellifont:** So in terms of relaying that, is it best to take you to the individual emails?

**Mr Hutchings:** It would be.

**Dr Mellifont:** So I'll do that in a minute. Are you aware as to whether there was any direction from Mr Martin to Ms Wood about making inquiries on the issue?

**Mr Hutchings:** I am now.

**Dr Mellifont:** Were you then?

**Mr Hutchings:** No.

**Dr Mellifont:** Do you recall your reaction when you first came to know that covert surveillance records were out in the public domain?

**Mr Hutchings:** No, I don't recall my reaction when it was brought to my attention.

**Dr Mellifont:** Do you recall the reaction of others?

**Mr Hutchings:** No. I've got no independent recollection of discussions or specific concerns at the time, but there are certain matters I elevate to the chairperson promptly. This appears to have been one of them. I expect I would have had a level of concern about it.

**Dr Mellifont:** Do you recall how it was that the issue was first brought to your attention?

**Mr Hutchings:** No, I don't, sorry, again specifically recall. But the emails reveal that I was certainly sent an email about it.

**Dr Mellifont:** You speak of a level of concern. You expect you would have had a level of concern, is that to understate it? We are talking about surveillance records out there in the public domain. You are General Counsel at the CMC, you're told this has happened, you don't have even a generalised recollection of how you might have responded at the time to hearing that news?

**Mr Hutchings:** Look I can't assist you much further than what I already have. The documents reveal that it was of sufficient concern to me to elevate it to the chairperson and, given what was going on at that time, it would've needed to have been reasonably important.

**Dr Mellifont:** When you say given what was going on at that time, what do you mean?

**Mr Hutchings:** Well the 29th of May was the day when we had an all staff briefing about job cuts in the CMC and it was at 3.30 to 4.30 and there was much anticipation about that within the CMC. I noticed that there's not many emails in the afternoon of the 29th and that's probably because of that event. This wasn't the only legal matter that was being attended to at the time.

**Dr Mellifont:** Accepting the last comment that there would have been other legal things going on, information and surveillance records is precisely the sort of thing which public interest immunity ordinarily covers, you would accept that?

**Mr Hutchings:** Yes.

**Dr Mellifont:** So in your role at Crown Law protecting that immunity was something that was given true seriousness and priority?

**Mr Hutchings:** Well, it was serious enough for me to ask the head of the responsible department immediately what was going on—whether it was correct.

**Dr Mellifont:** And was that, so far as you can recall, in person, on the phone or by email?

**Mr Hutchings:** I don't recall any verbal discussions, but my email reveals that there would have been one with Peter Duell.

**Dr Mellifont:** There would've been a discussion?

**Mr Hutchings:** My email tells me that, yes.

**Dr Mellifont:** I am going to take you to those emails to get this a little bit of chronological context. I'm going to take you please to tabled document 58, tab 10 in the committee's bundle. My apologies, I have a misnumbering. It is tabled document 59, which is tab 11 in the committee's bundle. Mr Hutchings, having reviewed emails recently, you will appreciate that there is not one neat email chain which is sequential and chronological.

**Mr Hutchings:** Correct.

**Dr Mellifont:** So you'll just have to bear with me.

**Mr Hutchings:** Sure.

**Dr Mellifont:** 29 May 2012, 11.41, Sidonie Wood to Rob Hutchings is the top email. Have you got that there?

**Mr Hutchings:** I do.

**Dr Mellifont:** Can we go to the bottom of the chain and it starts with Mr Krosch's email of 24 May 2012 in which he expresses his surprise to see all the Fitzgerald inquiry surveillance reports being accessible.

**Mr Hutchings:** Yes.

**Dr Mellifont:** And then we see Mr Kenzler writing to Ms Wood on that date stating that Mr Kenzler 'was not aware of the extent of access to Fitz material. I thought it was confined to exhibits tendered at the public hearing. I wonder if this was intended?' Now the next email in the chain is Valeska to Wood cc Hutchings at 11.12 on 29 May 2012. It is Ms Valeska checking with Ms Wood instructions she was given—

- 1 Contact Registry to see when Fitzgerald stuff actually disseminated.
1. Contact State Archives, identify myself as CMC officer and request information on how the stuff came to be there and what kind of holdings we are looking at.
3. Anything else??

Can I take you please, before I ask you a question, to tabled document 61, which is tab 16 in the bundle. You will see this is an email also on the morning of 29 May but a bit earlier in time, 8.52. Valeska is saying to you that Ms Wood had indicated that both of you would like her—

... to follow up on the mystery of what records/documents the State Archives has with regard to the Fitzgerald inquiry (including covert documents) and who might have released them.

Sidonie advised that you requested I:

- Call (1) Property; and (2) the Director, Information Management to see whether they know who released all documents.
- Go to the State Archives to inspect the holdings.

Do you recall giving that instruction?

**Mr Hutchings:** I don't specifically recall that instruction but Zora is a reliable officer. I wouldn't be surprised if that accurately reflected a discussion we had.

**Dr Mellifont:** Do you recall having a discussion with Ms Wood suggesting that the steps that might be taken was to contact Property, contact Information Management and go to the State Archives to inspect the holdings?

**Mr Hutchings:** I don't recall a discussion with Sidonie about that, no. I am not denying it didn't happen, but I just don't have a specific recollection of that discussion.

**Dr Mellifont:** With hindsight, do you accept that going to State Archives to inspect the holdings is precisely the sort of thing which might have showed up to the CMC at that point in time that there was information in the public domain that oughtn't have been there?

**Mr Hutchings:** It may very well have, yes.

**Dr Mellifont:** Does this sound like the sort of instruction you would have conveyed as what should occur given that you had just found out that surveillance records were in the public domain?

**Mr Hutchings:** It seems logical.

**Dr Mellifont:** It seems logical because what this seems to reflect is an immediate instruction to work out what has gone on, check it internally and check it externally. Do you accept that?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Right. Again, we see with respect to tabled document 59, tab 11 in the committee's bundle, that bottom email, again, the sorts of things that one might expect ought to have happened in response to Mr Krosch's communication—contact Registry, contact State Archives and make some inquiries. These are the sorts of instructions you would expect you might have given knowing that surveillance records were out there in the public domain.

**Mr Hutchings:** Yes.

**Dr Mellifont:** Right. Ultimately though you instructed Valeska to hold off until you had spoken with Duell. Is that the case?

**Mr Hutchings:** Correct.

**Dr Mellifont:** By this time did you have an appreciation that Mr Duell was the very person responsible for making the mistake in changing the restricted access periods down to 20 years in the first place?

**Mr Hutchings:** No.

**Dr Mellifont:** Did you subsequently come to that understanding?

**Mr Hutchings:** Yes.

**Dr Mellifont:** How much later?

**Mr Hutchings:** It would have been 10 to 12 days ago.

**Dr Mellifont:** 10 to 12 days ago?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Can I take you please back to tabled document 59, tab 11 in the committee's bundle. Do you have that there?

**Mr Hutchings:** Yes.

**Dr Mellifont:** You will see in the middle that we have Wood to Valeska telling her to await your instructions and observing—

Duell's email is peculiar—releasing “the bulk” of the Fitz material without an authorisation seems .... odd—

The change of the years from 60 to 25—where did he get those instns from? Wouldn't one need a dissemination authority for that?

Then at the top of the email chain, Wood is saying to you—

... a ss55, 60 or 62 should have been completed for the dissemination—  
and her observing—

It is strange that the covert and public inquiry information was disseminated without an Authority/Form per our policies.

What, if anything, did you do in response to Ms Wood raising what she regarded as being strange and odd this issue of the release of the bulk of the Fitzgerald material?

**Mr Hutchings:** Well, I immediately asked Peter Duell what was going on.

**Dr Mellifont:** Did you do anything else?

**Mr Hutchings:** I don't recall doing anything else until I referred the matter to the chairperson.

**Dr Mellifont:** Until you referred the matter to?

**Mr Hutchings:** The chairperson, to Ross Martin.

**Dr Mellifont:** Back in May. Sorry, what time frame?

**Mr Hutchings:** The next day. No, sorry. I referred it to the chairperson the same day. I had already referred it to the chairperson, the email records, at 10.32 on 29 May. This email from Sidonie to me was at 11.41.

**Dr Mellifont:** All right. We are doing the best we can in terms of tracking this through. Can I take you please to tabled document 62, which is tab 17 in the bundle. At 8.54 am—that is the email on page 2—this is where Wood first says to Valeska, 'Rob or I will call Peter Duell first to see what he had disseminated.'

**Mr Hutchings:** Yes.

**Dr Mellifont:** And then you offer to speak to him if she prefers.

**Mr Hutchings:** Yes.

**Dr Mellifont:** And that in fact was what occurred. Is that right?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Can I take you then please to tabled document 32, which is tab 18 in the committee's bundle. You will see that there is an email of 29 May 2012 at 11.13 am from Wood to Valeska cc to you. This time of day Wood was suggesting—

Subject to Rob's instructions, can you please contact Registry to find out what Fitz inquiry was released (obtain a list of docs) to Archives and when.

From the list—find out whether covert surveillance material was included. If released, ask Registry for a copy of the dissemination authority ...

Rob may wish to ask Peter first whether we disseminated the covert material with the public inquiry material.

Then your response we see at 11.40 is, in part—

In the meantime Zora it may avoid wasted effort if we see what Peter has to say. I wouldn't do much yet. Have let the Chairperson know we are looking into the issue.

So do you take it from that part of the email that by 11.40 am you had spoken to Mr Martin or communicated to Mr Martin?

**Mr Hutchings:** I would have communicated in some way to him from that email, yes. I don't recall whether I spoke to him, but by 10.32 am I had emailed him to let him know about the issue.

**Dr Mellifont:** Yes. You also say in that email, which is tabled document 32—

I have spoken with Peter. I have forwarded the email to him and have asked him to investigate whether Mr Krosch's email accurately reflects what is available at State Archives.

I want to take you to the response. Can I show you please tab 12 in the committee's bundle. What he responds to you we see at 9.45 am on 30 May, on the first page. Do you have that there?

**Mr Hutchings:** Yes.

**Dr Mellifont:** He says to you—

... the issue identified by Barry Krosch arose from a misunderstanding at our end and was discussed yesterday with Queensland State Archives. QSA have rectified this immediately and the COI surveillance reports have been returned to their 65 year restricted access period.

Your comment then to Ms Valeska at 5.29 that day about that reply was, 'Not sure if this addresses the concern we had.' What did you mean by that?

**Mr Hutchings:** Well I don't recall the content of the discussions we had, but it appears we would have had discussions from that about the issue.

**Dr Mellifont:** It appears you would have had discussions with who?

**Mr Hutchings:** Well likely to have been with Zora and Sidonie, and it looks like we had planned to have a further discussion the following day.

**Dr Mellifont:** Yes, but what I'm asking you about is you had asked Mr Duell to give you a response. What he has told you is his generalised comment that the issue 'arose from a misunderstanding at our end' and then your response is: 'Not sure if this addresses the concern we had.' Is that because of the lack of specificity in the explanation to you by Mr Duell as to the issue identified by Barry Krosch and how it occurred?

**Mr Hutchings:** It may have been, yes.

**Dr Mellifont:** What did you do in order to satisfy yourself that the concern which you did hold was in fact addressed?

**Mr Hutchings:** Well I don't recall doing anything more post 5.29 on 30 May. But I now know that the chairperson had taken steps about it, having been told about the issue in my email.

**Dr Mellifont:** What was your role in this issue which had arisen with respect to Mr Krosch? Were you providing advice as General Counsel? Were you part of a delegation to sort the issue out? What was your role?

**Mr Hutchings:** Well my role is to provide legal advice to the chairperson and the commission. To the extent this would have involved matters requiring legal advice, that is why I would have been involved.

**Dr Mellifont:** That is speaking about it in broad—

**Mr Hutchings:** Yes.

**Dr Mellifont:**—terms as to your role. What I am trying to get to the bottom of is this: we have heard evidence from Mr Martin that he tasked Ms Wood in a conversation he had with Ms Wood to look into the issue. We have heard from Mr Martin that he does not have any particular recollection of a deal of involvement by you. And I am not suggesting that there was any great deal of interaction between yourself and Mr Martin. What I am trying to get a grip of is, when you stepped into the foray or were brought into the foray, what was your role then?

**Mr Hutchings:** Well if the chairperson had wanted legal advice from me about it, that would have been my cue to give legal advice.

**Dr Mellifont:** Well did he?

**Mr Hutchings:** I don't recall him asking me for legal advice on it, no.

**Dr Mellifont:** So at this point in time are you unable to articulate why it was you became involved in dealing with the Krosch issue?

**Mr Hutchings:** I only became involved because I was forwarded an email by the official solicitor, who had obviously had it forwarded to her. I mean, this sort of issue did occur from time to time, where if we needed to work collaboratively on an issue we would do that. And then if the chairperson required advice in respect of an aspect of it he would ask me to do that. If the chairperson required me to go and investigate, I would do that. That is not the ordinary function of the Legal Services Unit, but we would do that. I do not recall that being asked of me on this occasion and I do not recall any further requests for me to do anything more post 30 May 2012.

**Dr Mellifont:** But having come into the issue, you gave some direction about what steps ought to have been taken and what to hold off on; you accept that?

**Mr Hutchings:** Obviously, yes.

**Dr Mellifont:** Why tell Ms Valeska to hold off on taking those inquiry steps of checking the internal records and checking at State Archives? Why give that instruction to hold off?

**Mr Hutchings:** Two reasons, I suppose. Firstly, Zora is employed as a highly specialised officer at the CMC. She has been—

**Dr Mellifont:** What do you mean by that?

**Mr Hutchings:** An immense amount of resources have been invested in her, in getting her to a level of great specialisation in one particular area.

**Dr Mellifont:** TIs?

**Mr Hutchings:** Yep.

**Dr Mellifont:** Right.

**Mr Hutchings:** As her manager, I would be reluctant to divert that valuable resource, which was likely at that time to have been engaged in actual TI work for matters of present relevance at that time, to a task that was potentially unlimited in time. That is the first reason. The second reason is that it would have been impolitic and inappropriate to have tasked one of my officers to simply embark upon an exercise like this without letting the head of the relevant section at the CMC know about it and to give him the opportunity to shortcut a potentially lengthy and expensive exercise.

**Dr Mellifont:** In respect of the first reason, which was allocating Ms Valeska to the job, that reluctance was not something that you had on the evening or the afternoon of 29 May; correct?

**Mr Hutchings:** Well, I do not know that I can agree with you in such terms, because allocation of resources in any government department is a very carefully managed thing. The Legal



Services Unit staff, particularly one as highly specialised as Zora, do not routinely get sent out to do audits or investigative activities without there being an excellent reason to do so.

**Dr Mellifont:** There was exactly an excellent reason to do so in this case, wasn't there—the dissemination of surveillance records in the public domain? That is why the direction was given to Ms Valeska on the evening of 29 May to go and check it out.

**Mr Hutchings:** Well, the way you characterise it is as if we had intimate knowledge of what had in fact occurred at that time, and we did not. What we knew was that a statement had been made by an individual and I asked the head of the relevant section to tell me whether that was right. He told me it was sorted.

**Dr Mellifont:** The statement made by the individual you are speaking about—Mr Krosch—was that the surveillance records were in the public domain. That is what we are talking about?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Right. There is nothing to doubt that that statement made by him was correct?

**Mr Hutchings:** Well, I had no evidence that it was correct. I asked Mr Duell to tell me whether it was correct.

**Dr Mellifont:** But at some point on 29 May you had reached a state of mind which resulted in this direction to Ms Valeska to go and check this out at State Archives, but subsequent to that—tell me if I have the chronology wrong—you told her to hold off because you were speaking to Mr Duell?

**Mr Hutchings:** Basically, yes.

**Dr Mellifont:** And is it the case that the only reason the hold-off remained—that is, you did not reactivate that request of Ms Valeska—is because of what Mr Duell told you?

**Mr Hutchings:** Correct.

**Dr Mellifont:** And there was no other independent investigation or inquiry by you about this matter at all; is that correct?

**Mr Hutchings:** Correct.

**Dr Mellifont:** Can I take you, please, to tabled document 35, which is tab 20 in the bundle. Can you read the top of the document to the line, please.

**Mr Hutchings:** Yes.

**Dr Mellifont:** Now, the evidence we have from Ms Valeska is that this is a document she printed from your Outlook.

**Mr Hutchings:** Yes.

**Dr Mellifont:** Does that accord with your knowledge of the document?

**Mr Hutchings:** Yes, I have noticed it in my drafts.

**Dr Mellifont:** Okay. That was the next question: was this a draft?

**Mr Hutchings:** Yes.

**Dr Mellifont:** When was it produced?

**Mr Hutchings:** I do not recall.

**Dr Mellifont:** In terms of time frame, the best we can tell is that it must have been some time after 30 May 2012 at 9.45 am. Do you accept that as a starting proposition?

**Mr Hutchings:** I'm not sufficiently familiar with Outlook to say that when it prints in this form that is the natural conclusion to draw, but it seems like that is the case, yes.

**Dr Mellifont:** Right. And we see from its contents that it appears to be at least the start of a communication by you to Mr Martin forwarding Mr Duell's response.

**Mr Hutchings:** Yes.

**Dr Mellifont:** And then your observation, accepting that this was a draft—

I'm not sure the issue is resolved simply by reverting to a 65-year access period. I would have thought that reports of surveillance undertaken by the commission (and not tendered in evidence) aren't. Feels there more that needs to be do.

What this appears to be is a bit of a stream of consciousness—and I do not use that in the pejorative sense, but a stream of consciousness that you still had some lingering concern about the

access issues and such concerns were not satisfied by the response you had been given by Mr Duell.

**Mr Hutchings:** It certainly reflects—well, I typed it so I certainly accept it reflects a thought I would have had at the time. But I just notice it was not sent and there may have been a reason for that.

**Dr Mellifont:** Do you have any recollection at all as to having a lingering concern which led to this draft email being composed?

**Mr Hutchings:** No, I do not. I do not think I can add much more. No.

**Dr Mellifont:** You see, it is consistent with your observation in your email to Ms Valeska of 30 May 2012 at 5.29 pm that you weren't sure if Mr Duell's response addresses the concern you had.

**Mr Hutchings:** Yes.

**Dr Mellifont:** Do you recall if you did anything at all to close down any lingering concerns you had?

**Mr Hutchings:** I do not recall doing anything to, to use your language, close down any lingering concerns to the extent this is evidence of those. But knowing now that the chairperson had tasked someone to look into it, the fact that this was never sent may suggest that I was told that that inquiry was being undertaken and therefore I did not need to send the email, which is why it is still sitting there as a draft unsent.

**Dr Mellifont:** All right.

**Mr Hutchings:** Sorry, I do not know if that makes sense.

**Dr Mellifont:** That's okay. It was a very long answer and I am going to try and follow it. Knowing now that a person was tasked to look into it by Mr Martin, is it your evidence that the first time you knew that Ms Wood was tasked with the job of looking into the issue by Mr Martin is tonight; is that right? Is that the first time that that knowledge has come to you?

**Mr Hutchings:** No, no. Sorry, I did not mean to convey that impression.

**Dr Mellifont:** I am just trying to understand the response.

**Mr Hutchings:** I am reminded I said earlier that I think—well, my memory tells me that the first time I was told that that exercise was undertaken was in the last 10 to 12 days or, in effect, when this issue started to become investigated or looked into. But it may have been—it is consistent with not sending it that I may have been told that something was happening about it and therefore it was never sent, if that makes sense.

**Dr Mellifont:** Let me take you to something else. Can you go back to your statement, please. Sorry, can I tender that document which was tab 12 in the committee's bundle?

**CHAIR:** Is leave granted? Leave is granted. It is document 99.

**Dr Mellifont:** At paragraph 34 you say that you asked Mr Duell to get to the bottom of whether or not this was correct—that is, that covert material was publicly available. At paragraph 35 he acknowledged that the issue arose 'from a misunderstanding at our end'. You took that to mean that a misunderstanding had occurred in his department which had resulted in some sort of error involving the documents at Queensland State Archives. Did you interrogate him further as to what that meant?

**Mr Hutchings:** No.

**Dr Mellifont:** Was there anything preventing you from doing so?

**Mr Hutchings:** No.

**Dr Mellifont:** Can you explain why you did not interrogate him further as to what that meant?

**Mr Hutchings:** The decisiveness of the email would have given me significant comfort that the issue was minor and had been addressed. So I would have had no reason to doubt what the director of information management had been telling me in that email, that the issue had been resolved.

**Dr Mellifont:** When you say 'the decisiveness of the email', you are talking about the email which says.

... the issue ... arose from a misunderstanding at our end... QSA have rectified this immediately ...

Is that something which you regard as being of such a decisive character that you got significant comfort from it?

**Mr Hutchings:** Well, when it is coming from the director of information management, yes.

**Dr Mellifont:** You say in your statement although you have no specific recollection of receiving Mr Duell's reply, 'it is likely that the manner in which it was written would have given me significant comfort that any issue was relatively minor and had been resolved, therefore no further action.' You have just again reused that term 'minor'. How was it that you regarded an error which led to surveillance records being in the public domain as being of the character of minor?

**Mr Hutchings:** You will recall that—I actually did not know at that time that there were, in fact, surveillance documents in the public domain. I had asked Mr Duell for advice about it, and he gave that advice and I accepted it.

**Dr Mellifont:** When you say you did not know at that time that the surveillance records were in the public domain, you had the email from Mr Krosch saying that they were and you had Mr Duell, at least by inference, acknowledging that to be the case and that there was a rectification. So you did have such knowledge. Do you accept that proposition?

**Mr Hutchings:** No, I do not accept it in the terms you put it.

**Dr Mellifont:** Tell me and explain with whatever qualification you wish to place on it—this is your opportunity.

**Mr Hutchings:** The email from Mr Krosch was an email from Mr Krosch. It was not evidence of anything.

**Dr Mellifont:** He is an ex-CMC—CJC—sorry, ex-Fitzgerald inquiry person. Did you know that, he was an ex-staffer?

**Mr Hutchings:** I think I had been told that, yes.

**Dr Mellifont:** Was there any suggestion to you that he was an unreliable source of information?

**Mr Hutchings:** I had no view on whether he was reliable or an unreliable source. I did not know him from a bar soap.

**Dr Mellifont:** Continue, sorry I interrupted you.

**Mr Hutchings:** The way that the email is couched is in terms of it being a minor matter that was able to be rectified with one discussion with State Archives apparently and it appears to have been a reference to a clerical or administrative error which required surveillance reports to be returned to their 65-year restricted access period. Now, I at that time had no idea that Mr Duell had changed the RAPs for all Fitzgerald documents in February. Had I known that my reaction would have been vastly different.

**Dr Mellifont:** Just so I am clear, what part of this email was it that you regarded as being minor?

**Mr Hutchings:** The tenor of the email suggests that the problem was minor to my mind.

**Dr Mellifont:** In what way? What words are you looking at which leads you to the conclusion that you thought it was a minor issue?

**Mr Hutchings:** A misunderstanding apparently has occurred in Mr Duell's area and he has taken it up with Queensland State Archives. They have been able to rectify it immediately and—I mean, that is the basis upon which I make that conclusion—or made that conclusion.

**Dr Mellifont:** So is Mr Duell's characterisation of the issue as being a misunderstanding which led to your view the tenor of the email—that the tenor of the issue was, in fact, minor? Is that reasonable?

**Mr Hutchings:** No, I did not say that it was just the misunderstanding. I said it was—the general tenor of the email when written by a senior officer who apparently knew what was going on would have given me significant comfort that there was no further action required.

**Dr Mellifont:** I am sorry if I am repeating a question but it is the case, isn't it, that there was no further elucidation from Mr Duell about this issue at all from you?

**Mr Hutchings:** I had no reason to elucidate anything further from him.

**Dr Mellifont:** Because you were stepping out of the equation or because you regarded that as being a sufficient answer to your query?

**Mr Hutchings:** I do not think I ever said I was stepping out of the equation. I mean I am reactive in my job. I react to what people tell me. I provide advice when they ask me for it. I asked Mr Duell, the responsible manager, for advice about something wholly within his area of responsibility. He has told me that he has rectified the problem immediately. I would have had no reason to doubt that. Bear in mind significant hindsight is being now drawn to this email. At the time, I had provided advice to Mr Duell the previous December which I thought was pretty clear. Apparently, it was not followed. I did not know that when I received his advice.

**Dr Mellifont:** You did not—sorry, you did not know that he had not followed your December 2011 advice when you received his communication of 29 May 2012?

**Mr Hutchings:** Of 30 May 2012.

**Dr Mellifont:** Sorry, 30 May 2012?

**Mr Hutchings:** Correct.

**Dr Mellifont:** When did you first find out that he had not followed your advice of 23 December 2011?

**Mr Hutchings:** To the best of my recollection it was when this issue arose, just in the last couple of weeks.

**Dr Mellifont:** So March 2013?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Can I take you, please, to tabled document 77, tab 21 in the committee's bundle? This is the memorandum which Ms Wood produced on 6 March 2013.

**Mr Hutchings:** Oh yes.

**Dr Mellifont:** Now, if I recall your evidence from earlier today—and please correct me if I get this wrong, Mr Hutchings—you did not ask her to put this together for you; is that right? You asked her to put together a file or to gather up the file?

**Mr Hutchings:** My recollection is that the prior evening she was on her way out and this issue was emerging. She made the mistake of coming into my office. She did not leave for another couple of hours because this issue was escalating. And I think at the start of that conversation I mentioned to her that she would need to get the file together or at least get it out because it would be relevant to this. I think she produced this and I think the first time I saw it was the next morning.

**Dr Mellifont:** Have you reviewed this memorandum?

**Mr Hutchings:** Not in recent days, no.

**Dr Mellifont:** At the time you received it, did you review it?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Is there anything in there upon which you wish to make comment in terms of the accuracy so far as you know events to have occurred?

**Mr Hutchings:** Can I just take a moment to read it?

**Dr Mellifont:** Please.

**Mr Hutchings:** I would only comment that on the second page in the penultimate paragraph, the last sentence says that Sidonie advised me that the mistake was—sorry, advised that the mistake was that it had been classified inadvertently—I think it should have read—had been promptly corrected with the QSA. I do not recall Sidonie advising me of that specifically. I am not saying that she did not. The email would have sufficed to convey that information anyway—the email from Peter Duell.

**Dr Mellifont:** It would have been obvious to you on these days of 29 May and 30 May that Ms Wood was involved in undertaking inquiries in respect of the issue. Do you accept that proposition?

**Mr Hutchings:** No. No, I do not accept it because I do not recall being told that she was involved in an investigation, but it may have been conveyed to me at the time. I just do not recall.

**Dr Mellifont:** She sits right next to you, doesn't she, in terms of the office—offices?

**Mr Hutchings:** There is a—it is not as though we are in stalls—

**Dr Mellifont:**—pens, no, I appreciate that.

**Mr Hutchings:**—pens. We are very close geographically, yes.

**Dr Mellifont:** And her name is all over the emails of 29 May, email chains in which you were a party, in which Ms Valeska is a party, in which Ms Valeska is checking of you and of Ms Wood as to the instructions purportedly given by both of you. Do you accept that?

**Mr Hutchings:** I accept there was a lot of email traffic at the time, yes.

**Dr Mellifont:** So doesn't it logically follow that you must have been aware that Ms Wood was involved in making inquiries with respect to this dissemination issue?

**Mr Hutchings:** I do not recall her or Mr Martin telling me that they had spoken and that they were dealing with the issue, but I may have been.

**Dr Mellifont:** We know that you had communicated with—well, we see from the email traffic that the chairperson's attention was brought to the issue, correct?

**Mr Hutchings:** Yes.

**Dr Mellifont:** So this was one of those occasions of working collaboratively with Ms Wood on a particular issue, wasn't it?

**Mr Hutchings:** Yes.

**Dr Mellifont:** So to that end, you have yourself and Ms Wood and, with the assistance from time to time as requested from Ms Valeska, looking into this issue of the dissemination and surveillance issues—surveillance material, yes?

**Mr Hutchings:** Sorry, I lost you halfway through that.

**Dr Mellifont:** Perhaps my question was repetitious. All right.

**CHAIR:** Just excuse me. I think that we will adjourn barring divisions now for a quarter of an hour til half past nine. Bear in mind that there could be a division and you will hear the noise up the road. You will be required at the conclusion of the break.

**Proceedings suspended from 9.14 pm to 9.37 pm**

**CHAIR:** The hearing is resumed. Dr Mellifont.

**Dr Mellifont:** May the witness please be shown tabled document 78. Mr Hutchings, that should be an email from Ms Wood to you—6 March 2013 11.33 am.

**Mr Hutchings:** Yes.

**Dr Mellifont:** Okay. So by this stage you were going to go out to the State Archives to assess the state of play, I take it.

**Mr Hutchings:** That's what I was tasked to do, yes.

**Dr Mellifont:** You will see in the second paragraph—sorry, I'll just allow you to read the whole email to yourself. That would be fastest.

**Mr Hutchings:** Thank you. I've read that.

**Dr Mellifont:** All right. So you'll see what Ms Wood is saying is that she would've thought that certain things would've been 'marked and easy to identify in their records' and that she'd be interested to know 'seeing you will see these at the archives'. When you were out at the archives, did you actually go and have a look physically at any of the documents?

**Mr Hutchings:** By the time I got out to archives, the staff there had already extracted a number of boxes and had arranged them in a room for us, and that was pursuant to a request by us to prioritise certain documents on their spreadsheet ahead of others, for various reasons.

**Dr Mellifont:** Sorry, what spreadsheet are you talking about?

**Mr Hutchings:** Sorry, it was a spreadsheet given to us by State Archives when we arrived out there which revealed research requestors and metadata about particular documents which were actually provided to requestors.

**Dr Mellifont:** Right, so we're talking, I think, it's a two- or three-page A3 spreadsheet.

**Mr Hutchings:** I think it might've been four or five pages, but yes.

**Dr Mellifont:** All right. And you had selected it or somebody at the CMC—sorry, did somebody at the CMC select out of that group some documents that were a priority for you to examine?

## Inquiry into the CMC's Release and Destruction of Fitzgerald Inquiry Documents

**Mr Hutchings:** There were two areas of initial interest—one was as a result of a request from the committee and the other was as a result of our desire to see what documents Hedley Thomas and Emma Hart had actually had access to.

**Dr Mellifont:** Right. And so those were the physical documents you had a look at while you were out at Queensland State Archives.

**Mr Hutchings:** I saw a handful of the first category and I don't recall seeing any of the second category, but that's only because we were at the very early stages of extracting these documents from the records out at archives.

**Dr Mellifont:** All right. Can I take you please to tabled document 45. This is an email from yourself to Mr Martin and Mr Strange about what you were told by the State Archivist. Was that what you were told at the time of your visit or in some other communication?

**Mr Hutchings:** My recollection is that that was a summary of two or more conversations I had with Janet and other archive staff on that day and it represented my understanding at that time.

**Dr Mellifont:** Is your understanding any different now?

**Mr Hutchings:** Can I just read it? There might be something wrong in there, but that still reflects my understanding as at today.

**Dr Mellifont:** Can I just draw your attention to paragraph 5 please—

**Mr Hutchings:** Yes.

**Dr Mellifont:**—and the second sentence—

From February 2012, when the RAP was altered from 65 to 20 years, all 19,000 documents were searchable (subject to a few hundred exceptions ...

including NFP exhibits and others labelled confidential.

**Mr Hutchings:** Yes.

**Dr Mellifont:** Do you now understand the correct position in fact to be that the file descriptions or the metadata for those 19,000 documents were in fact searchable from 2010 onwards?

**Mr Hutchings:** I wasn't aware of that.

**Dr Mellifont:** Have you seen examples of the metadata that was in fact searchable at the Queensland State Archives?

**Mr Hutchings:** Yes.

**Dr Mellifont:** Right, and you'd agree that much of that metadata contains sensitive information you would not want to see in the public domain.

**Mr Hutchings:** Yes.

**Dr Mellifont:** Can I show you this spreadsheet to see if it is the one you spoke of just recently. I have it as a three-page document.

**Mr Hutchings:** Yes.

**Dr Mellifont:** Is that the spreadsheet you just spoke of recently, in your evidence this evening?

**Mr Hutchings:** I will just compare it to the one I was given. It appears to be, yes, the same spreadsheet.

**Dr Mellifont:** Thank you. I seek leave to table that document, please.

**CHAIR:** Is that a restricted document?

**Dr Mellifont:** Yes, it is.

**CHAIR:** Is leave granted for this restricted document be tabled? Leave is granted. It is document 100.

**Dr Mellifont:** The final thing I wish to take you to this evening, Mr Hutchings, is tabled document 42, which is tab 24 in the committee's bundle. Can I have a look at 42 before it comes down, please? I will return tabled document 42. It is only a partial of what I wanted to show Mr Hutchings. For the record, the first page of this bundle that Mr Hutchings is shown is in fact exhibit 42 but there are attachments. Can you have a look at that, please. It is an email from yourself to Maureen Sullivan and Sue Hutley, 8 March 2013 at 11.22 am. Are they QSA staff?

**Mr Hutchings:** Yes, they are.

**Dr Mellifont:** What were these inquiries in aid of?

**Mr Hutchings:** This was a formal request following up a verbal request and it was really confirming the priority in which we wanted to receive scanned versions of documents which either had been provided to requesters or may have been accessed by requesters.

**Dr Mellifont:** And is this part of the internal review by the CMC to find out what had in fact happened?

**Mr Hutchings:** Yes.

**Dr Mellifont:** I seek leave to table that bundle, please.

**CHAIR:** Is that tabled on the basis that it has sensitive information?

**Dr Mellifont:** Yes, it is.

**CHAIR:** So this document will be tabled document 101. Is leave granted to table the document, bearing in mind it has significantly sensitive information and should be not for publication? Leave is granted.

**Dr Mellifont:** Those are my questions at this stage, Madam Chair.

**CHAIR:** Thank you. Mr Hutchings, given the hour, I would ask if you could be stood down on your own undertaking to reappear when required. Would you give that undertaking?

**Mr Hutchings:** Certainly, Madam Chair.

**Dr Mellifont:** I recall Mr Pollock.

**POLLOCK, Mr Mark, Solicitor, Crime and Misconduct Commission**

**Dr Mellifont:** Mr Pollock, you are still under your former oath or affirmation. Do you produce further documentation to the committee?

**Mr Pollock:** Yes, I do.

**Dr Mellifont:** What is it that you are producing and pursuant to what?

**Mr Pollock:** I am producing some remaining 114 external emails for the period requested in the summons, 18 March 2013. This relates to Mr Horwood's provision yesterday at an earlier point of a bundle of emails. These emails, albeit smaller, are in the same format—that is, the emails and a disk on top.

**Dr Mellifont:** Thank you very much. I ask that those documents be tabled not for publication, please.

**CHAIR:** Is leave granted? Leave is granted. That will be document 102.

**Dr Mellifont:** Might Mr Pollock be stood down on his undertaking to reappear as required?

**CHAIR:** Do you give that undertaking?

**Mr Pollock:** I do, Madam Chair.

**CHAIR:** You are stood down. Is there any further business?

**Dr Mellifont:** I do not think so.

**CHAIR:** Then the hearing is adjourned until 11.45 am on Thursday, 21 March.

**Committee adjourned at 9.51 pm**