



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

FRIDAY, 22 MARCH 2013

Brisbane

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Committee met at 9.49 am

CHAIR: I declare this public hearing of the Parliamentary Crime and Misconduct Committee open. On behalf of the committee, I welcome Mr Peter Davis SC, acting parliamentary commissioner, and Dr Kerri Mellifont SC, who will attend later, who is assisting the acting commissioner. 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, the member for Redlands; Mr Ian Kaye MP, the member for Greenslopes; Mr Jon Krause MP, the member for Beaudesert—who will attend soon; Ms Jackie Trad MP, the member for South Brisbane; and Mr Peter Wellington MP, the member for Nicklin.

By resolution of the House dated 7 March 2013, the committee is tasked with inquiring into and reporting on—

- (a) the CMC's incorrect classification of documents lodged with State Archives that were sourced from the Fitzgerald inquiry which were transferred to the State Archives from the CMC between 2007 and 2009 that necessitated urgent legislation being introduced and passed by the House on 7 March;
- (b) the CMC's failure to remedy the incorrect classification of the above documents in a timely and effective manner;
- (c) the destruction of records of the Fitzgerald inquiry;
- (d) the CMC's failure to account to the PCMC in a timely and effective manner in relation to the matters;
- (e) as to how the issues arising from the incorrect classification of documents can be remedied in the longer term, including whether some or all of those documents have to remain confidential; and
- (f) on any other matters and make any other recommendations the committee believes necessary to address issues raised in its inquiry.

The resolution of the Assembly requires the committee to report 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 should 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. I Welcome Mr Kenzler and thank him for his attendance today.

The committee is assisted, as I said, in its inquiry by the acting parliamentary commissioner, Mr Peter Davis SC, and Dr Kerri Mellifont SC. I now call on Mr Davis SC to continue proceedings with the examination of Mr Kenzler. Thank you, Mr Davis.

Mr Davis: Just before Mr Kenzler is sworn, can I just deal with an administrative matter? Could the committee turn to exhibit 68, which is tab 5 of the document—the bundle relating to Mr Kenzler. You will see that that document is a letter from Mr Bishop to the right to information officer. That document attaches certain things. If you go to the first document that is attached it is a letter from Mr Kenzler back to Mr Bishop of 23 December 2009 and you will see that that letter is

obviously more than one page long, but only the first page is contained within what is now exhibit 68. The second page has now been obtained from the Crime and Misconduct Commission. In my submission it would be convenient for me to table the entirety of that letter, but table it as exhibit 68A so there is a record of the whole letter but the integrity of exhibit 68 is not impinged.

CHAIR: Is leave granted? Leave is granted.

Mr Davis: Before we call Mr Kenzler, there is a witness who is answering a summons. Dr Mellifont might deal with that, if that is convenient.

CHAIR: Sure. Thanks Dr Mellifont.

Dr Mellifont: Thank you. I recall Mr Mark Pollock.

POLLOCK, Mr Mark Dominic, Solicitor, Crime and Misconduct Commission

Dr Mellifont: Mr Pollock, you remain under your former oath or affirmation. Have you this morning brought to the hearing room documents in response to a summons issued yesterday?

Mr Pollock: Well, I bring some in response to a summons issued yesterday, 21 March, in relation to material related to that draft email of Mr Hutchings. So, yes, that's the first item.

Dr Mellifont: Sorry, just to put this in context, you speak of the draft email of Mr Hutchings which Ms Valeska found in the outlook of Mr Hutchings?

Dr Pollock: That is correct.

Dr Mellifont: Okay. So is that in respect of one summons?

Mr Pollock: Yes.

Dr Mellifont: Before you move on, in respect of that summons, are there further searches or documents?

Mr Pollock: There are further searches being undertaken. This is just as it is able to be provided, I've brought it with me.

Dr Mellifont: And appreciating that the task given involves a reasonable amount of interrogation of the IT resource, do you have an estimate as to when that task might be finished?

Mr Pollock: I would need to update my advice in that regard, but I understand that it's ongoing.

Dr Mellifont: Thank you. You will keep Mr Kunde advised as to that?

Mr Pollock: Yes.

Dr Mellifont: Thank you. Can I ask please that that bundle be tabled but not for publication at this stage until we have had a chance to examine it?

CHAIR: Is leave granted? Leave is granted. It is document 109.

Dr Mellifont: And what else have you provided this morning?

Mr Pollock: This is in response to a summons issued 18 March 2013 in relation to other information technology related searches that are ongoing in relation to external emails that had been searched. These have subsequently been discovered by those conducting that inquiry.

Dr Mellifont: And is the interrogation of the IT records in that regard now exhausted?

Mr Pollock: I understand that it is. I probably need to be careful there, because I'm not the IT person.

Dr Mellifont: Do you undertake to make inquiries of the relevant IT officer as to whether that investigation is exhausted and to report back to Mr Kunde, my instructing solicitor?

Mr Pollock: Yes.

Dr Mellifont: Thank you. Can I ask please that that additional bundle be tabled again not for publication as it has not been examined at this point in time?

CHAIR: This one?

Dr Mellifont: Yes, please.

CHAIR: Is leave granted that this document be accepted not for public publication? That is document 110.

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

Dr Mellifont: Can I show you this summons, please—a summons issued on 21 March 2013? I will give you an opportunity to read what is the sought under that summons and ask you whether in respect of that summons are the IT records still being interrogated?

Mr Pollock: Yes, they are.

Dr Mellifont: And do we have an estimate of time with respect to that?

Mr Pollock: No, effectively, except to say that it will be a substantial task involved.

Dr Mellifont: Do you provide the same undertaking with respect to inquiries?

Mr Pollock: I do.

Dr Mellifont: Thank you. May I ask that that summons be tabled.

CHAIR: Is leave granted? Leave is granted. That is document 111.

Dr Mellifont: Sorry, is there anything further you needed to inform the committee about, Mr Pollock, in respect of the summonses?

Mr Pollock: I can say that Mr Horwood, to whom that summons was addressed, I have put him on stand-by to address those matters. It might be advantageous if I arrange for him to be here and he can report more accurately than I am able to in relation to the ins and outs of that.

Dr Mellifont: Thank you. If you could arrange for him to be here in an hour or so, that would be of assistance. Thank you.

Mr Pollock: No problem.

Dr Mellifont: Might Mr Pollock be stood down on his undertaking to return as required?

CHAIR: Do you give that undertaking?

Mr Pollock: I do, madam chair.

CHAIR: Yes.

Dr Mellifont: Okay. I will hand over to Mr Davis.

KENZLER, Mr Russell James, Retired

Witness was sworn—

Mr Davis: Could you tell the committee your full name, please?

Mr Kenzler: Russell James Kenzler.

Mr Davis: And what is your present occupation?

Mr Kenzler: I am retired.

Mr Davis: And at one stage did you work for the Crime and Misconduct Commission?

Mr Kenzler: Yes.

Mr Davis: Over what period?

Mr Kenzler: I go back to Fitzgerald days and I worked for him, the Crime and Misconduct Commission and prior to that the Criminal Justice Commission—a period of about 25 years.

Mr Davis: And when did you retire?

Mr Kenzler: I was made redundant in November last year.

Mr Davis: And very well. Now, you are a qualified lawyer?

Mr Kenzler: I am a solicitor of the Supreme Court of Queensland.

Mr Davis: And when were you admitted as a solicitor of the Supreme Court of Queensland?

Mr Kenzler: 1983

Mr Davis: Now, when you were at the CMC what was the last role that you held?

Mr Kenzler: I was the right to information coordinator. I see I'm described as a former IT officer on my notice here, but I was the right to information coordinator and prior to that I was, I think since 1996, I looked after Freedom of Information Act as the legislation was then.

Mr Davis: So, freedom of information in a broad sense was your career at the CMC for how long?

Mr Kenzler: I certainly did other things. I did a lot of the drafting of the correspondence from this committee and so on. In fact, I spent most of my time doing that in the last few months because there wasn't a great deal of work in the RTI coordinator's job per se.

Mr Davis: The freedom of information and the RTI job, over how long a period did you do that?

Mr Kenzler: I became—about 1996 I think I started doing that task.

Mr Davis: Right through till November of 2012?

Mr Kenzler: That's correct.

Mr Davis: Now, you've already mentioned to the committee that you go back to Fitzgerald days. You were actually Mr Fitzgerald's clerk during the inquiry, weren't you?

Mr Kenzler: Yes.

Mr Davis: As the clerk you would have had a fairly good idea of the workings of the commission of inquiry.

Mr Kenzler: Certainly the public hearings anyway.

Mr Davis: Yes, all right. Now, you were aware, were you, that the commission of inquiry was investigative of nature?

Mr Kenzler: Certainly.

Mr Davis: And so seconded to the inquiry were a number of police?

Mr Kenzler: Yes.

Mr Davis: And other investigators?

Mr Kenzler: Yes, indeed.

Mr Davis: And those teams of police and other investigators, they were headed by various lawyers?

Mr Kenzler: Yes.

Mr Davis: Who were some of those?

Mr Kenzler: Well, Gary Crooke was senior counsel assisting, Ralph Devlin, senior counsel. There were a number of counsel seconded from government offices including Ross Martin, the chairperson. Steve Lambrides, he was one of the other ones who later was the Assistant Commissioner of Misconduct in the CJC CMC.

Mr Davis: Now the way this worked, I suggest to you, is that all these people were engaged one way or another in either investigating or marshalling material and evaluating material and decisions are then made as to whether that material then goes forward to be tested before the hearings of the inquiry?

Mr Kenzler: That would be so, yes.

Mr Davis: That's how it worked, wasn't it?

Mr Kenzler: Certainly, yes.

Mr Davis: And at the top of that tree was, of course, the commissioner, Mr Fitzgerald, who was organising the entire inquiry; you agree with that?

Mr Kenzler: That's so.

Mr Davis: In due course some of that material that was generated by the investigators or seized by the investigators would find its way to public hearings?

Mr Kenzler: Yes.

Mr Davis: And that material may very well be tendered during those public hearings?

Mr Kenzler: Yes.

Mr Davis: Now, some of that material, which was tendered during hearings of the inquiry, was marked confidential and not for publication.

Mr Kenzler: Yes.

Mr Davis: And you're aware of that happening?

Mr Kenzler: Certainly, yes.

Mr Davis: And some exhibits were tendered and not marked in that way so that they were available for public viewing as at the time they were tendered.

Mr Kenzler: That's right.

Mr Davis: The majority of the Fitzgerald hearings were done in public.

Mr Kenzler: Yes, the overwhelming majority.

Mr Davis: And that was—it was a well published desire of Mr Fitzgerald that as much as possible be conducted in public, wasn't it?

Mr Kenzler: Yes. Yes.

Mr Davis: He repeated that on numerous occasions, didn't he, during the inquiry?

Mr Kenzler: Certainly. Yes.

Mr Davis: And presumably you and all the others who were involved in the inquiry knew that that was a concern of his.

Mr Kenzler: Certainly, yes.

Mr Davis: Now, some of the—despite that concern, some of the hearings were in private.

Mr Kenzler: I can only recall one occasion when it was ever in private and I think that was to take the confession of assistant commissioner Parker. I think he may have been in hospital or ill or something. But that was the only occasion, from memory, that I recall that it was done in camera, but Mr Fitzgerald reported on it soon after to—in a public hearing.

Mr Davis: Yes. So the documents which were tendered and marked not for publication, they were actually tendered in public hearings.

Mr Kenzler: That's right. They would have been received—tendered by counsel assisting or one of his officers and Mr Fitzgerald would have signed an exhibit number and would have given it to me to mark.

Mr Davis: And then he would have made an order, the commissioner would have made an order that that be not for publication?

Mr Kenzler: That would be so, and I recorded it ultimately in the list and so on which is in the appendix to his report.

Mr Davis: Yes, and presumably you would have dealt with those exhibits differently to other exhibits in various administrative ways to ensure their confidentiality?

Mr Kenzler: That's right, I kept them secure and—

Mr Davis: Yes. We probably don't need to go into that save that it's obvious that you would have taken administrative measures.

Mr Kenzler: Yes.

Mr Davis: Is it fair to say that there were really three categories of documents that were created by the Fitzgerald inquiry? The first category were exhibits and transcripts that were in the public view at all times.

Mr Kenzler: Yes.

Mr Davis: The second are documents that were tendered in public hearings but were marked confidential and not for publication.

Mr Kenzler: That's so.

Mr Davis: Now, there's a third category of documents and information, isn't there, namely, an enormous amount of material that would have been generated by the investigators but for one reason or another never found its way to the public hearings?

Mr Kenzler: That's so.

Mr Davis: That third category of documents, or third category of material, that material may not have found its way to the hearings of the inquiry because ultimately it was found to be perhaps beyond the scope of the terms of reference or may have been found to be unreliable. What are the reasons why it might not have gone forward?

Mr Kenzler: Well, I guess there'd be a number of reasons. It may be just intelligence or it, you know, had no value and so on.

Mr Davis: In the sense that it was hearsay, and although obviously the inquiry could receive hearsay—

Mr Kenzler: Certainly.

Mr Davis: It was hearsay that was regarded as too remote and not probative, is that the sort of thing?

Mr Kenzler: I accept that. I accept that, yes.

Mr Davis: Any other types of material which may have not found its way to the—

Mr Kenzler: I mean, I'm only speculating because I was never involved in the investigations per se so I couldn't say with any certainty, but there'd be a whole range of documents, as you say a great mass of volume of documents, that in the day-to-day work of the investigative arm of the commission would have been accumulated and so on: interviews, reports, memos, when they go out looking—checking on people, surveillance stuff, all that matter.

Mr Davis: It would be policeman's notes, conversations that had been had with informants, for instance.

Mr Kenzler: Yes, indeed.

Mr Davis: All that.

Mr Kenzler: A great mass of documents of that nature.

Mr Davis: Yes. All right. Now, I'd like to take you to some documents now if I might. We will go first to exhibit 14, I think. Now, this is a memorandum from Sidonie Wood. You know her?

Mr Kenzler: Certainly.

Mr Davis: To Zora Valeska. You know her?

Mr Kenzler: Yes.

Mr Davis: 1 September 2011. And it's referred to as an RTI request—it's referred to as 're RTI request Brifman interview transcripts'. Now, I'll take you to some emails and things about this, but if you just look at that memo you'll see it's to Sidonie Wood. You have asked for a memorandum setting out the outcomes of inquiries, you see that?

Mr Kenzler: Yes.

Mr Davis: In consideration of whether requested transcripts should be released to a requester, and the answer is, 'The majority of the exhibits tendered during the inquiry were made available to the public', do you see that?

Mr Kenzler: Yes.

Mr Davis: Now that is, in fact, true, isn't it?

Mr Kenzler: Yes.

Mr Davis: If you then look a little further down you'll see a paragraph, 'The records in question were tendered as exhibits', do you see that paragraph, 'and marked as not for publication or inspection.'

Mr Kenzler: Sorry, yeah, I think it's—

Mr Davis: You see the paragraph after the quote?

Mr Kenzler: Oh yes.

Mr Davis: Paragraph starting, 'The records in question'. Do you see that?

Mr Kenzler: Yes. Yes.

Mr Davis: All right. So then there's a reference to these records, 'The records in question were tendered as exhibits for information purposes only and marked as not for publication or inspection'. So that's obviously identifying that category of documents that you've already given some evidence about which are the ones that were marked private and confidential, or marked not for publication, and then you dealt with them separately administratively as Mr Fitzgerald's clerk?

Mr Kenzler: That's so.

Mr Davis: Go to the next paragraph. 'These records contain personal information', do you see that paragraph?

Mr Kenzler: Yes.

Mr Davis: Now, obviously those records that were marked not for publication or inspection were sensitive—for some reason or another.

Mr Kenzler: Yes, that would be the reason Mr Fitzgerald so decided, yes.

Mr Davis: Yes, and probably they did contain personal information about individuals.

Mr Kenzler: They may well have.

Mr Davis: The point though is, I suggest to you, that the third category of documents, namely all that investigative material which never made its way to the inquiry, that no doubt also contained personal information.

Mr Kenzler: Undoubtedly.

Mr Davis: All right. If you just go down to the bottom of that document some background is being given in relation to the release of material, and then if you go over to page 2 you'll see a heading about two thirds of the way down 'issues considered'; do you see that?

Mr Kenzler: Yes.

Mr Davis: Then if you go over to page 3, and it's paragraph 4, there's a mention of you?

Mr Kenzler: Yes.

Mr Davis: And reference to an email. Would you mind just reading to yourself from paragraph the number 4 there right through across to page 4 and don't bother reading the paragraph, 'Although not strictly germane.' Could you just read the rest of it to yourself?

Mr Kenzler: Thank you.

Mr Davis: All right. We'll take you to the emails in a moment, but I assume that you don't remember that email?

Mr Kenzler: Vaguely I remember it. Yeah, vaguely.

Mr Davis: We will come back to it in a minute. The restricted access periods that were applied to these documents, you are aware of that procedure, how that works?

Mr Kenzler: Then or now at the commission?

Mr Davis: Then at the commission. Do you understand how that was actually done? The documents were sent to archives and then a restricted access period had to be applied to them?

Mr Kenzler: Yes, I understand that.

Mr Davis: You are aware of that procedure?

Mr Kenzler: The blanket 65 years was—

Mr Davis: How all that occurred?

Mr Kenzler: Yes.

Mr Davis: Now, you were the RTI officer at this particular point when the RAPs were applied to the documents that were sent to Queensland State Archives.

Mr Kenzler: Certainly.

Mr Davis: But obviously the RAPs were not applied under the RTI legislation, were they?

Mr Kenzler: No.

Mr Davis: They were applied under separate legislation?

Mr Kenzler: Yes, because I have always understood the Fitzgerald inquiry documents did not come within the scope of either the FOI Act or the current legislation, so I had no jurisdiction.

Mr Davis: You had no jurisdiction under the RTI Act?

Mr Kenzler: Yes.

Mr Davis: That's right. One thing that has been the subject of some questions from the committee to other witnesses is that we have you as an RTI officer within the CMC with, we now know, some 20 years' experience in dealing with RTI issues. Why was it that what seems to be a closely related matter such as the imposition of restricted access periods would not have been given to an officer such as you to deal with?

Mr Kenzler: That question has never been raised and nobody ever contemplated that, nobody ever spoke to me about it. I thought the Fitzgerald documents were in a particular category. I think there was a provision in the Criminal Justice Commission Act that was carried over into the current legislation that spoke about the Fitzgerald data. It was the responsibility—I'm going from memory, but I thought it was the responsibility of the director of intelligence to keep it secure in the commission.

Mr Davis: I'm not being critical of you. I'm not suggesting that you should have dealt with it.

Mr Kenzler: No.

Mr Davis: But if one looks at what you do as an RTI officer, you have to consider release or otherwise of the document, based on whether the document falls within the exceptions that are created in the RTI Act to access; do you agree with that?

Mr Kenzler: Yes, certainly.

Mr Davis: And those exceptions, I suppose we could set them all out verbatim, but those exceptions are designed generally to restrict access if there is some good security reason or otherwise for that to be done?

Mr Kenzler: Yes.

Mr Davis: Do you agree with that?

Mr Kenzler: Yes, certainly.

Mr Davis: So you have spent a good deal of your career dealing with those sorts of issues, which are similar issues, I suggest, to the restricted access period considerations. You would agree with that as a general proposition?

Mr Kenzler: Yes.

Mr Davis: So what I am asking is whether there was any administrative or management decision made not to have someone like you, with your experience, look at the question of the RAPs?

Mr Kenzler: There was no formal approaches or nothing was in contemplation. I mean, I was asked informally, from time to time. The people in the information management may have said they received a request for access to the exhibits. I might have been told that in passing, but—

Mr Davis: We will take you to some of those documents in a minute. But the committee has been concerned about this and it is just that there seemed to be two regimes, you and this other regime, dealing with what seems to be very similar sorts of issues. You were never approached to become directly involved in the setting of the RAPs?

Mr Kenzler: No, other than just informal conversations or comments like that I have mentioned. There was no approach. Nothing was in contemplation.

Mr Davis: And the fact is that had you been approached in relation to the appropriate RAPs to be applied to the Fitzgerald inquiry, firstly, by that stage, 2010, you would have had a very lengthy experience with the classification of documents?

Mr Kenzler: Certainly.

Mr Davis: And, secondly, you had a very deep personal knowledge of the workings of the Fitzgerald inquiry?

Mr Kenzler: Certainly.

Mr Davis: And you certainly knew that there were a third category of documents that were not tendered in the inquiry, either made public or had been made the subject of non-publication orders?

Mr Kenzler: Yes.

Mr Davis: And no-one actually came to you and had a full discussion with you about this issue?

Mr Kenzler: That's right.

Mr Davis: Could I now take you to another document, please, Mr Kenzler. This is exhibit 68. I wonder if the witness could be shown exhibit 68 and 68A, please. Can I show you first exhibit 68. If you go to the second page of that exhibit, you should see the first page of a letter from you to Mr Bishop dated 23 December. I think you are now going to exhibit 68A. Could you just stay with 68 for a minute. You will see that in 68 is the first page of a letter from you to Mr Bishop.

Mr Kenzler: Yes.

Mr Davis: If you now go to 68A, you will see that 68A contains not only the first page of that letter but also the second page. If you can just satisfy yourself by looking at 68A that there is really nothing much on the second page that we need worry about?

Mr Kenzler: That's so.

Mr Davis: Then I think perhaps put 68A to one side for me, please.

Mr Kenzler: Sure.

Mr Davis: If you look at 68, firstly this is a letter from Mr Bishop directed to the Right to Information Officer, received late in 2009. We know that at that time the Right to Information Officer was one Russell Kenzler; we know that?

Mr Kenzler: That's right.

Mr Davis: If you then go to the next page, and this is the document that I just referred you to, which is a letter from you to Mr Bishop of 23 December.

Mr Kenzler: Yes.

Mr Davis: What this inquiry was all about were transcripts concerning a police officer called Hallahan. If you look in your letter of 23 December 2009, you give a response to Mr Bishop towards the bottom, the bottom third: 'In response to the questions asked I advise as follows'; do you see that?

Mr Kenzler: Yes.

Mr Davis: In the second dot bullet point there, you say, 'if it is a public record, there would seem little reason to refuse access'; do you see that?

Mr Kenzler: Yes.

Mr Davis: If you look in the fourth dot point, the third line down, 'As proceedings of the Fitzgerald Inquiry were held in public, the transcript would be considered a public document.' Do you see that?

Mr Kenzler: Yes.

Mr Davis: Are you there expressing this view: that you understand that what is being sought by Mr Bishop are documents that have gone to the Fitzgerald inquiry and are transcripts of public hearings and, therefore, ought to be made available to him; is that the point that is being made?

Mr Kenzler: Well, certainly if the documents—if the transcript was a public document and so on, it was readily available so—

Mr Davis: If you go back to the previous page, which is the letter from Mr Bishop?

Mr Kenzler: Yes.

Mr Davis: He is clearly asking for transcripts. So that is obviously directly what you are dealing with?

Mr Kenzler: Yes.

Mr Davis: You are dealing with what you understand to be public transcripts; is that right?

Mr Kenzler: That's so, yes.

Mr Davis: So in this early stage when you are dealing with Mr Bishop, what we have identified as the third category of documents hasn't emerged as an issue, as far as you're concerned?

Mr Kenzler: That's right, yes.

Mr Davis: Could you just look at the next page of exhibit 68. This is a letter from Mr Bishop to you of January 15, 2010.

Mr Kenzler: Yes.

Mr Davis: Do you remember receiving that letter?

Mr Kenzler: Yes.

Mr Davis: And then you respond on 19 January and that is the next letter.

Mr Kenzler: Yes.

Mr Davis: Now, if you look at that letter, you are here dealing with a term that he used, in Mr Bishop's letter, namely 'unrestricted records of the Inquiry'; do you see that?

Mr Kenzler: Yes.

Mr Davis: You refer him to the list of unrestricted exhibits tendered during the hearing and that is referred to in the report. So you are telling him that obviously people would have access to those documents?

Mr Kenzler: Certainly.

Mr Davis: So what you are dealing with here, still, are documents and transcripts that have already been in the public domain?

Mr Kenzler: That is correct, certainly.

Mr Davis: So that's what was within your mind when you were dealing with Mr Bishop?

Mr Kenzler: Absolutely.

Mr Davis: I take you now, please, to exhibit 13. This is an email trail which starts with a letter from Matthew Condon to Mr Duell. That's the last two pages of that email trail, 30th November 2010?

Mr Kenzler: Yes.

Mr Davis: Then if you follow that through backwards, from back to the front, so to speak, there is communications between Mr Duell and Mr Condon. That goes right through to—just bear with me—an email, which you'll pick up on the first page of that email trail, from you to Zora Valeska?

Mr Kenzler: Yes.

Mr Davis: If you go to the second page of that email from you to Valeska, at the top of the page, which is marked as page 3, you'll see 'In answer to your inquiries'. Do you see that?

Mr Kenzler: Yes.

Mr Davis: That text there seems to be what is quoted in the Valeska to Wood memorandum that I showed you earlier?

Mr Kenzler: Yes.

Mr Davis: That response by you is prompted by the email which, on the face of this document, follows from Zora Valeska to you dated 31 August. Do you see that?

Mr Kenzler: Yes.

Mr Davis: Which is sending on the various emails from Mr Condon. I just want to take you to the top of what is marked page 3 and the passage 'In answer to your inquiries'. Do you see that?

Mr Kenzler: Yes.

Mr Davis: You say there 'With the passage of time, those transcripts have become little more than of historical interest.' Do you see that?

Mr Kenzler: Yes.

Mr Davis: And you're obviously referring there to the transcripts of the open hearings?

Mr Kenzler: No, I thought I was referring to the Brifman—

Mr Davis: I'm sorry, you were. You have been involved in decisions regarding similar requests for access to certain Fitzgerald exhibits et cetera?

Mr Kenzler: Yes.

Mr Davis: All right. And then if you go to page 1 of the email—and this is the beginning of your email to her of 2 September 2011—

Mr Kenzler: Yes.

Mr Davis:—what you are attempting, I think, to communicate to her is that if documents are noncontentious and they are not sensitive there is a public interest in having them disclosed?

Mr Kenzler: Yes. That's a general comment.

Mr Davis: Right. When it comes to the Fitzgerald documents and the issues that were arising around about this time, you were never asked to consider specifically whether any particular documents ought to be the subject of disclosure?

Mr Kenzler: No.

Mr Davis: So no-one ever showed you, for instance, the metadata? Are you aware of what that is?

Mr Kenzler: No.

Mr Davis: There is an index kept of all the Fitzgerald documents. That has search words in the index which identify the documents. You were never shown that?

Mr Kenzler: No.

Mr Davis: And never asked to identify documents that ought to be the subject of disclosure?

Mr Kenzler: No.

Mr Davis: Very well. Could I now show you exhibit 18, this is tab 8. This is an email from Mr Hutchings to Mr Duell and cc'ed to you, Warren Strange and Suzanne Sweeper. Do you see that?

Mr Kenzler: Certainly.

Mr Davis: Do you recall receiving this email?

Mr Kenzler: No, I don't. No.

Mr Davis: If you look at the email you'll see that what seems to be in contemplation are two categories of documents.

Mr Kenzler: Yes.

Mr Davis: You see that?

Mr Kenzler: Certainly.

Mr Davis: And what of course is not mentioned in this email is the third category of documents—

Mr Kenzler: That's right.

Mr Davis:—which is the mass of investigative material that never made its way to the open hearings?

Mr Kenzler: That's right. It's not on the public record. People have no particular knowledge of those documents.

Mr Davis: Yes. And from what you've told us those documents may, of course, be incredibly sensitive?

Mr Kenzler: Yes, indeed.

Mr Davis: You can't remember receiving this email at all?

Mr Kenzler: No, I'm sorry, I don't.

Mr Davis: Presumably when you did receive it and assuming that it did find its way to you and that you read it, there doesn't seem to be anything in it which gives a hint that the third category of documents had even been considered?

Mr Kenzler: That's right. It wasn't even in contemplation, no.

Mr Davis: Very well. Could I take you now please to exhibit 19, this is tab 9. This is an email sent to you which again forwards some information or a letter received from a Mr Bishop to Mr Duell. Do you see that?

Mr Kenzler: Yes.

Mr Davis: Do you remember receiving this email?

Mr Kenzler: No, I don't, I'm sorry.

Mr Davis: Do you remember being involved in anyway otherwise with this issue that Mr Duell has raised with you here?

Mr Kenzler: I certainly remember Mr Bishop. He attended at the commission personally. Whether he was coming to see me or for the want of someone else to see security directed him to me, but he did come and see me in person early, I think, 2011. He was concerned that he'd written to the commission over a number of months seeking access to documents and he had received no response at all. I told him I had no jurisdiction, but I was happy to listen to what he had to say and help where I could. The other thing he told me was of the 65-year blanket ban on the documents, which I was unaware of until then, which I thought was odd or even silly because 25 years ago Mr Fitzgerald was prepared to release a range of documents at the public hearing and now suddenly 25 years later they're not available. Normally things become less sensitive with the passage of time.

Mr Davis: Of course. If you look at the letter from Mr Bishop to Mr Duell you'll see that's set out at the bottom of the first page of the email. Do you see that?

Mr Kenzler: Yes.

Mr Davis: And you'll see there that Mr Bishop quotes Mr Fitzgerald QC from the report. Do you see that?

Mr Kenzler: Yes.

Mr Davis: What Mr Fitzgerald is there saying, if you look over the page, is he's referring to 'With a few exceptions, exhibits were made available to the media'. Do you see that?

Mr Kenzler: Yes.

Mr Davis: Again this letter from Mr Bishop to Mr Duell—I assume if you'd received it and read it—would not have given you any indication that the third category of documents was what was being contemplated?

Mr Kenzler: That's so, yes.

Mr Davis: Can you remember whether you acted on the email of 27 January? Can you remember whether you did anything?

Mr Kenzler: No, I don't recall if I took any action. I mean I had no jurisdiction to deal with it as the RTI officer, but I certainly was sympathetic to Mr Bishop when he attended on the commission and complained about the lack of response over a period of time. I think he said he wrote to the chairperson—although in fairness to the chairperson, just because you write to the chairperson the letter does not end up there—and he did say that he was thinking of writing to the committee and complaining about the lack of action. I mean I was sympathetic to what he was telling me. I thought it was a bit poor form that nobody had responded to him over such a period of time—even to acknowledge the letter—according to what he told me.

Mr Davis: And also perhaps some sympathy in that you understood that he was after documents that had been available for decades?

Mr Kenzler: That's right, yes.

Mr Davis: Could you just go a little further into that bundle of documents, which is exhibit 19. If you go five pages in you'll see an email from Peter Duell to Mr Bishop saying –

I have discussed the matter with the acting Chairperson, Warren Strange ... He agrees with my recommendation to change the Restricted Access Period ...

Mr Kenzler: Yes.

Mr Davis: Did you have anything to do with any of that?

Mr Kenzler: Other than when Mr Bishop spoke to me and brought to my attention the fact that there was a 65-year blanket rule I went and saw General Counsel and raised with him those two concerns I had—the lack of response and also this 65-year ban which was inappropriate given that Fitzgerald, 25 years ago, had allowed access to it. Then I think Peter may have telephoned me. I assume General Counsel spoke to Mr Duell and I explained to him that Mr Bishop had seen me and expressed concern at the lack of response and on the blanket ban, which I thought was inappropriate in the circumstances.

Mr Davis: I will now show you exhibit 83 please. By this stage, 24 May 2012, there is an email from you to Sidonie Wood. That is on the top of the first page?

Mr Kenzler: Oh, yes.

Mr Davis: By this stage the RAPs had been changed. A good deal of information and documents had been made available to the public. And a Mr Krosch had arrived on the scene. If you have a look at the email from Cybersurreal, which is towards the bottom half of that first page of the document I've just shown you, you will see Mr Krosch is saying—right at the bottom—'I was surprised to see all the Fitzgerald Inquiry Surveillance Reports are accessible now.' You see that at the bottom of the first page?

Mr Kenzler: Yes.

Mr Davis: Could you read that to yourself. The point is, isn't it, that the surveillance records would have been generated by the investigators?

Mr Kenzler: Yes, and Mr Krosch became aware by searching over at the archives that his own intelligence reports were accessible.

Mr Davis: Generally speaking those surveillance reports would form part of what we've been calling the third category of documents?

Mr Kenzler: The third category, certainly.

Mr Davis: If you did have jurisdiction over those as a freedom of information officer you would surely be looking at those pretty carefully before you released them?

Mr Kenzler: Certainly.

Mr Davis: If you then go to the top of that page—we are still on exhibit 83—this is your response. You say—

Thanks, Sidonie. I 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?

So, of course, this is an expression of your understanding from the other material that I've shown you—that what you thought was being dealt with were the documents that have already been made public?

Mr Kenzler: That's so.

Mr Davis: Is that your thinking at the time?

Mr Kenzler: Yes, certainly. I couldn't conceive of that other mass, that third category of documents, being accessed willy-nilly.

Mr Davis: If you then go to exhibit 77. I will show you that. It is tab 11. Now you are not mentioned in this document, but I will just ask you to read it to yourself and then tell us if there is any light you can throw on any of the matters raised in it.

Mr Kenzler: There is nothing more I can add to it. I was unaware of the release of the documents. I think the Official Solicitor told me about it at one stage.

Mr Davis: What seems to have happened when the initial RAPs were considered is there was not a proper audit done of the documents. It was just a 65-year RAP was applied to it. Now that is a mistake in itself, isn't it?

Mr Kenzler: Certainly, yes.

Mr Davis: Because, if there are documents that are not sensitive, it is in the public interest that they be made available.

Mr Kenzler: Yes, and particularly where 25 years ago Mr Fitzgerald was prepared to release them then, you would find it difficult to argue why suddenly after that period of time they shouldn't be accessed.

Mr Davis: Yes. And then it appears that when there is then a blanket access made to them, there has been a lack of appreciation of what we would call the third categories of documents.

Mr Kenzler: Certainly.

Mr Davis: Is that how you see that this has panned out?

Mr Kenzler: Certainly.

Mr Davis: Is there anything you can add to that?

Mr Kenzler: No.

Mr Davis: Your name has been mentioned by witnesses called in this committee. So I now take you to some of that. This is tab 12. I ask that the witness be shown the transcript for 14 March 2013, page 9. This is Mr Duell giving evidence. Mr Duell was the person who seems to have decided to change the RAP to 20 years. Obviously, given that the Fitzgerald inquiry was more than 20 years ago, that means the documents were all available. If you look towards the bottom of the page, you will see three entries up Mr Duell saying, 'Previously you said don't refer to the 19,000 documents ...' Do you see that?

Mr Kenzler: Yes.

Mr Davis: Mr Duell had been asked a series of questions as to whether he had conducted any form of audit of the documents, and it seemed that he had not. That is what that is a reference to. What he says there is that he did some investigations about what was in the documents and one of the people he spoke to was you. Do you see that?

Mr Kenzler: Yes.

Mr Davis: 'Russell Kenzler was a good source of information.' Do you recall discussing with him the contents of the documents?

Mr Kenzler: Not off the top of my head, no. I mean I did speak to him occasionally. I have indicated that I spoke to him or he contacted me after Mr Bishop attended the commission. I have a vague recollection that he showed me a memo that was written by a Suzanne Sweeper about access and so on. But, again, my interest in it was only in relation to the public exhibits or the exhibits tendered at the inquiry and so on. It certainly didn't relate to that third category of documents we spoke of.

Mr Davis: We will show you the memorandum from Suzanne Sweeper. That is exhibit 7, if the witness could see that, please. That is probably the document that you were shown.

Mr Kenzler: Yes, I think so.

Mr Davis: Again, if you look through that document, you will see that really it is only the first two categories of documents that are being contemplated, not the third.

Mr Kenzler: Yes.

Mr Davis: The existence of the third category seems to have been not appreciated.

Mr Kenzler: That's right, yes.

Mr Davis: We will have to ask Mr Duell some more questions about this. Mr Duell says you are a good source of information—that is at the bottom of page 9. The inference seems to be that he has discussed with you what is available or what is being held by way of Fitzgerald inquiry documents. Now surely if you had been asked a question like 'What documents of the Fitzgerald inquiry can be released?' you surely would have identified what we have identified as the three categories to Mr Duell, wouldn't you?

Mr Kenzler: Yes.

Mr Davis: And you would have told him about the investigative material.

Mr Kenzler: Although I don't think I ever recall discussing that with him. I mean my interest was because of the exhibits because I had a personal knowledge of the exhibits.

Mr Davis: Yes.

Mr Kenzler: The third category that we have spoken of I don't recall—even in contemplation, I don't recall.

Mr Davis: But if had he asked you a broad question like 'We've got all these holdings. What's in them and what should be released?' you would have surely said that there was sensitivity not only to the documents that were marked confidential but also to the investigative documents.

Mr Kenzler: There was a whole range of investigative documents there—obviously still quite sensitive. I had no particular knowledge of those documents but you would certainly proceed very cautiously if you were contemplating access.

Mr Davis: All right. So you cannot recall any particular conversation with Mr Duell about the contents of the documents.

Mr Kenzler: No, I don't, other than, as I say, I am sure we did speak but my input would be related to the exhibits and the non-publication order on those documents because those were the ones of my particular interest because I knew those only too well.

Mr Davis: Could you go to page 11 of that transcript. Towards the top he says, 'There was not a wealth of information,' Do you see that, about the documents? That is right at the top.

Mr Kenzler: Yes.

Mr Davis: There might be some debate about how difficult it was, frankly, to ascertain what the documents were all about, but we will put that to one side for a moment. Then a couple of entries down he says, '... probably Russell was the person who had the most knowledge of the holdings.' Do you see that? That might be right but the question is the extent of any discussion you had with Mr Duell about the holdings.

Mr Kenzler: Again, anything that I could comment on was only related to the matters of the exhibits tendered at public hearings, either the accessed ones or the restricted access. That was the extent of my knowledge because I was not part of the investigative team other than obviously I knew there was a whole body of other documents, but I couldn't seriously comment upon those because I'd never seen them. I knew nothing of them.

Mr Davis: Although you would have known that by the very nature of the Fitzgerald inquiry they would have contained all sorts of information—

Mr Kenzler: Certainly.

Mr Davis:—that was not appropriate for distribution.

Mr Kenzler: That is right.

Mr Davis: Could you go to page 13 for me, please, of that same transcript? If you look about two-thirds of the way down, 'And then documents where there were specific non-publication orders?' Do you see that?

Mr Kenzler: Sorry I don't.

Mr Davis: About two-thirds of the way down.

Mr Kenzler: Yes, I beg your pardon.

Mr Davis: It is probably closer to three-quarters of the way down. This is where Mr Duell now acknowledges that there is the third category of documents. Certainly from what you have seen that does seem to be what has happened, that there has been a breakdown in that no-one has appreciated that there was these—is that right?

Mr Kenzler: That's right. It seems to be the case.

Mr Davis: Very well. If you then go over to page 16, there is this exchange. If you go towards the middle of the page, Mr Duell said—

It was a huge mistake.

I put to him—

But it was a breakdown of the system. It was not just a mistake—I suggest to you someone made an error in making the wrong decision—it was a breakdown of the system whereby that decision was made.

Mr Duell rather extraordinarily answers—

What's the system, sorry?

And you will see there is an exchange which follows that. Whatever the system was to change these RAPs, it did not directly involve you. Is that the idea?

Mr Kenzler: That is certainly true.

Mr Davis: Very well. Can I take you then to another transcript we will give you. This is 18 March, page 35, towards the bottom. Just bear with me a moment. Look I won't take you to that. I think it would perhaps be not productive. But I will take you to page 36. About a quarter of the way down, Dr Mellifont asks—

All right. Now, can I take you, please, to the first page, the fourth entry. So it is an email from yourself to Ms Wood, 2 September 2011 ...

So this is a question addressed to Ms Valeska.

Mr Kenzler: Yes.

Mr Davis: We will show you that email. It is exhibit 57. You will see that that is an email trail. If you go about two-thirds of the way down the page, you will see an email from Zora Valeska to Sidonie Wood, 2 September 2011 at 1.04 pm.

Mr Kenzler: Yes.

Mr Davis: You can probably ignore the sentence commencing 'Fell flat'. The next paragraph states—

RK has suggested that I check the Inquiry transcript to determine why this information was originally exhibited as not for publication.

Do you see that?

Mr Kenzler: Yes, I do.

Mr Davis: So obviously there has been some communication between you and Valeska.

Mr Kenzler: Yes.

Mr Davis: But, again, what you are being asked about are the exhibits—

Mr Kenzler: That's so.

Mr Davis: You're here being asked questions about the exhibits that were marked not for publication.

Mr Kenzler: That's so.

Mr Davis: Very well. They are all the questions I have for Mr Kenzler.

CHAIR: Thank you, Mr Davis. Mr Kenzler, you said that you had been the RTI coordinator for some time but that in November 2012 you were made redundant and your words were 'there was not much work in RTI's job in the end'.

Mr Kenzler: That is right; it diminished.

CHAIR: Why? Why do you think it diminished?

Mr Kenzler: The legislation was changed in 2005 that restricted access to commission documents. Then in I think early 2011 the Office of the Information Commissioner gave a decision that further restricted access. We may have received applications, but we didn't give documents out because of the legislation and based on the decision of the Information Commissioner. There are restrictions on access to commission documents in the misconduct and the crime areas of the commission. There are restrictions on those things, and that is where most of the interesting things happen in the commission. So people may have sought access to documents relating to their own investigation and, based on that decision of the Information Commissioner, they were not entitled to those documents. You may have thought they would have been of all people, but based on that decision they weren't.

CHAIR: During your testimony you said that you knew nothing about the release of the documents and that the Official Solicitor told you about it at one stage. Have you got a recollection about when that was that the Official Solicitor spoke to you?

Mr Kenzler: I think it may have been in 2012, mid-2012 perhaps.

CHAIR: May-June?

Mr Kenzler: Yes.

CHAIR: Do you remember the context of the conversation?

Mr Kenzler: Well, I think she had Barry Krosch's letter there and I saw it. He drew attention to the fact that he could access his own intelligence reports. So that is how I became aware of it.

CHAIR: Did you offer an opinion, do you recall, on the access—

Mr Kenzler: Well, I thought it was highly inappropriate. It was never intended. I wondered how that decision came to be made.

CHAIR: Did you articulate that to her, do you think?

Mr Kenzler: In our conversation I am sure I—I expressed my surprise at that, but that was the extent of it.

CHAIR: In your opinion, are a lot of those conversations where opinions and perspectives are conveyed to one another at the CMC done informally as opposed to being formally written down?

Mr Kenzler: I understood that Legal Services record conversations and so on and make notes and so on. It was more of an informal conversation so I certainly didn't record any notes. I just dropped by to speak to her about something and she drew my attention to it. That would have been how it developed, I think.

CHAIR: But you felt very strongly in your own mind that the type of information that Krosch had accessed was inappropriate?

Mr Kenzler: Certainly, yes. It was quite inappropriate.

Mrs MILLER: Mr Kenzler, as we know, there are really two ways to access information—through the RTI Act and what we call 'administrative access'.

Mr Kenzler: Certainly.

Mrs MILLER: Where you can write these letters in.

Mr Kenzler: Yes.

Mrs MILLER: It would seem to me that if you were dealing with all the administrative access types of letters this probably would never have happened. You would have known the Fitzgerald documents that well and the three categories of documents that maybe this mistake would never have occurred in the first place.

Mr Kenzler: Well, I certainly didn't have jurisdiction to deal with them.

Mrs MILLER: No.

Mr Kenzler: But, apart from that, well—

Mrs MILLER: You didn't have jurisdiction under the RTI Act.

Mr Kenzler: That is right.

Mrs MILLER: But, if you would have been in charge of the administrative access, which was letters coming in seeking information for research or whatever, you would have been right on top of it. That is what I am putting to you; that you would have known about it.

Mr Kenzler: Certainly. Most of those people wanted access to exhibits because they were on the public record. They knew what documents were there and they were recorded in the report. I think at one stage they were able to get those public documents that Mr Fitzgerald accepted at the inquiry. Some people, I assume, were looking for the restricted access documents and so on. But, as I said, it was all handled by others and so I had no involvement in it.

Mrs MILLER: Yes, but my point is that, if you were in charge of those administrative access types of letters, of anybody in the CMC given your background you would have been right on top of it because you knew that third category of documents.

Mr Kenzler: I accept what you say. Certainly that is so.

CHAIR: Thank you for your testimony, Mr Kenzler. Out of an abundance of caution only, if you could give an undertaking—have you got any further questions, Mr Davis?

Mr Davis: I have one thing that follows from Mrs Miller's questions.

CHAIR: My apologies.

Mr Davis: I want to show you exhibit 25. I can tell you that that is a printout of the metadata of the Fitzgerald holdings.

Mr Kenzler: All right.

Mr Davis: Without reading out in public any information which is in that because it has been marked by this committee as not for publication, I want you to go to the tagged entries.

Mr Kenzler: Sure.

Mr Davis: I just want you to have a quick look at some of the information that is shown on that metadata—some of the entries.

Mr Kenzler: Mmm.

Mr Davis: And then I want to ask you whether, had you been involved in this process and you had seen that, you would have declassified these documents without a physical audit.

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Mr Kenzler: One would have taken a great deal of care because I see some are marked confidential and so on, some are intelligence-gathering things and so on. You would take particular care. If you were considering releasing these things, then more likely than not you certainly wouldn't.

Mr Davis: If you look at some of the other tagged pages, you will see that the documents clearly come from what we have described and you have adopted in your testimony as the third category.

Mr Kenzler: The third category, yes.

Mr Davis: Obviously highly sensitive stuff.

Mr Kenzler: Certainly, yes. I accept that.

Mr Davis: Thank you. I have nothing further for Mr Kenzler. May he be stood down?

CHAIR: Yes. Mr Kenzler, out of an abundance of caution we will stand you down on your own undertaking to reappear if required.

Mr Kenzler: I give that undertaking.

CHAIR: Thank you. On that basis, you are stood down.

Dr Mellifont: I call Clifford Horwood.

HORWOOD, Mr Clifford, Information Technology Manager, Crime and Misconduct Commission

CHAIR: Welcome, Mr Horwood. You are still under oath.

Dr Mellifont: Mr Horwood, the first matter I wish to deal with is material which was delivered this morning under the hand of Mr Pollock, which is in respect of the summons issued to you on 21 March 2013, specifically in respect of producing information contained on the servers or backup files of the CMC which provide details as to the time and date when a draft e-mail from Robert Hutchings to Ross Martin SC was prepared and details as to the time and date of any subsequent amendment or other electronic dealing with the said draft e-mail. I will ask for a copy of that e-mail to be placed before you. It is exhibit 43. While that is being located, can I ask you to have a look at this tabled paper, exhibit 109, and tell me if you prepared the report which is contained therein. I have the wrong number. I had the wrong number for exhibit 43. I will show you the e-mail attached to the summons. Did you prepare the report which is contained in that folder?

Mr Horwood: Yes, I did.

Dr Mellifont: I would like to take you through that, please. As I understand this report, in terms of dating the preparation of that draft e-mail what can be said is that it came in some time after 30 May 2012, 9.45 am; correct?

Mr Horwood: That is correct.

Dr Mellifont: We take that because the e-mail which does have a time and date stamp immediately under the draft e-mail is time and date stamped 30 May 2012 at 9.45; is that correct?

Mr Horwood: That is correct.

Dr Mellifont: We are assuming of course that the times and dates within the computer system are correct.

Mr Horwood: That is correct.

Dr Mellifont: In terms of the between dates, it was prepared some time between 30 May 2012 at 9.45 and before 12 March 2013 at 12.21 pm?

Mr Horwood: That is correct.

Dr Mellifont: One cannot be more precise than that at this stage; is that correct?

Mr Horwood: That was the initial range that I determined. The question of whether I can be more precise is answered in the later paragraph where I went on to say that I found evidence that it—sorry, was the question when it was prepared?

Dr Mellifont: Yes.

Mr Horwood: No, I cannot be more accurate. Sorry, yes, I can be more accurate as to when it was prepared. That was the initial range. The subsequent paragraph goes on to explain that I found evidence of it at dates between that range from the backups.

Dr Mellifont: Just stopping you there, so what you did was look at the monthly backup tapes from Mr Hutchings' mailbox?

Mr Horwood: That is correct.

Dr Mellifont: We see there is evidence that the draft e-mail was in existence at each of those monthly backups?

Mr Horwood: That is correct.

Dr Mellifont: Do we know whether its existence was in the form we see it now?

Mr Horwood: If I may take you back to the earliest of those backups, 23 June, at that point in time I found it existed in the backup copy—for the moment it is all to do with the restored mailbox or the backup copy, not the current copy that Mr Hutchings has access to. The e-mail in question existed in the copy of the drafts folder in the backup for 23 June 2012 in the form as was provided to me attached to the summons.

Dr Mellifont: If I can ask you to assume that the form attached to the summons was as a result of Ms Valeska in recent days, perhaps a couple of weeks, printing it from Mr Hutchings' Outlook. We presume, therefore, that there hasn't been amendment from 23 June through to the current time?

Mr Horwood: The copy where it has Ms Valeska's name on it is a standard way of the system actually printing an e-mail showing the person who is actually doing the printing of the email.

Dr Mellifont: Yes.

Mr Horwood: Below that large line there is the e-mail being printed.

Dr Mellifont: Yes. And that e-mail was in the form that you saw on 23 June 2012?

Mr Horwood: Yes.

Dr Mellifont: Okay. Your report records that the matter was put onto TRIM on 12 March; is that correct?

Mr Horwood: 12 March this year; yes, that is correct.

Dr Mellifont: Okay. When do emails get put onto TRIM? In the ordinary course of events, when does an email find its way to TRIM?

Mr Horwood: That is a decision of the person or persons involved, the actual putting on—for example, I put my own on TRIM, but if somebody has an assistant or a secretary or a PA, they may put them onto TRIM for the particular individual.

Dr Mellifont: If I can just understand the general process, an individual within the CMC has their own Outlook folders—

Mr Horwood: Correct.

Dr Mellifont:—inbox, outbox, the normal scenario. That does not automatically get itself onto TRIM, correct?

Mr Horwood: It is a little bit more complicated than that. There are degrees of automation that can be turned on. If you have a folder set up in Outlook you can turn on a level of automation so that if you drag that email into that Outlook folder it will then automatically be picked up by TRIM and commence the—what we call the TRIM-ing process: loading it into TRIM. Not everybody uses that because it is set to go to a specific point in TRIM and it may not be appropriate for all emails to go to the same TRIM location.

Dr Mellifont: So in terms of setting up automation and in terms of doing a manual upload to TRIM, that is really at the discretion of the individual author?

Mr Horwood: It might also be on advices given to them by someone with more experience in TRIM.

Dr Mellifont: In respect of the CD or DVD which is contained within that white folder, does that replicate the hard copy printouts we see attached to your statement?

Mr Horwood: Yes, it does. In terms of the draft email, which is the first part of the summons, yes, it does.

Dr Mellifont: Right. I will come to the next bit in a second. Just back to that draft email, does the CMC server not disclose the date when that draft email was first saved?

Mr Horwood: Sorry?

Dr Mellifont: In terms of that draft email, does the CMC server not disclose the time and date when that draft was first saved?

Mr Horwood: Not to my knowledge, no, for a draft. What I am looking at at the moment is a backup copy of that email.

Dr Mellifont: Have interrogations of the server been done to see whether or not that information is available, that is, the first saved date and time of the draft email and, if not, can they be?

Mr Horwood: I am just trying to think how you would do that. We have looked—I have looked at answering the question as to when it was first created and, to do that, the general process is to go back to the backup tapes, as I explained, and restore a copy of the mailbox. I am recollecting now. I do not recall seeing anything—an original date and time stamp on the drafts in the draft folder. Generally you would get that information on inbox items or sent items.

Dr Mellifont: Is that something you can double-check for us?

Mr Horwood: I can double-check that.

Dr Mellifont: The reason obviously I asked that previous set of questions, at least from a layman's perspective, one might think that when you are preparing a draft, you save it into your drafts folder, there might be some kind of electronic stamp which indicates when it was first saved. If I can allow you to have a think about that in the course of the day and make such further inquiries that you are able to make in that respect, please. You said there is some additional material on the DVD?

Mr Horwood: The second part, as I read it—second part of paragraph 2 is referring to the draft email. It goes on to say 'other electronic dealings with the said draft email'.

Dr Mellifont: Yes.

Mr Horwood: When you asked before about the contents of the DVD and also referred to in my report, I refer to in my report and reference on the DVD in the case of going back—in the process of going back to the backup copies and searching in the drafts. In order to answer the second part of the paragraph, I also looked in the sent items and the deleted items in the inbox to see if there was other movement, if you like, of that email or related emails and I included them on the DVD. The process I used was—it was a very specific subject heading. I think 'Attention Sidonie Wood' was part of the words. I used that as a search to see if there was anything else in the folders within the restored mailboxes.

Dr Mellifont: And was there?

Mr Horwood: Yes, there was.

Dr Mellifont: When was that dealing or dealings?

Mr Horwood: I beg your pardon?

Dr Mellifont: Sorry, what was the result of your inquiries in that respect?

Mr Horwood: I found—generally speaking, four in—I do not have my actual—it was either four in the sent items and five in the inbox or the numbers were vice versa. I have included them in the DVD.

Dr Mellifont: So what does that mean? Does it mean it was sent?

Mr Horwood: I did not actually look at the detail. It was whether there were any other dealings with that email.

Dr Mellifont: Are they all on 12 March?

Mr Horwood: Twelve March in terms of the HP TRIM date?

Dr Mellifont: I am trying to get a sense of the dates upon which you found dealing with respect to that email.

Mr Horwood: The other related—possibly related—they are based on the searching of the particular words in the subject heading. I have not looked at the details. I do not know how related they are, but I found them back at least till August, possibly in the June set.

Dr Mellifont: Perhaps I am missing something, Mr Horwood. With respect to these dealings, are you speaking specifically of dealings which were dealings with that subject draft email?

Mr Horwood: The draft email itself, yes.

Dr Mellifont: Okay. So in layman's terms what did you find insofar as dealings with that subject email?

Mr Horwood: The actual draft email itself, I only found it in the draft folders—

Dr Mellifont: Yes?

Mr Horwood:—of the restored mailboxes and I found it on the—I actually found two copies, what looked like it had been added twice, on the TRIM system.

Dr Mellifont: In terms of it being added on the TRIM system, we are talking March of this year?

Mr Horwood: That is correct.

Dr Mellifont: So that is the draft email?

Mr Horwood: Yes.

Dr Mellifont: Please just re-explain to me the second aspect of what it was that you did?

Mr Horwood: I—the second part of that paragraph—actually the last part of that paragraph says 'the date and time of any subsequent amendment or other electronic dealing with the said draft email'.

Dr Mellifont: Yes.

Mr Horwood: The topic of the draft email—sorry, the subject heading of the draft email was also the subject heading of other emails but exactly when in the life span of the email chain, I do not know. Purely based on they look like other electronic dealings.

Dr Mellifont: Right. In terms of just that very short part at the top of the email chain we are satisfied—

Mr Horwood: Yes.

Dr Mellifont:—you are satisfied—you found it in the drafts, in the backup tapes, and you found it on TRIM on 18 March?

Mr Horwood: Yes, that is correct.

Dr Mellifont: I think I understand now. I see you have a box of goodies there. Are they in further production of the summons?

Mr Horwood: That was purely to—I explained in my previous attendance that we had large numbers of emails to go through and we were providing them electronically and on—searchable electronically and also an index of them. In terms of catching up with providing the printed copies of those emails, those two binders represent one month of one person's external emails.

Dr Mellifont: I see. Are they ready for production to the committee?

Mr Horwood: They are just a sample.

Dr Mellifont: A sample?

Mr Horwood: I have to work out with the representatives of the committee how to actually deliver the full sets.

Dr Mellifont: So essentially you have brought them here today to give an indication of the size of the task?

Mr Horwood: Yes.

Dr Mellifont: All right. Well, I will not ask that they be tabled at this point. Those are my questions for you this morning, Mr Horwood.

CHAIR: Thank you, Mr Horwood. The member for Greenslopes has a question for you.

Mr KAYE: Mr Horwood, what is your experience in the area of forensic computer analysis?

Mr Horwood: I am not a forensic computer person. I am the IT manager.

Mr KAYE: And you have been doing these searches?

Mr Horwood: I beg your pardon?

Mr KAYE: And you have been doing these searches for the information that we have asked for?

Mr Horwood: Finding out when emails have been created?

Mr KAYE: Correct.

Mr Horwood: Yes, a frequent sort of—when people lose, misplace, cannot find where they saved something—

Mr KAYE: Do you have any F-tech qualified people at the CMC?

Mr Horwood: For forensic examination?

Mr KAYE: Correct.

Mr Horwood: They do not—there are within the CMC, but they are not part of my team.

Mr KAYE: Would you be able to perhaps engage them to find the creation date for that email?

Mr Horwood: I can refer that back through the chairman, yes.

Mr KAYE: I think that would be a good idea.

Mr Horwood: Sorry, to the chairperson of the CMC.

Mr KAYE: Thank you.

Ms TRAD: Mr Horwood, just so I have this straight in my mind, did Ms Valeska print out this draft email from TRIM to present to the committee via that summons?

Mr Horwood: I can say that she printed it out or printed it out from her account—yes, she printed it out, but I cannot say whether she printed it from TRIM or whether she printed it from Outlook itself.

Ms TRAD: But it had to be forwarded to her for her to print it out from her account, or she printed it out from Mr Hutchings' mailbox—

Mr Horwood: I do not know if she—

Ms TRAD:—and then Rob Hutchings' name would have been at the top, not hers?

Mr Horwood: That is not my understanding. My understanding is it is the person who does the printing, even if the person—for example, if I give you access to my mailbox and you do the printing it is my understanding that it is your name as the printer, even though you have been given access to my mailbox.

Ms TRAD: That may be the case but I find it very hard to believe that general counsel has delegated responsibility for their mailbox—Outlook mailbox to a legal officer?

Mr Horwood: I cannot comment. I do not know.

Ms TRAD: I am just a bit confused about this. We have a draft email that has been authored by the general counsel, has been printed out by someone else without it being forwarded to her and it is in a draft status. You claim you cannot find a creation date for this draft email. I go into my draft Outlook box all the time and there is always the creation date there. I know exactly when draft emails have been created. But you are telling the committee that there is not a creation date there?

Mr Horwood: The—

Ms TRAD: I can look on my phone now in my drafts in Outlook and there is a creation date for draft emails there.

Mr Horwood: With respect, you are looking at the current copy. I am looking at a restored mailbox—

Ms TRAD: So how did Ms Valeska print it out from the backup tapes?

Mr Horwood: I have not suggested that she has printed it out from the backup tapes. No-one has had access to the backup tapes—

Ms TRAD: You are saying the draft email only exists in the backup form, from the backup tapes.

Mr Horwood: With respect, I said they were restored mailboxes. If I may, we go to the backup tapes and restore the mailbox to a location, in this case on our network drives. For the purposes of responding to this summons, they were restored from the backup tapes to an area that only a few people in IT at present have access to for the express purpose of responding to summons and requirements for this committee. So Ms Valeska does not have access to the back-up tapes or the restored mailboxes.

If I may go back to the first part of one of your earlier questions, in what we call Corporate Outlook or Enterprise Outlook—it basically means organisational—a person may delegate some level of access to another person who is in the same organisational unit. Now, whether that was done or not between Mr Hutchings and Ms Valeska I do not know. I have not looked to answer that particular question. Ms Valeska cannot print it from the back-up tapes; she cannot print it from the restored mailboxes, because she does not have access to them. If anybody had been given access to anyone else's mailbox—it can be folders within a mailbox; it can be a little more granular than that but for the purposes of this discussion—

Ms TRAD: I know. I delegate responsibility to my staff. I understand how that works.

Mr Horwood: It is my understanding that if the person who had delegated access prints it out it will have their name, because that is part of the audit—they printed it; they didn't actually log on to—in the case I am not suggesting that Ms Valeska logged on directly to Mr Hutchings's mailbox.

Ms TRAD: So Mr Horwood, there is my point. If Ms Valeska printed it out because she had delegated access to Mr Hutchings's drafts folder in his Outlook then it exists currently within the system. And if it exists currently within the system there would be a creation date on it.

Mr Horwood: That goes back to the question I responded to counsel before and undertook to actually see. We have only gone through the back-up tapes. With respect, I do not know when this was printed.

Ms TRAD: With respect, I think the summons was about finding the creation date for the draft email.

Mr Horwood: It was. I wasn't actually asked to find out when this particular copy was printed. Forgive me, I am not trying to be obtuse; I am trying to get very clear instructions to go back and find out whatever more the committee seeks. The questions of whether someone has access to someone else's mailbox—I can't tell you here and now. I can go back and check to see whether that permission/access is currently in existence. I can also do a specific test and report back to verify my belief about the way our system is set up at the moment—that if a person has a delegated access to someone's draft mailbox and they print that it does in fact come out as I am suggesting it does, with the printer's name on top.

Mr DOWLING: Could I just exercise that a little further and suggest that—you need to go to back-up tapes to find this document, this draft; is that correct?

Mr Horwood: No. As I have already—

Mr DOWLING: So why have you gone there? If you can find it right now without going to the back-up tapes, why are you going to the back-up tapes?

Mr Horwood: If I can go back to the point of the original summons—

Mr DOWLING: No, I would like you to answer the question.

Mr Horwood: Why go back to the back-up tapes?

Mr DOWLING: If that document is readily available—and clearly it is because Ms Valeska was able to go to it somehow and find it, and if she were to go back she would probably find the date that it was saved. Yet you need to go through all the back-up tapes to even get access. Can I suggest that you probably need her in your IT division rather than the people you are currently using.

Mr Horwood: I am not sure what the question is, sorry.

Mr DOWLING: The question is: why can't you find this document—you are the keeper of all things IT—when Ms Valeska can just walk up to a PC somewhere in the organisation and print it?

Mr Horwood: Even though I am the IT manager, I have to have—this is just background for the moment. Even though I am the IT manager, I have to have express permission from in this case the acting chairperson to have direct access to someone else's mailbox. I cannot say where this was printed. Quite clearly, I believe it was printed from within Outlook because it looks like an Outlook print. I do not know how Ms Valeska printed it. We went to the back-up tapes to establish evidence of when a particular email was drafted. We are still working our way through the back-up tapes. If it existed on a back-up tape—and the other part of going to the back-up tape was that we were asked to find if there was any evidence of it subsequently being changed. I have to go back and find the earliest copies I can find and then track through, as I have done in my report, and report it to see if they had been changed.

Mr DOWLING: You have a document—

Mr Horwood: There are two slightly different issues.

Mr DOWLING: You have a document tracking system within your organisation?

Mr Horwood: Yes—a document management system—

Mr DOWLING: Why aren't you using it?

Mr Horwood: And as I reported, the emails in question were loaded into there on 12 March 2013.

Mr DOWLING: Can I also remind you: you actually have a summons. You do not need anyone's permission. You do not need to go to the chairperson; you have a summons. That gives you all the permission and access that you need.

Mr Horwood: I have been—I understand that, sir. I got clarification on that matter yesterday afternoon through the chairperson. It wasn't that we weren't trying to. The time that I sought clarification of the permission was time we were actually using to retrieve the back-up tapes and load the restored mailboxes. So we weren't not responding; we were starting to respond.

Mr DOWLING: Have you yet begun using the power of the summons to interrogate Rob Hutchings's email account and his system?

Mr Horwood: Yes. Well, I believe we have because we have been getting copies of it from—

Mr DOWLING: From the files.

Mr Horwood: From the back-up tapes, yes.

Mr DOWLING: Have you entered the system as Rob Hutchings?

Mr Horwood: No.

Mr DOWLING: Why not?

Mr Horwood: Because—

Mr DOWLING: It seems to me, if I can interrupt, that you are going the longest possible route to find this thing. It seems problematic the way you are going about it—and I am not an IT person.

Mr Horwood: To answer your previous question, I do not have the ability or the security level to log on as another person.

Mr DOWLING: I am sorry, you have a summons. You have everything. You are now whoever you want to be. You have no other choice than to prosecute and exercise that summons to your utmost. And that doesn't mean you have any restrictions on you; you are completely unfettered. I do not think you are aware of what power you have.

Mr Horwood: I believed that the approach that I took was directly to satisfy the summons that was given to me and to do so as expeditiously as possible. There was never any intent to delay or anything like that. Even to the extent of seeking clarification from my organisational head, which I have now got in writing, that was happening in parallel to our activities in, for example, getting the back-up tapes and putting them in. They take about an hour to reindex and to start the loading process, so it was not actually wasted time or anything like that. If I may take your—I do not mean to answer with a question; I am honestly just trying to clarify. Is it your belief that I should be looking at whether Mr Hutchings gave a copy of this to Ms Valeska? If so—

Mr DOWLING: No, it is not. We want to know when that passage of text was created. That is what we want to know. And you do not need written permission. I am becoming convinced that you are unaware of the power of that summons. I think you are going about things in a right and proper way under ordinary circumstances, but can I suggest that with the power of the summons you are going about it the wrong way or the long way. You can be anyone in the organisation in answer to that summons. You can exercise, you can interrogate, you can find out everything you need by accessing as someone else. You do not need written permission from the acting chairperson or anyone else.

Mr Horwood: I will take what you have said. You may be right that I have more power—more levels of access, if you like. What does concern me, though, is that, following this, if I was to log on as Mr Hutchings for the purposes of this summons I would immediately have access to a lot of other stuff that Mr Hutchings has that is outside the scope of the summons. On that basis, because of the nature of what Mr Hutchings deals with, I would still feel that I would need to advise, at the very least, the acting chairperson because of the potential that I could then be accused of getting access to something that was outside the scope of the summons.

Dr Mellifont: Do you mind if I intervene for just one moment?

CHAIR: Yes, please.

Dr Mellifont: Mr Horwood, it will be perfectly clear to you that the committee's view at this point in time, as appears to be expressed by the members, is that the committee requires a revisiting of all of the matters requested in the summons and a fulsome and comprehensive response to be provided. The next two witnesses, may I say, are Queensland State Archives witnesses, so could I also direct this comment to Mr Diehm as senior counsel and Mr Pollock in the room: to make immediate representations to the chairperson, so far as is required, to ensure that whatever resources are required in order for there to be a complete and fulsome response to the summons—including authorisation, including engagement of the forensic IT expertise of the CMC—be engaged as an absolute matter of priority so that we can have a full and comprehensive response to that summons today. Could I suggest that as a motion from the committee?

CHAIR: I will take that motion. What I believe the committee wants, just to clarify what counsel has said, is a check that the draft still—if the draft still sits in Hutchings's email, then according to the member for South Brisbane the document creation date and time will be visible; a clarification—this is in addition to what counsel has already said—as to whether Ms Valeska has delegated access—direct access—to Mr Hutchings's email site and account and, if so, when that delegation was given; and who else has the delegated authority to actually access another officer's email account for the purposes of adding to or taking from the account, including printing. Can you clarify what it is that you want again please, because I've just spoken again and it might not be clear?

Dr Mellifont: What I'm suggesting occurs—I think you've encapsulated it, Madam Chair, in the matters you've just read out, and it may assist if we can provide a note of that; we can do that in the break—is that the entire response to the summons issued, which I will table in a moment, be revisited and a full comprehensive response be provided, utilising all resources available to the CMC so far as forensic IT expertise and any inquiries that need to be made. I think that's fairly—as clear as I can make it.

CHAIR: Mr Horwood, is that clear? Is that clearer?

Mr Horwood: If I may repeat it back: use the forensic capabilities of the CMC, whatever access et cetera is required, to get to a date/time stamp of that, if it's possible. I don't believe it is at this stage, but if it is possible, yes. Then a follow-on part from the chair: find out details of when Ms Valeska—what levels of access and when Ms Valeska had delegated access, if at all, to Mr Hutchings's mailbox. I believe you also went on to say who else within the CMC has delegated access.

CHAIR: Yes, delegated access to other people's email accounts.

Mr Horwood: That will be many, many people to many people. For example, if you have a—sorry, but if you have a personal assistant, you may have access to send on behalf of—what we call 'send on behalf of'. So somebody may be able to send an email on behalf of their boss. In a PA type role, that's quite common. I, for example, have delegated access—delegated access—to my calendar to my immediate managers who report to me. It is actually quite common.

CHAIR: In this example, it's been intimated that Ms Valeska accessed Mr Hutchings's email and printed the document off without any acknowledgement at the top of the email that it was Ms Valeska who accessed it.

Mr Horwood: With respect, it does; it has her name. As I said earlier, I take that to mean that she was logged on as herself at the time she printed it.

CHAIR: Can anyone log on not as themselves and get into other people's accounts and print them without an acknowledgement that it's a third-party access?

Mr Horwood: If somebody logged on with somebody else's account and password, but then it's going to print—if someone logged on as me using my account and password, it would then obviously print as me because it's my account and my password being misused. If someone has a level of—I'd just like to clarify something. I've been using the term 'delegated access'. That's a term within Microsoft and with Outlook. There's levels of it. You can give somebody the ability to read your email and not respond to them—for example, if you were going on holidays or something like that. From basic read only to, if you like, probably the true meaning of delegated is act on behalf of—for example, someone may send a, a PA or someone, might send a reply to a message on behalf of their boss for example. But it will be from person on behalf of other person.

Mr KRAUSE: Mr Horwood, it certainly looks like that email was printed by Zora from her own account but with Mr Hutchings's account also listed in her Outlook profile. I just wanted to check: when someone does print an email or print any document, after you press the print button is there another level of access control at the printing stage? What I'm getting at is could Ms Valeska's name have come up because she actually did the printing and had to type in a code or some type of authorisation for the printer to actually work, not related to Outlook but related to the IT system generally? I just want to make sure that her name is on it—

Mr Horwood: Generally no—

Mr KRAUSE: Okay.

Mr Horwood:—but there is the possibility if somebody wants to do a secure print they may select to do so and put a code in and then it won't print out until you go around and actually—

Mr KRAUSE: But generally not?

Mr Horwood: Generally no.

Mr KRAUSE: I just wanted to close off the possibility that Ms Valeska in answering the summons from this committee actually did sit down at Mr Hutchings's machine and print his emails, but—

Mr Horwood: I can't comment.

Mr KRAUSE:—got her name on the email because of the fact that there was this other level of access control to the printing function.

Mr Horwood: Sorry; she could've sat down at anybody's computer but logged in as herself.

Mr KRAUSE: I understand that.

Mr Horwood: I just want to make that clear: it's logged in as herself.

Mr KRAUSE: When I say 'Mr Hutchings's machine', I mean using Mr Hutchings's profile. But at first glance it really does look like she did it from her Outlook with his account in her Outlook profile.

Mr Horwood: Yes.

Mr KRAUSE: Yes. That's all. I just wanted to clarify that point about the printing.

Dr Mellifont: Mr Horwood, can I just show you please a document—I've only got one copy for the committee at this stage. It's the same email printed with Mr Rob Hutchings at the top rather than Zora Valeska. I'm not going to ask you any specific questions in respect of it but for you to know that this document exists in this form which may be relevant to your inquiries as to date of creation and time of saving. You can take that away with you in the course of your further inquiries in response to the summons please, and can I seek leave to table that document.

CHAIR: Is leave granted? Leave is granted. It is document 112.

Mr Horwood: Excuse me, I'm not actually sure. You've just given me an email that's been printed by Mr Hutchings.

Dr Mellifont: Yes.

Mr Horwood: And I'm supposed to take it that it's a print of the actual draft that we were referring to originally?

Dr Mellifont: Yes. It's the same email. The content is the same in the email—

Mr Horwood: It certainly looks the same, yes.

Dr Mellifont: Yes. I am not in a position to provide you with further information at this point in time about the document. I will do so through your counsel as soon as further information is elucidated. The document's come to my attention as being in existence, thus obviously produced or printed, it would seem, at least by Mr Hutchings or from his computer or from his login. That's all I can assist with at this point in time. When further information becomes available, I'll have it communicated to you.

CHAIR: Mr Horwood, just to clarify, because I realise that the request about delegation is broad and the time frame we need it in is not. So what we're chasing is if the Hutchings's draft is still in his document file, not in the backups. I'd like you to determine when that document was created, the date and time. In accordance with the member for South Brisbane's statement, if it's in drafts you can actually find the date and time; it's not difficult. In relation to the email account of Rob Hutchings, Sidonie Wood and Peter Duell—this is the area where I'm limiting the amount of work—who has delegated access and the types of access that's been delegated? You said there are various types of access that's available.

Mr Horwood: Mmm.

CHAIR: The other matter is that if your forensic technicians don't have the skills to find the information that's been requested under summons from this committee that you engage somebody that does. We will follow this up with a motion of this committee. I'm not going to do it here because there may be some matters that we wish to discuss in private, but that is what we are seeking from you today. Is it clear?

Mr Horwood: It is clear. I'm not exactly sure that I can actually answer all of those questions in the time frame that you've given me.

CHAIR: Get some help so that you can.

Mr Horwood: Of the? I'll speak to the chairperson and he can direct the forensic people; that's fine. I'm just not sure that I can actually—I will certainly make every—I'm not trying to get out of this, okay? I think there will be a lot of information that I'll have to go through in order to get to who has access to and what type of delegated access they have. Can I just clarify it was Rob Hutchings, Sidonie Wood and—

CHAIR: Peter Duell.

Mr Horwood:—Peter Duell and when they had access. There's been a lot of people through the organisation, or is it just a time period that we're talking?

CHAIR: From February 2012.

Mr Horwood: To current?

CHAIR: Yes.

Mr Horwood: Thank you. I was just trying to get it down into something more—

Ms TRAD: Can I also just make it really clear, Mr Horwood. I understand that from drafts a creation date might not be printed, but it's certainly there electronically and maybe a screen shot of the drafts folder with the creation date is what the committee requires. I understand that when you print drafts the actual date might not come up. It's a unique feature of Outlook to determine that it is a draft, but it's certainly there electronically and you should take a screen shot. Is that clear?

Mr Horwood: It is. I specifically looked—as further response to that particular thing that we've been talking about, I did actually look at what's called the internet headers which is usually the—it's not often printed. There's a button in Outlook which, if an email is sent, you can look at the internet headers—what's called the internet headers—and basically it's what we call mime information—extra metadata that usually doesn't get printed. But that stuff usually doesn't exist until an email has been sent or received. I certainly undertake to find—

Ms TRAD: You have to sit down using Hutchings's profile. This is what we're asking you to do.

Mr Horwood: Yes.

Ms TRAD: Yes. You understand.

Mr DOWLING: If you do a text search for a phrase or a sentence, it should take you straight to it.

Mr Horwood: If it's currently sitting in the draft file folder—sorry, if I log on as Rob Hutchings and if it's currently in the drafts folder, yes, a text search would go straight to it. There probably wouldn't be that many there anyway requiring a search, but yes.

CHAIR: And you're saying that you haven't done that; you've only checked the backups.

Mr Horwood: I have only checked the backups.

CHAIR: Okay. Are all members in agreement with those directions? That being the case, thank you, Mr Horwood. Have you got anything else, Dr Mellifont?

Dr Mellifont: I do wish to table this summons please.

Mr Horwood: Are you referring to the summons dated yesterday?

Dr Mellifont: Yes. The summons with respect to this—

Mr Horwood: The reason I ask is I received two yesterday and I just want to clarify which one we're talking about.

Dr Mellifont: Sorry, Madam Chair; do you have it in front of you? I think it was handed—

CHAIR: No, I haven't.

Mr Horwood: There is actually two in that folder from yesterday.

Dr Mellifont: That is right, Mr Horwood. We will find our version. Perhaps we can attend to that—

CHAIR: Later.

Dr Mellifont: Yes.

CHAIR: Mr Horwood, you are stood down on your own undertaking to reappear if required. Do you give that undertaking?

Mr Horwood: Yes, I do.

CHAIR: Thank you, you are stood down.

Dr Mellifont: Might that be a convenient time?

CHAIR: All right. We will resume at a quarter past 12.

Proceedings suspended from 11.59 pm to 12.32 pm

CHAIR: Thank you, Dr Mellifont.

Dr Mellifont: Can I please table that summons that we spoke of before the break?

CHAIR: The summons to Mr Clifford Horwood. Is leave granted? Leave is granted. It is document 113.

Dr Mellifont: Before calling the next witness, may I just indicate the providence of tabled document 112. That is the draft email that has 'Rob Hutchings' on the top line. I do propose to adduce evidence from Mr Hutchings as to this, but I think it is appropriate that I place on record how it came into my possession. Mr Hutchings' representative, Mr Eberhardt of counsel, handed it to Mr Kunde and has advised me that this document was printed out by Mr Hutchings from his existing outlook profile last week in the course of preparation for these hearings. It was, of course, already provided to the committee when Ms Valeska printed it out. I understand the position to be—but this will be clarified—that Mr Hutchings opened up his outlook with Ms Valeska, pointed to a number of emails that he wanted printed for the purpose of response to the summons. She copied it, I think, put it on to TRIM and printed it from her computer or another computer. So that appears to be the providence of TD 112 that I have handed up, which would tend to indicate that that document, of course, is still in existence, still in outlook, and instructions are being relayed to Mr Eberhardt to go with Mr Hutchings to the CMC to give Mr Horwood immediate access to the outlook so that those inquiries can be undertaken without any access or authorisation delays.

CHAIR: Thank you very much for that advice.

Dr Mellifont: Thank you. I call Janet Prowse.

PROWSE, Ms Janet, Executive Director and State Archivist, Queensland State Archives

CHAIR: Good morning. Just to clarify Ms Prowse, you understand you are still under oath?

Ms Prowse: Yes.

CHAIR: Thank you very much. Dr Mellifont.

Dr Mellifont: Ms Prowse, thank you for attending today and I apologise for the delay in calling you. Can I show you please to start with exhibit 25, which is the large folder of metadata. Obviously, I do not require you to read that and I certainly do not want you to put anything on record, but you are familiar generally that that is the metadata of the holdings that were held with QSA?

Ms Prowse: Yes.

Dr Mellifont: Can I show you, please, also tabled document 88? Might I just speak with Mr Eberhardt for one moment, please? I have just communicated that instruction to Mr Eberhardt. Now, on the front of tabled document 88 there ought to be an email.

Ms Prowse: Is it the email of 26 July?

Dr Mellifont: Yes it is, and within the body of that email there is a web link to Queensland State Archives.

Ms Prowse: Yes, I see that.

Dr Mellifont: Yes. Now, my inquiry of you, Ms Prowse, is that if one were to click on that link at a time approximate to that email, what would you see?

Ms Prowse: You would see the metadata. You would see the agency, the series and the item level metadata as you work down through the discovery layers.

Dr Mellifont: Right. So with some fairly cursory click through—

Ms Prowse: Yes.

Dr Mellifont: On that web link that would bring you to precisely the metadata which is in exhibit 25?

Ms Prowse: Yes, a researcher with basic web searching skills would be able to find and locate the metadata.

Dr Mellifont: All right. You would expect a solicitor with any level of experience of accessing websites could very simply access that metadata with just a few clicks?

Ms Prowse: I would expect so, yes.

Dr Mellifont: Thank you. Ms Prowse, can I ask you—this is a global question, not just related to the CMC; this is in respect of the metadata which is ordinarily accessible by researchers who come to the Queensland State Archives or who have remote access—does State Archives have a policy or a protocol of advising the relevant agency from where the documents came that, although the documents themselves might be restricted from access, the metadata provided in respect of them is publicly available?

Ms Prowse: I understand it is discussed with agencies as we negotiate the transfers. So, for example, we would have in our custody 106,000 items which are closed, which also the metadata to those items are closed at the request of the agencies.

Dr Mellifont: Okay. It seems that in the particular case here there was a lack of awareness—I am not suggesting it is attributable to the Archives—but there was a lack of awareness by those responsible for transfer and responsible for records that the metadata was, in fact, publicly accessible. Do you know in respect of this particular example with the CMC and Fitzgerald inquiry whether there was any formalised advice given to the CMC that the metadata would be publicly available?

Ms Prowse: I can't recall the formalised advice as such, but in the negotiation for the transfer and the data coming from the records owner to State Archives, all of those informal discussions, if you like, happened during the negotiations for the transfer.

Dr Mellifont: Right. Was that within your time frame of being there?

Ms Prowse: Yes, but I don't necessarily do that level of work on a transfer. I play sort of another role in terms of authorising the transfer to come into State Archives, ensuring there is a retention and disposal schedule in place which identifies the permanent records, because we normally only take into our custody permanent records, and my statutory role is to ensure that the restricted access period—RAPs—are applied.

Dr Mellifont: Do you know whether such advice was, in fact, given in the course of the negotiations and transfer or is that something you would presume to have been done because of normal processes?

Ms Prowse: I would say it is standard process. It is ultimately the responsibility of the records owner to indicate to State Archives any special requirements like that.

Dr Mellifont: And is there a document, a policy or procedure from which we can see that designation of function to the agency?

Ms Prowse: Well, there are a number of opportunities which govern the transfers process in terms of how to prepare and list items for transfer, how to box records. I'm not sure it is specifically—there is a detailed document; it is just something that comes up in discussion. If you look at the transfer documentation, which I have looked at again the other day, there is nothing explicit that says the records have to arrive at the loading bay, but records arrive at the loading bay because they are just the logistical issues that are discussed with the client in preparation for the transfer and receipt of the transfer.

Dr Mellifont: Given what we know now, which is that there was a lack of knowledge, or a lack of appreciation on behalf of this particular agency that sensitive metadata was going to be available to the public, looking to the future, do you see there being some benefit in formalising a process by which Queensland State Archives makes it explicit in writing precisely what will be available to the public irrespective of restricted access period designation?

Ms Prowse: Yes, I do, and I have begun to turn my mind to that.

Dr Mellifont: All right. Appreciating that the thought process might be embryonic at this stage, are you able to assist the committee what might be in contemplation?

Ms Prowse: I would suggest that the RAP notice—that consideration that we change the forms and procedures that we have provided—absolutely explicitly what metadata is, how your collection will look on the catalogue, that the metadata may be able to be masked on the RAP notice form to remove all doubt, to take people through it—to actually go away and review every document that is associated with the transfer and RAP process and make it much more explicit on every form and actually, I guess, take a step agency through that with more care. We do—the metadata does come from the agency. They are told that that is the record that we will be using on the catalogue. We have sort of—it has not been a problem with other agencies. So it has been an issue here. I understand that and I understand the committee's concern. So having said that, we will take on board the need to review all the forms and procedures—written procedures—that can guide any future transfer.

Dr Mellifont: Are you able to give the committee an indication of the level of priority that Queensland State Archives is giving to that review and reform process?

Ms Prowse: Yes, I can. I have already written to Warren Strange, the acting chairperson of the CMC, clarifying with him that not only is his collection—he has his collection now closed—that we have also closed—confirmed—all the metadata at series and item level metadata closed until further notice and negotiation with him and he has written back to me last night confirming that that is his requirement.

I am also going to—already analysing out of the closed items in the state's collection—so we have—the state's collection has around 1.6 million items. An item can be a box, a bundle, an individual document. There are around 580,000 items that are closed. Some of the metadata for those, as I said around 106,000 items, agencies have already asked for the metadata to be masked and not available. We will now work through on a priority list of clients that—we'll go back to all clients that have closed records in our custody and advise them if any of the metadata is sensitive from their perspective would they like an opportunity to work with us to work through a process to mask that as well.

Dr Mellifont: Has consideration been given to sending a blanket letter as it were to your agencies to advise them, at least in the first instance, that metadata they provided may be publicly accessible and they need to be on notice of that?

Ms Prowse: We had assumed that people know the metadata's available because it had been sent to us and inputted into the state's catalogue. But, yes, we can do that. I was hoping to actually not just do a generic letter, to be able to inform the CEOs of those public authorities of the nature of their collections that we hold and I'm running a series of reports through our IT provider to give them some more specific information.

Dr Mellifont: Yes. The committee certainly appreciates the value of specific correspondence via agency, but might there be occasion to send a generic letter more quickly than the specific letter's production time frame?

Ms Prowse: Well, we could. We could.

Dr Mellifont: Would you see merit in that? Perhaps you don't.

Ms Prowse: I'd see merit in that. My issues is I have to be ready operationally then to deal with potentially hundreds of agencies on the same day to be able to effect whatever change and also some records are not sensitive or controversial—board minutes, other types of records. So there is a prioritisation I think that's required of—it might start with coroners, court, DPP, other entities that may have sensitive records, and work through in a staged process. Now, that can still happen simultaneously, but the most urgent, or what we might deem most sensitive records we would deem on going first as part of that process.

Dr Mellifont: Do you have the resources you need to do this?

Ms Prowse: I'm already starting conversations with my director-general and have indicated I need additional resources in the next few months to be able to effect these changes and to be able to spend the time with agencies that require—it's not just an A, B, C process, there's usually a bit of to-ing and fro-ing and agencies may want to come out and inspect their collections to make a decision and then the agencies need to formally, under the Public Records Act, give me instructions that they want and we need to then apply those instructions. The application of the instruction is fairly straightforward, a simple mechanical process at our end, but I need to ensure that they have had time to consider and why—and, you know, what is their rationale for closing the metadata and we have to—you know, if it's not sensitive.

Dr Mellifont: I want to take you to another topic. We've heard from at least one witness that in the course of his research at QSA he noticed material that piqued his interest and he inquired of the relevant staff member as to whether he really was meant to or able to have access to such material, it being of a sensitive nature, and the indication was that there was an appearance that that person went and checked or went and did something and came back and said that it was okay. Is there a particular process or protocol for your staff members responding to queries of that nature?

Ms Prowse: Yes.

Dr Mellifont: And what is it and can you tell me whether it is formalised, written down, oral?

Ms Prowse: It's formalised. We have a formalised feedback form. You can do feedline feedback in the public reading room, we have a feedback form available online and we have a complaints management process, as all state departments do, with a tiered approach to complaints management.

Dr Mellifont: I think we might be a little bit at cross purposes. I'm not talking about the person making a complaint or being critical, but rather I'm directing my question to when one of your staff members gets a query about whether the individual requesting the material should be able to have access to what appears to be quite sensitive, if there's a process then for your staff member to double check to make sure that it's okay for the person to have a look at it. That's what I'm asking about.

Ms Prowse: Okay. Well, the process is that the staff member would absolutely first and foremost check the catalogue record that the item is indeed open, that that was what the owner had required in terms of setting the RAP. The process may be that the staff member may talk to a supervisor, usually the manager of public access or the manager of the archival collection, to double check. If there is any doubt the staff member would ring the responsible public authority.

Dr Mellifont: Is that a formalised process?

Ms Prowse: It has just been a practice. It is a triage practice.

Dr Mellifont: Can I show you, please, exhibit 106, this is the bulk tender yesterday of the QSA material. I think you've been provided with a copy of it, but I will just show you the official tabled document set. You've had an opportunity this morning to flick through that I take it?

Ms Prowse: Yes, I have.

Dr Mellifont: Can you confirm that that is, in fact, material which was provided on behalf of State Archives to the committee in response to inquiries made?

Ms Prowse: Yes.

Dr Mellifont: Thank you. Those are my questions for Ms Prowse.

CHAIR: Thank you, Ms Prowse. Are there any questions from the committee?

Mrs MILLER: Yes.

CHAIR: Member for Bundamba.

Mrs MILLER: Ms Prowse, you indicated that you were seeking extra resources from the director-general and I think that's a very good idea. Can you advise how much money in dollar terms that you're seeking or how many officers and at what levels?

Ms Prowse: We're just still confirming that, but I'm thinking I could probably effect all of the changes within six months so I'm thinking a number of what we call PO4, which is equivalent to AO6 officers, and it could be three or four, we're not quite sure yet. The management team is working through that.

Mrs MILLER: What has the indication been of the director-general? Is the indication that you will get those resources?

Ms Prowse: He's willing. He understands I need resources to effect this change and it would be a good idea to, you know, complete this in a timely fashion so I'm not hearing no, but I guess probably the ball is my court at the moment to determine the exact resources I need, and not only the resources, the workflow process of how we'll go about what we are about to do.

Mrs MILLER: Just finally, if it's considered to be some difficulty, would you have to, I suppose, have a CBRC submission?

Ms Prowse: No, I don't believe I need a CBRC submission. I think I have an enough resources in the existing budget, I just have to have the authority to employ the individuals.

Mrs MILLER: Okay, yep, understood. Thank you.

CHAIR: Member for Greenslopes.

Mr KAYE: Thanks Ms Prowse. Just confirming, so that there is nothing in documentation when there's negotiations with an agency that says that this metadata will be available to the public on the catalogue.

Ms Prowse: I can't be absolutely certain there's nothing. I have gone back over in the last week and looked at all of the transfers documentation and the detail that we do provide and item listing to get the—you can't send a transfer, it must have metadata for the items to be exposed in the state's catalogue. So, you know, I'll turn my mind to it and maybe I need to get people who are non-library archivist records managers to read the forms to say does you see it there. I see it there. It's taken as a given when I read the couple of pages on how to box and list and do item level metadata. It is there. But obviously there's some misunderstanding about that. We haven't had that issue with any other client. And can I say, if I may add, please, the first collection of Fitzgerald came in in August 2007. Since then I've processed 464 transfers of 8.9 kilometres of records and I've not had any issue with another client. And I do not—so I'm at a loss to see how this happened is what I'm saying. I have turned my mind to it. I am concerned that it has happened and I'm taking it seriously to rework all of the forms and procedures, but it has not been an issue with any of those other 464 transfers of 8.9 kilometres of records.

Mr KAYE: Just one other question, and it's not really within the scope of this inquiry, it's more of a broad question. Are you familiar with how other archives run within Australia?

Ms Prowse: Yes, I am the chair of the government archives in Australia and New Zealand, a group called CARA, the Council of Archives and Records Authorities, and I meet regularly with my counterparts because there's only so few of us that do this role. And we meet twice a year in person and wouldn't be a month go by when we're not consulting, usually through email correspondence, issues which are relevant to the running of a modern contemporary archive.

Mr KAYE: This issue that has come up here would be something that would be passed on to other archives?

Ms Prowse: Yes. Yes. I think there is a learning here in Queensland for all government archives and certainly after I've effected the changes that need to be put in place I would like to share that learning with my colleagues.

Mr KAYE: Terrific, thank you.

Ms TRAD: Good afternoon, Ms Prowse. Yesterday we heard from Janet Legg who was the records manager at the time that the transfer project commenced and was progressed. Janet—Ms Legg—actually talked about how you had come over to the CMC and had discussions with her and became familiar with the Fitzgerald holdings.

Ms Prowse: I wouldn't say the word familiar.

Ms TRAD: Okay. Okay, I take that point, but just to understand the categorisation that the CMC had of the documents at the time.

Ms Prowse: I wouldn't use the word understand the categorisation. Perhaps if I may explain.

Ms TRAD: Sure, that would be helpful.

Ms Prowse: I did go back to—you'd see in the evidence that we provided I provided a copy of the retention and disposal schedule which I authorised for the CMC in October 2006 and I also provided a copy of the retention and disposal schedule which I authorised for the Fitzgerald inquiry collection pre its entry into State Archives and that was in August 2007. Attached to those schedules are we call appraisal reports, detailed appraisal reports. So I can't remember the length of them but one of them's over 100 pages in length. At the back of the appraisal reports we log the archivist, all of the interaction with the client in developing the schedule, and schedules are often developed pre items being transferred to State Archives. So when I refamiliarised myself with those documents the other night Ms Legg was correct I did accompany Michael Rogers, who was the then manager of the archival collection, to an inspection or a meeting at the CMC on 26 February 2007 to get an idea of the nature and size of the collection that would be coming our way. We had heard that the CMC was moving office at some point and that the collection would need to be moved because in the move they did not have storage capacity for it. In my mind the only alternative may have been to put it in commercial storage. I didn't think that was acceptable for a collection like the Fitzgerald inquiry so we agreed at that point that we would take it. An inspection visit is not unusual. I would have inspected the flood commission of inquiry inspection. I've been down to the Carmody commission child protection commission of inquiry. I've had meetings with the Health payroll commission of inquiry already in regards to a whole range of archival and record keeping issues. So it's not unusual. I think it was one visit. And at that time you're not inspecting—I'm not inspecting the records, I'm just having a look generally at the volume and asking any questions like is there any special requirements and there was a couple of boxes of photographs, for example. So you're needing to know are there any objects or things. Yesterday I think you asked about a briefcase. Yes, I have in our custody—we did transfer one briefcase that could not be returned to its owner. And if it hadn't come into the state's collection it might have been sold on eBay. Who knows what would have happened to it. But it's an iconic object that then can be stored and when the time is appropriate can be leant back to the CMC or other entity for future exhibition.

Ms TRAD: Thank you, Ms Prowse, that was interesting. Just to take that a bit further, you're obviously the executive director of Queensland State Archives and you personally went over to have a discussion, a preliminary discussion, about the holdings—the Fitzgerald inquiry holdings?

Ms Prowse: Sure, yes.

Ms TRAD: Was it just with Ms Legg that you met with or was there anyone more senior in the organisation?

Ms Prowse: No. I have to be honest I can't recall. I only recall Ms Legg, but as you walk around, no matter which commission of inquiry—for Health payroll, for Carmody's child protection—you do meet people in corridors as you're walking from A to B and I don't recall—I don't make a record of that, I'm sorry.

Ms TRAD: I'm not talking about who you meet in corridors—

Ms Prowse: Normally on a commission of inquiry—

Ms TRAD: I am talking about the formal process.

Ms Prowse: Yes. On a commission of inquiry today, because I was not employed at State Archives in 1989, but today I write to the commissioner the day that the inquiry's gazetted and make them aware of their record-keeping responsibilities, that the inquiry is a public authority for the purpose of the Public Records Act. So that's the first time they hear from me, a formal letter. Always
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at the bottom of the formal letter I put the name of myself or an officer, one of my senior staff, and our contact details and we ask usually for their delegate—a name of a delegate to meet with me. Often the commissioner will ask to meet with me. I'm happy to meet with the commissioner. Often they're not interested in that layer of detail because they're turning their mind to important business of the inquiry. So often I meet with the executive director of the inquiry. And then we go through some of the requirements that will need to be in place. Sometimes at the end of a commission of inquiry I'll go back pre a week or two out from a transfer just to—sometimes it's a symbolic visit, if you like, around, you know, assuring the client that that collection can come in. When an inquiry ends the entity ceases to exist and usually, the office space it has occupied, it needs to move and so the collection needs to move fairly quickly as well.

Ms TRAD: Thank you. Just following on from that, what I am really interested in and given that, as you have said, you have processed or received almost nine kilometres of records from agencies and other inquiries, in the process of transfer or the process of organising the transfer, is it normal for you to meet with senior representatives of agency? My point is, Ms Legg was obviously a very competent individual. But in terms of the commencement of the project, setting up the parameters of the project, is it normal for there to be a more senior person involved from the outset?

Ms Prowse: Oh, I see what you mean. Yes, my experience is that it's usually someone more experienced than the records manager, at my level. I sometimes meet with the CEO, but only if the CEO invites me to meet or is available. It depends on the nature of the organisation.

Ms TRAD: Okay, thank you.

Ms Prowse: But I wasn't surprised it was just Janet, but normally I would meet, at my level, with someone on a higher level.

Ms TRAD: Just one final question: we understand the CMC has a right to information office or had a right to information officer. Obviously, other agencies do. There may be, in fact, a legal layer that needs to be applied in terms of a transfer. Is that normal, in terms of transfers?

Ms Prowse: When you say a 'legal layer', what do you mean?

Ms TRAD: Legal advice or—

Ms Prowse: I know at the time with Fitzgerald, because it's there at the back of the appraisal report which I was supplied, where I had to turn my mind to: was the CMC the lawful owner of that collection? And we did seek legal advice and they were. Because the owner has rights under the Public Records Act and can apply the RAP, and I needed to know I could take that direction and instruction from the CMC.

Ms TRAD: So that's just about ownership of the records?

Ms Prowse: Ownership is very critical under the Public Records Act.

Ms TRAD: I understand that, but in terms of a legal understanding of the nature of the collection?

Ms Prowse: I don't commission advice at my end on that. That's up to the agency.

Ms TRAD: I understand that, but is it normal in terms of some of the other transfers that might occur?

Ms Prowse: For us or for the client?

Ms TRAD: For the client?

Ms Prowse: I'm unsure. I don't know how to answer that question. I'm not sure I have that information, I'm sorry.

Ms TRAD: Okay, that's fine. Thank you. No further questions.

CHAIR: Can I seek one clarification: you say you wrote—and it's just for a timeline in my mind—you wrote to Warren Strange at the CMC in relation to the metadata?

Ms Prowse: Yes.

CHAIR: When did you write?

Ms Prowse: On the 19th and I received his reply last night, on the 21st.

CHAIR: And this was in relation to removing all metadata availability?

Ms Prowse: I guess—see what had happened was on the 5th and 6th, the CMC closed its collection, so we closed—we disabled the web link to the metadata. I needed to know I had his authority to keep that, as the owner.

CHAIR: So it was closed from the 5th or 6th?

Ms Prowse: Yes, correct.

CHAIR: And this was a follow-up correspondence?

Ms Prowse: Yes. I just needed to know I had, in the rush of things, that I had his authority to do that, as the owner.

CHAIR: To continue it. So it's only the commission of inquiry metadata that is closed?

Ms Prowse: Yes, at series level and item level.

CHAIR: Okay. The other CMC documentation, do you have any other holdings for the CMC?

Ms Prowse: Yes, I do.

CHAIR: Is the metadata on those closed?

Ms Prowse: Yes, it's always been closed.

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

Dr Mellifont: Only if I could ask Ms Prowse to provide that most recent correspondence to the committee at a convenient time?

Ms Prowse: Yes, we can table that this afternoon.

Dr Mellifont: Thank you. Might Ms Prowse probably be excused, I would say, unless—

CHAIR: That can be provided, not in person, just to provide it? The letters? Okay, then you are stood down, Ms Prowse. Thank you for your assistance.

Ms Prowse: Thank you.

Dr Mellifont: I call Elizabeth Hawkins.

HAWKINS, Ms Elizabeth, manager, Archival Collections, Queensland State Archives

CHAIR: Ms Hawkins, you understand you are still under oath?

Ms Hawkins: Yes, I do.

Dr Mellifont: Good afternoon, Ms Hawkins, and thank you for attending today. I am sorry for the delay. I have a few questions for you. We have heard from at least one witness that, in the course of him conducting his research on some Fitzgerald inquiry matters, he saw some material, thought to himself, 'Perhaps I shouldn't actually have access to this', brought it to the attention of a staff member. The staff member went away and then came back. What I want to ask you about is whether there is any particular policy or protocol in place when you do you have an individual come to the desk and say, 'Look, should I really have this?'

Ms Hawkins: There isn't, as such. It happens very rarely. In fact, I only know of two instances when it has happened. The one you are talking about I don't actually remember, but I don't deny it happened.

Dr Mellifont: You are talking about the Krosch?

Ms Hawkins: No, the Krosch—I never heard about the Krosch one.

Dr Mellifont: Mr Bishop?

Ms Hawkins: Mr Bishop. That was February—February 2012, I think. If it was—I would have looked at the RAP, the restricted access period said these records have only just become open, so, in fact, okay I wouldn't have questioned the agency. There was another instance where a record was brought to me that was labelled 'Confidential', with names of prominent businesspeople. That did raise alarm bells and that's when I rang the CMC about that one. But there is no protocol in place. We consider they're the agency's records and they've provided the metadata and the restricted access period.

Dr Mellifont: Do you think there ought to be a protocol or policy in place when that kind of level of sensitive material is brought to your attention?

Ms Hawkins: Quite possibly. Quite possibly. But, yes, at this stage there isn't. But we are going to be obviously, in the light of all this, reviewing procedures and policies and there will be items that we will look at, yes.

Dr Mellifont: I show you, please, tabled document 38 and give you the opportunity to read it.

Ms Hawkins: Yes. Thank you.

Dr Mellifont: For the committee, this is an email chain commencing 19 September, 4.18, from Mr Duell to Ms Hawkins, changing the RAP series for 18651, confirming that all items in 18651 commencing with 'Confidential'—

... are to be considered exceptions from the series RAP. Consistent with the previously advised exceptions to Series 18651, these items will have a RAP of 100 years applied. These items should also not be web-enabled for online searches.

And your response back to Mr Duell, implementing the changes in the database. Do you recall what gave rise to this series of emails?

Ms Hawkins: Yes. That was the instance I was mentioning where a client asked for a record which was labelled 'Confidential' and had the name of various people of note. The reference archivist notified me and asked whether that was an issue. I thought I really ought to approach the CMC and just see if they were okay with that record being made available, just because of the level of sensitivity and the fact, largely—not so much the fact that it said 'Confidential', but that coupled with the fact that there was these well-known names attached to it. That is what led to this email exchange.

Dr Mellifont: So essentially it was an exercise on your initiative—

Ms Hawkins: Yes.

Dr Mellifont:—in response to what you perceived as being potentially problematic?

Ms Hawkins: Yes, that's right. And if they had said, 'No, no, that's fine, they can be open', we would've provided access to the record.

Dr Mellifont: And the reference in Mr Duell's email to you on 19 September to, 'These items should also not be web-enabled for online searches', do you take that to refer to an agency's ability to direct State Archives that the metadata not be made publicly available?

Ms Hawkins: Yes, yes.

Dr Mellifont: And that's a common occurrence?

Ms Hawkins: It does happen. It's not common, but certainly it's not—it does happen.

Dr Mellifont: Okay.

Ms Hawkins: We have various records that have been listed in that way.

Dr Mellifont: Just in respect of your response to Mr Duell, 'I have implemented those changes in the database and will notify the client'; you are talking there about the individual—

Ms Hawkins: The researcher who had asked for access to that record, yes.

Dr Mellifont: Then you say, 'I am also in the process of following up the files that are listed as being out on file issue to the CMC and will let you know the result.'

Ms Hawkins: I can't remember that one precisely, but certainly as part of my job I do look after the records, the file issue service, where records go out for a length of time to the agencies. There is a—there are overdue notices we sent. That, I'd say, is a different matter where we have—there are some records, maybe there was some dispute about whether they had them or whether we had them. I don't remember precisely, but I'd say it is a separate issue.

Dr Mellifont: It's nothing to do with access?

Ms Hawkins: No, not at all.

Dr Mellifont: Thank you. Those are the questions that I have for you.

CHAIR: The member for Redlands?

Mr DOWLING: I will pass, thank you.

CHAIR: Thank you very much, Ms Hawkins. You are stood down.

Ms Hawkins: Thank you.

Dr Mellifont: Might I suggest we take a break while we wait for the next witness to arrive?

CHAIR: Certainly. The hearing is adjourned and will resume at quarter to two.

Proceedings suspended from 1.12 pm to 2.00 pm

DUELL, Mr Peter, Director, Information Management, Crime and Misconduct Commission

CHAIR: You understand Mr Duell you're still under oath?

Mr Duell: Yes.

Mr Davis: Mr Duell, last time he was here, made application to be represented by Mr Diehm of Senior Counsel. I understand that Mr Duell now wishes for this period of the hearing to be represented by Mr Sean Reidy of counsel. So I understand that application is made and in our submission that application ought to be granted.

CHAIR: There being no objection, leave is granted. Mr Davis, Mr Reidy does understand the conditions under which his assistance is given?

Mr Davis: Yes, I have spoken to Mr Reidy and I understand that he understands that.

CHAIR: Thank you.

Mr Davis: Could you have a look at this document for me please. It is exhibit 29 and it is in tab 22. That is an email which you sent to Tony Reeves on 19 March?

Mr Duell: Yes, I have seen this before; not in this format, but I have seen this email.

Mr Davis: All right. In the email you say—

Just to confirm our telephone conversation today, the CMC Chairperson recently agreed to change the Restricted Access Period ...

Do you see that?

Mr Duell: Yes.

Mr Davis: Is that a reference to the chairperson or the acting chairperson?

Mr Duell: No, that is the acting chairperson.

Mr Davis: So that was Mr Strange?

Mr Duell: That's correct.

Mr Davis: Would you have a look at this document for me please. It is exhibit 83 and it is in tab 25. That document consists of some emails and also at the back of the exhibit should be some notes. No, perhaps they have not been yet tendered. The email stream commences on the third page of the document. You should have three pages of the document, do you?

Mr Duell: Yes, I do.

Mr Davis: And there's emails passing there between Sidonie Wood, Rob Hutchings and you. You see all those emails there?

Mr Duell: Yes.

Mr Davis: Now these are all written at a time shortly after Mr Krosch advises that there seems to be documents that are available that ought not be available?

Mr Duell: Correct.

Mr Davis: At this particular point you'll see that there is an email from Russell Kenzler to Sidonie Wood, 24 May 2012 at 4.36. You see that at the top of the page?

Mr Duell: Yes.

Mr Davis: You've said in your evidence the last time you were before this committee—

Mr Duell: Just on that point, this is the first time I've seen that email from Russell, can I read it please?

Mr Davis: Yes. Now in your evidence when you were here before the committee on the last occasion you told us that you had conversations with Mr Kenzler before you changed the RAPs. You remember saying that?

Mr Duell: Yes, I had quite a few conversations with Russell.

Mr Davis: Do you say that he explained to you the nature of the documents that were in the Fitzgerald holdings?

Mr Duell: No, he explained to me what Mr Fitzgerald was trying to do with making it as open as possible the inquiry and that the intent was to make as much of the hearings and exhibits as public as possible.

Mr Davis: So that is all he told you?

Mr Duell: Yes, in a lot more words.

Mr Davis: Did he explain to you what the holdings were?

Mr Duell: Not in detail.

CHAIR: Can I just ask Mr Duell, would you like a chance to read through that email or have you had a chance to read it?

Mr Duell: Russell's piece is only a couple of sentences so that is okay. I think I am okay, thank you.

CHAIR: Thank you, Mr Davis.

Mr Davis: So you didn't have any conversations then with Mr Kenzler about what was actually in the documents?

Mr Duell: No, he just described that the holdings were to be made as public as possible and it was in relation to the 65-year RAP being applied to them because I had spoken to him, I think, in his position as an RTI officer and also as one of the few people left in the commission that had experience with the Fitzgerald holdings.

Mr Davis: So did you have conversations with him where you were attempting to ascertain what the nature of the documents was? What was in the documents?

Mr Duell: Not the specific content of the documents.

Mr Davis: Whether they were sensitive?

Mr Duell: Well it was the other position actually—whether they were public. That's the way that it was described to me.

Mr Davis: I want to remind you of some of the evidence that you gave on the last occasion. If you go to page 9—this transcript is found at tab 12 of the Kenzler bundle—you're asked this—

... you've told the committee that the wealth of tacit knowledge of the Fitzgerald inquiry records had gone?

That was of course with the—

Mr Duell: Excuse me, where is that on page 9?

Mr Davis: About three quarters of the way down page 9.

Mr Duell: Yes, got it.

Mr Davis: I ask you a question—

But you've told the committee that the wealth of tacit knowledge of the Fitzgerald inquiry records had gone?

That was a reference to Ms Legg retiring or leaving, wasn't it?

Mr Duell: And Greg Rigby.

Mr Davis: You say—

Yes.

I ask—

So what were you relying upon?

Do you see that? You ask me a question then, you say—

To change the RAP?

Do you see that?

Mr Duell: Yes.

Mr Davis: I asked—

Yes, or to deal with this whole issue. Did you review the documents? Did you—what did you do?

You then answered—

Previously you said don't refer to the 19,000 documents out there—that I reviewed them—but you have just asked me did I review the documents? No, as I explained to you, I have reviewed the ones that have come through as requests. I was forming the opinion that a lot of these requests were coming through for information that was in the public domain during the Fitzgerald inquiry. I talked to other people at the commission that were involved in the Fitzgerald inquiry to get some kind of feel for what—

And then you were asked—

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

Who did you talk to?

You say—

Russell Kenzler was a good source of information.

If you go over the page to page 10, I say—

Who else?

And you say—

People that had been involved in the actual transfer of the records. That was much more of a process driven involvement.

I ask you—

Who? Give me names.

You say—

Wendy Klynsmith.

Now Wendy Klynsmith was a property officer, wasn't she?

Mr Duell: Correct.

Mr Davis: Were you relying upon her to tell you what the contents of the documents were and whether they were sensitive?

Mr Duell: No, I wasn't asking her that. I was just trying to get a feel—

Mr Davis: A feel of what?

Mr Duell: I had no involvement with any of this process with the Fitzgerald inquiry records until Matt Condon's request—trying to get access to a document which had a not-for-publication order on it. It was very new to me. I had acted in the role on a number of occasions previously. I'd never had to release a document. I'd never had to fill out an authorisation form for changing restricted access periods so it was very new to me.

Mr Davis: But now you did? At this particular point in time you did have to do that?

Mr Duell: Yes.

Mr Davis: Right. And what you were doing was changing the RAPs, right?

Mr Duell: Well, not when I was talking to Wendy that was earlier in the piece.

Mr Davis: You were considering changing the RAPs?

Mr Duell: I was looking at an individual request for a change in the release—

Mr Davis: The process led to a change of the RAPs?

Mr Duell: A year later.

Mr Davis: Yes. The process led to a change in the RAPs? A year later you say?

Mr Duell: I wasn't considering a change of the RAPs when I was looking at Matt Condon's request. I'd never seen a request like that before.

Mr Davis: Okay. The process led to a change of the RAPs a year later?

Mr Duell: That was my first involvement with it, and, yes, at the end of the day there was a change to the RAPs.

Mr Davis: You tell me in that year before you signed the forms that changed the RAPs what did you do to ascertain the contents of the Fitzgerald documents?

Mr Duell: I didn't look at the content of the documents; I looked at the categorisation of those documents.

Mr Davis: If you look back at page 9, about three quarters of the way down I squarely ask you—

So what were you relying upon?

And you said—

To change the RAP?

I say—

Yes, or to deal with this whole issue.

Right?

Mr Duell: Yes.

Mr Davis: Then you go on and you talk about 'Russell Kenzler was a good source of information.'

Mr Duell: Yes.

Mr Davis: But you never asked him what was in the documents, did you?

Mr Duell: No, I didn't. I didn't ask him on specific documents. He was talking about the holdings as a whole.

Mr Davis: You didn't ask him what was in the holdings. Did you ask him about investigative material? Did you ask him about sensitive material?

Mr Duell: No, I didn't.

Mr Davis: What did you ask him?

Mr Duell: I didn't have a knowledge that that material was in there.

Mr Davis: What did you ask him? Just whether it was a policy of the Fitzgerald inquiry to release documents?

Mr Duell: I think the conversation started with, 'Russell, I've got this request from Matt Condon. In your position as an RTI officer, what do I do with it?' That was my first contact with a request for access of documents from the Fitzgerald inquiry holdings.

Mr Davis: Well, I am sorry to have to press you on this, but if you look back at page 9—

Mr Duell: Yes.

Mr Davis: It squarely said—

So what were you relying upon?

You say—

To change the RAP?

Mr Duell: No, I don't. That's a question. That's a question to you.

Mr Davis: Okay. Laugh if you like. Look at the answer, 'Yes.' That is a statement to you answering the question you asked me, right? And then you go down further and you say—

Russell Kenzler was a good source of information.

Mr Duell: Yes. That was my first contact with Russell over this and I had several other contacts over that ensuing year up to the point I changed the RAPs.

Mr Davis: So Russell Kenzler was a good source of information to you—

Mr Duell: Yes.

Mr Davis:—and over the period of a year you decided to change the RAPs.

Mr Duell: Yes.

Mr Davis: Right. What information did Russell Kenzler give to you that was relevant to your consideration of changing the RAPs?

Mr Duell: He reinforced that Tony Fitzgerald wanted to make it a public inquiry, that there were a lot of public exhibits tendered and these people should have access to what was publicly available 20 years previously.

Mr Davis: Okay. So on the basis of that you believed that, apart from the documents that had been the subject of non-disclosure orders, the rest ought to be disclosed. Is that the position?

Mr Duell: No, I—

Mr Davis: Right. Well can you just tell us how the information that you got from Russell Kenzler is relevant to your consideration of the RAPs?

Mr Duell: As I said, it was very limited knowledge within the commission.

Mr Davis: Russell Kenzler had been at the royal commission, hadn't he?

Mr Duell: Yes.

Mr Davis: He knew, and you knew that he knew, the nature of the documents. He'd been there when they were generated, wasn't he?

Mr Duell: Sorry? Yes, he was.

Mr Davis: Right. So why didn't you ask him?

Mr Duell: Well I talked to him about the general document holdings—

Mr Davis: You didn't ask him—

Mr Duell:—and it wasn't put forward by Russell at any point in time that there were specifically sensitive documents that shouldn't be released.

Mr Davis: Did you ask him that?

Mr Duell: No. He put forward that—and I have given this evidence previously too—

Mr Davis: Well I am asking you again. You humour me.

Mr Duell: Yes. Russell said that if there was a non-publication order placed on any of the material there was a good reason for it and it should stay in place, and I won't put words in his mouth but my interpretation of it was that the rest of the documents were public documents.

Mr Davis: He never said that to you, did he?

Mr Duell: No. He never said that to me. That's what I was trying to say.

Mr Davis: So he never said that to you but somehow or other you got that impression.

Mr Duell: Yes. He had seen a couple of these requests that came in over that duration and was wholly supportive of people like Tony Reeves getting access to that information.

Mr Davis: But information that was non-sensitive surely, not everything.

Mr Duell: Just the particular requests that we were dealing with.

Mr Davis: All right. If you go over the page to page 10, you were also relying upon Wendy Klynsmith, apparently, when you were determining whether or not to change the RAPs. Is that right?

Mr Duell: No. At that point—

Mr Davis: Well, if you look at page 9—

Mr Duell: This was—

Mr Davis: Excuse me. So what were you relying upon? As you have quite rightly pointed out to me, you asked me a question which is 'To change the RAP?' And I say, 'Yes.' Then what follows is you talking about who you relied upon, and one of the people you say you relied upon at page 10 is Wendy Klynsmith. Did you rely on her information she gave you or not?

Mr Duell: Probably not.

Mr Davis: Well, why did you say you did?

Mr Duell: That was building up, I suppose, a foundation of information about the Fitzgerald inquiry holdings and when you have got no knowledge any piece of knowledge is of assistance. When I spoke to Wendy, Wendy had a very simple knowledge of it. She talked to me about the process they were using when they were arranging the transfer of the documents.

Mr Davis: What has the process of the transfer of the documents got to do with your decision as to whether or not to release the documents? You tell me that.

Mr Duell: As I said, I was just trying to find out what had happened with putting together the Fitzgerald inquiry holdings to get out to State Archives with a 65-year RAP applied to all items in the holdings.

Mr Davis: Mr Duell, didn't she tell you that she put the documents in a box? Isn't that what she told you the process was?

Mr Duell: No. There was a bit more detail than that.

Mr Davis: Okay. What else?

Mr Duell: That they would take documents out of boxes, check them against a list that had been prepared for them to check off against, and then key in some information into a spreadsheet which was then sent to State Archives.

Mr Davis: Right. What's that got to do with your consideration as to whether or not to lift the RAPs?

Mr Duell: I suppose I was looking at it, trying to get an understanding of what material had gone out there.

Mr Davis: But all that Ms Klynsmith could tell you, and all she probably did tell you, was that she boxed up documents and she indexed them. She didn't say that she went through and could tell you what was in them, surely?

Mr Duell: I was trying to get an understanding of even the electronic records that were held at the commission relating to it.

Mr Davis: But you didn't look at the electronic records either, did you?

Mr Duell: I attempted to.

Mr Davis: You attempted to.

Mr Duell: Yes.

Mr Davis: You attempted to look at the metadata, did you?

Mr Duell: I was trying to get an understanding of the series, but the spreadsheets that were in use at the commission made no reference to that. That was something that was apparently given by State Archives once it was out there.

Mr Davis: A full set of the metadata was sent to you in five emails, wasn't it?

Mr Duell: Correct.

Mr Davis: And you didn't read it then, did you?

Mr Duell: That was in March 2012.

Mr Davis: You didn't read it then.

Mr Duell: No.

Mr Davis: But you are now telling us that you were what—searching out the metadata?

Mr Duell: No. I didn't say that.

Mr Davis: Well, if you weren't searching out the metadata before you changed the RAPs, what is the relevance of the metadata to your decision whether or not to change the RAPs?

Mr Duell: As I said, I was coming from a point of no information about the Fitzgerald inquiry holdings and trying to get any information from people who had been involved in it.

Mr Davis: The only relevant information was information about the sensitivity of the contents of the documents. That's right, isn't it?

Mr Duell: That I was looking for?

Mr Davis: Yes. If you're changing the classification of these documents, you've got to work out whether they are sensitive or not? Do you agree with that?

Mr Duell: Yes.

Mr Davis: Right. So the only material or information that is relevant to considering whether to change the RAPs is the contents of the document and whether or not they are sensitive. Do you agree with that?

Mr Duell: No.

Mr Davis: All right. Was it relevant as to whether or not they had been boxed? Was that the idea?

Mr Duell: No. What was relevant was that the documents had been previously catalogued and re-catalogued and decisions had been made in that process by the people involved in it on what was not for publication and, as I stated previously, the rest, I believe, was public.

Mr Davis: Mr Duell, the decision that had been made was to not publish any of it. It all got a 65-year RAP, apart from certain documents which got a 100-year RAP.

Mr Duell: Yes, that's what I was trying to ascertain.

Mr Davis: Right. So how do you go from 'I had to ascertain how other people had dealt with it. Oh well, they'd put a 65-year RAP on it. So therefore it was okay for me to release it.' I just don't understand the logic.

Mr Duell: A 65-year RAP was applied to all of the holdings except for those exceptions that were 100 years.

Mr Davis: Yes, we know that.

Mr Duell: We were well aware that there were public documents—

Mr Davis: It's the 65-year RAP documents that you didn't look at that we're interested in. Right? And the fact is you didn't consider the contents of the 65-year RAP documents before you released them. Now that's just the truth, isn't it, Mr Duell?

Mr Duell: No, I didn't look at the contents of them. I took it that the people that had applied classifications to those documents had done their job, I suppose.

Mr Davis: But the classification that they applied to them was to not release them. So how do you go from—

Mr Duell: Sorry. My statement is about at the time they were put into the TCR database and, secondly, when they went into the final boxing that Wendy Klynsmith was a part of, when they were put on the spreadsheets before they went out there. So at that point in time when individual documents were being dealt with, not 19,000 documents, when people were responsible for doing that cataloguing, I took it that when they had said that those documents were not for publication—which were the documents that were sentenced to a 100-year RAP—that decision was made by people that were far more qualified to make that than myself. I'm not an expert in intelligence reports or what is sensitive. In the background that Tony Fitzgerald was trying to make it as public as possible, it wasn't up to me to second-guess these people who were intimately involved in it on what the appropriate classification was.

Mr Davis: Okay. And you say that you took notice of the fact that they had classified the documents?

Mr Duell: Yes. At that stage, yes.

Mr Davis: Right. And you had taken notice of the fact that they had classified the documents at 65-year RAP?

Mr Duell: That was the last part of that process, yes.

Mr Davis: So you took notice of the fact that they had classified it as 65-year RAP and taking notice of that led you to then declassify the documents. Is that your evidence?

Mr Duell: I talked to Janet Legg at the time about the 65-year RAP being applied to everything including the public transcripts, and at that point in time she said that due to the lack of advice from legal counsel she took the position that when you have a choice of anywhere between zero and 65 years she would take 65 years and be safe.

Mr Davis: Okay. So the truth is that you didn't ask Wendy Klynsmith about the contents of the documents?

Mr Duell: No, not the specific contents of the documents.

Mr Davis: You didn't ask Mr Kenzler about the contents of the documents?

Mr Duell: No, that was general. Yes.

Mr Davis: You didn't ask Greg Rigby?

Mr Duell: No.

Mr Davis: You didn't ask Legg?

Mr Duell: No.

Mr Davis: So the truth is, isn't it, that you declassified the documents without making any inquiry as to their contents and whether the contents were sensitive? That's just the truth, isn't it, Mr Duell?

Mr Duell: As I said, I didn't look at individual documents—

Mr Davis: But you didn't—

Mr Duell:—but I looked at the broad categories that had been assigned to those documents at the time that they were being catalogued.

Mr Davis: What broad categories?

Mr Duell: Not for publication, sensitive documents and—

Mr Davis: Or 65-year RAP.

Mr Duell: And the 65-year RAP which was applied in the context of being ultra conservative.

Mr Davis: Well, you certainly weren't ultraconservative when you determined to declassify the documents, were you?

Mr Duell: No, I thought I was giving them an appropriate RAP.

Mr Davis: All right. Could you look at this document for me, please? This is an e-mail from Elizabeth Hawkins to you. Do you see that? It attaches a spreadsheet of the 100-year documents; is that right?

Mr Duell: Yes.

Mr Davis: If you then go through that bundle of documents, you should run into a letter from you to Elizabeth Hawkins of 29 May. Do you see that?

Mr Duell: This is one from Liz Hawkins to me.

Mr Davis: No, there should be one from you to Liz Hawkins.

Mr Duell: That was 29 May, you said?

Mr Davis: Yes. This is tab 24, by the way. Perhaps it is not there. Can I have a quick look at the exhibit and I will see?

Mr Duell: The letter?

Mr Davis: Yes, the letter. What you have done here is that by May all this becomes a problem.

Mr Duell: Yes.

Mr Davis: What steps did you take to look at the contents of 18651 before you wrote that letter and signed those authorisations that are attached to it?

Mr Duell: I didn't look at the contents of 18651.

Mr Davis: So what did you do to determine what the contents were?

Mr Duell: I took that off a previous letter from Janet Legg when she originally set the RAP at 65 years.

Mr Davis: All right. So that was all you did?

Mr Duell: Yeah, I checked—that is what I went back to have a look at to see what—at that point in time—can I provide some context about what was happening at that point?

Mr Davis: Can you look at this document for me, please? Could the witness please see exhibit 73? It is tab 27.

CHAIR: Mr Duell, please feel free.

Mr Duell: Thanks, Madam Chair. What I was saying about the context of this letter, the context of it was we had just found out from Barry Krosch that there was sensitive material available. So at that point in time I took immediate steps to restrict access to that material. So I sent this letter and attached a restricted access period change to State Archives in which of the 17 series in this letter I had shut down—I think it is this letter—

Mr Davis: Thirteen of them.

Mr Duell: I shut down 15 of the 17 series. At that stage the only two series that were left available for public access were the public transcripts and public exhibits. That was the first letter I sent across and that was to stop access to what I then—this is the defining moment of 'there is a third category of records' for me.

Mr Davis: But you made a mistake in this too, didn't you?

Mr Duell: Well, not in the first one but in the second one, yes. What I did with this one was the actual change request to the RAP listed 15 of the 17 series. One of those series was 18651 that I requested be changed from 20 to 65 years.

Mr Davis: But you excepted some documents out of that?

Mr Duell: Yes, there were documents excepted for 100 years; that is correct. But I got contacted by Liz Hawkins, who said, 'Your covering letter refers to 18651 as still being available.' So at that point I went back to Janet's letter when she originally set the RAP and noticed that she had referred to 18651 as exhibits with exceptions in them. That is when I incorrectly concluded that the public documents were public transcripts, exhibits and documentation exhibits as in paper type exhibits versus 3D exhibits.

Mr Davis: Do you think you should have done a bit more investigation than just what you did?

Mr Duell: Certainly, in hindsight. At the time I thought I was taking this from the recognised expert in Fitzgerald inquiry holdings.

Mr Davis: Can the witness please see exhibit 106? Is this the letter?

Mr Duell: That's not the copy I have but that's the letter.

Mr Davis: 'Attached is a completed form which sets the RAPs for all of the series to 65 years with the exception of 18651, which has some exceptions. This series relates to the exhibits, a number of which are subject to non-publication orders which are still in place.'

Mr Duell: Yes, that is correct. That is what I—

Mr Davis: 'This series relates to the exhibits, a number of which are subject to non-publication orders which are still in place.'

Mr Duell: Yes.

Mr Davis: And you just relied on that to exempt 18651; is that right?

Mr Duell: Yeah, I took that—

Mr Davis: Without looking at the metadata. Why didn't you go and look at the metadata?

Mr Duell: Janet was the expert in this transfer.

Mr Davis: And you had the job—

Mr Duell: And I was the novice.

Mr Davis:—of sorting this out?

Mr Duell: Yes.

Mr Davis: And you had been sent the metadata by this stage, hadn't you? The five emails that you hadn't bothered reading; is that right?

Mr Duell: The metadata?

Mr Davis: Yes.

Mr Duell: Yes, the spreadsheets. Back in March I had received these.

Mr Davis: You could have gone back and checked this, couldn't you?

Mr Duell: I could have gone back to check the work of this expert who had much more experience in this than I did. It is questioning—

Mr Davis: And you were dealing with it?

Mr Duell: As I have tried to make the point, there was not much information available within the commission. I went back to the person who was the recognised guru of these holdings and took her statement in a letter to Queensland State Archives as being correct.

Mr Davis: Mr Duell, you keep saying that there wasn't much information available within the CMC about this. Why do you say that? Why do you keep saying that? Because it is fundamentally wrong, isn't it?

Mr Duell: No, I think I have described it very clearly.

Mr Davis: No. You keep saying there wasn't much information about the holdings. There was the metadata—the five emails you had been sent—which you didn't bother reading; right?

Mr Duell: Correct.

Mr Davis: Right. There is also Mr Kenzler, who knew this stuff backwards, who you didn't actually ask about the contents and sensitivity of the documents.

Mr Duell: I talked to—you have raised this several times but—

Mr Davis: Well, I can't get a straight answer, Mr Duell.

Mr Duell: Well, you are getting a straight answer. I am telling you—

CHAIR: We are waiting on your answer.

Mr Duell: I talked to Russell considerably about this. He was a major advocate that we should be making this information available to the public. It was my understanding that that was the information that was not subject to non-publication orders. I didn't ask him about the specific content of any documents apart from a couple of requests that I had received individually and spoken to him about, and in those situations once again he said that he strongly believed that Tony Reeves should have access to the information.

Mr Davis: Mr Kenzler never told you that all the documents apart from the ones that had been marked 'not for publication' by Mr Fitzgerald ought to be released. He never said that to you.

Mr Duell: No, he definitely didn't.

Mr Davis: Could you have a look at this document for me, please? It is exhibit 43, tab 27. You have seen that document before?

Mr Duell: I don't believe I have ever seen this before.

Mr Davis: All right. Well, it bears the date 29 May 2012 but it was only generated recently apparently. Could you read it to yourself, please?

CHAIR: Mr Duell, having had time to peruse part of that, do you need a few moments to consider it?

Mr Duell: I am just over halfway through where I have found some problems with it, that is all.

CHAIR: All right.

Mr Davis: So you disagree with parts of this?

Mr Duell: It is very brief but the fourth paragraph—

Mr Davis: Is this the paragraph commencing, 'Peter Duell explain the process'?

Mr Duell: No, that is the third paragraph.

Mr Davis: Is it? Oh, 'I asked how the change in access period came about.' Is that it?

Mr Duell: Yes. Towards the—she is initially talking about the request for legal advice from general counsel but not getting a response due to other work commitments that were probably more urgent. 'He did not receive an advice from Rob. The request was an email from Suzanne Sweeper.' It just seems to be a bit of a jump then. That obviously is referring to the memorandum prepared by Suzanne Sweeper seeking advice on recommended changes.

Mr Davis: That is the one of 7 September?

Mr Duell: Seven September, yes.

Mr Davis: You settled that, didn't you?

Mr Duell: Sorry?

Mr Davis: It was sent to you in draft and you settled it?

Mr Duell: It would have been—I heard a bit of Suzanne's evidence on that.

Mr Davis: And you saw that there was tendered before the committee a draft?

Mr Duell: I would like to see that again if I could.

Mr Davis: You just tell us your memory of what happened before we show you any further documents.

Mr Duell: Excuse me, Madam Chair, could I have access to the documents that we are talking about?

CHAIR: I believe it is reasonable to give you access to the two documents. If you need some time to consider them we can give you five minutes.

Mr Duell: Yes, I think I could look at them fairly quickly.

Mr Davis: In our submission it would be best for him to exhaust his memory as to the process before I show him the documents.

Mr Duell: I am fairly familiar with the—

CHAIR: Proceed, Mr Davis.

Mr Duell: I am fairly familiar with the process that was involved in it.

Mr Davis: Well, you can tell us about it then. You gave some instructions to Suzanne Sweeper to do something. What was that?

Mr Duell: I think I referred to it initially as 'get across the documents'. Both Suzanne and I were struggling with these requests because of our lack of knowledge of what was involved, both the process of it, why those requests were being referred to us in the first place et cetera.

Mr Davis: What does 'get across the documents' mean?

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Mr Duell: Get an understanding of the series of documents that went out there and why the classification was 65 years.

Mr Davis: Right, so that must mean, surely, what you were tasking her to do was to work out the sensitivity of the documents?

Mr Duell: Well, yes. I was trying to say let's get a feel for what this is that we are dealing with here, what is the process, is it appropriate for us to be making decisions on these matters et cetera and to come up with—particularly look at whether the RAP of 65 years that was set for this is an appropriate period.

Mr Davis: Which must mean, surely, work out how sensitive the documents are? How could it mean anything other than that, Mr Duell?

Mr Duell: I think it is not just that. It was, 'What are we dealing with here?' I suppose. And you are probably right, 'What is the sensitivity?', although I suppose at that point in time I thought the sensitive documents were still subject to a non-publication order.

Mr Davis: You see, you say these throwaway lines, 'We've got to work out what we are dealing with here.' The truth is you never worked that out. You agree with me?

Mr Duell: I can say that up until the last fortnight I was still thinking that the only documents that had a 20-year RAP on them were documents that were rightly available to the public. It was only then—

Mr Davis: You never worked that out.

Mr Duell: I have now. That is what I am saying. It was only up until now—

Mr Davis: Okay, you want to play that. Before you changed the RAPs you did not work it out?

Mr Duell: Before I changed the RAPs I thought I had.

Mr Davis: You didn't work it out?

Mr Duell: I thought I had.

Mr Davis: How did you think you had when you had not looked at the documents, you had not looked at the metadata and you had not made any proper inquiries of Mr Kenzler?

Mr Duell: Well, as I have stated, I believe that my discussions with Mr Kenzler made it clear to me—and it may not have been his intent—that there were two classes of documents: the sensitive documents with non-publication orders on them and public documents.

Mr Davis: All right. Did you get a draft from Suzanne Sweeper?

Mr Duell: Yes.

Mr Davis: Did you look at that draft and did you change it?

Mr Duell: Yes, I would have looked at it as is normal practice.

Mr Davis: So you did look at it and you did change it?

Mr Duell: I am not sure if I changed it. I talked to her about a change, definitely.

Mr Davis: Well, she drafted the document?

Mr Duell: Yes.

Mr Davis: So she was obviously happy with it, presumably, when she gave it to you?

Mr Duell: Yes—well, she brought it to me and said, 'Here's a draft of it. What do you think?'

Mr Davis: So any change, surely, must have come from you?

Mr Duell: Change, yes. I suggested—I did suggest a change to her.

Mr Davis: Okay. Could you have a look at this document for me, please. It is exhibit 7. Now, if you look at page 2 of the document you will see a series of recommendations. To our intense embarrassment we are having trouble turning up the draft which you settled which seems not to have been yet tabled. But the change of any substance is made to recommendation 1.

Mr Duell: Yes.

Mr Davis: The draft read 'consider changing the restricted access period' and the recommendation is changed in the final draft to 'reduce the restricted access period'. All right?

Mr Duell: No, can you give me—what was the draft recommendation in full, please?

Mr Davis: The draft said 'consider reducing the restricted access period', but this one, the final one, says 'reduce the restricted access period'.

Mr Duell: No, I need the full recommendation, please.

Mr Davis: If you have a look at—

Mr Duell: No, I can read what is in front of me. I am trying to work out what is not in front of me.

Mr Davis: Very well. We will have to find it, I am sorry. We just cannot turn it up.

CHAIR: If we could just have five minutes while we locate that. We have got a copy here but I have written all over mine.

Dr Mellifont: Mr Duell has requested a break for five minutes.

CHAIR: We will reconvene at five past three.

Proceedings suspended from 2.53 pm to 3.02 pm

CHAIR: Mr Davis?

Mr Davis: Thank you. You have had an opportunity to look at exhibit 7?

Mr Duell: Can I get this right, please, Mr Davis? Exhibit 7 is the one that went up to general counsel—the finished one?

Mr Davis: Yes. The evidence is that exhibit 7 is the final one.

Mr Duell: Yes.

Mr Davis: Now, I will show you this document. That seems to be an email from Suzanne Sweeper to you of 7 September.

Mr Duell: Yes.

Mr Davis: At 9.52 in the morning.

Mr Duell: Yes.

Mr Davis: And that attaches a memorandum to general counsel through you from Suzanne Sweeper. Do you see that?

Mr Duell: Yes.

Mr Davis: Now, can I ask you to open exhibit 7, which is the one that actually went up, at page 2, which is the 'Recommendations' section.

Mr Duell: Yes.

Mr Davis: Then could you do the same, please, with the document that is attached to the email that I just handed you.

Mr Duell: Yes.

Mr Davis: I want you to concentrate on recommendation No. 1 in both of the documents. You will see that the recommendation in the document that was the draft—that is the one that is attached to the email—says, 'Consider removal of the restricted access period of 65 years.'

Mr Duell: Yes.

Mr Davis: 'Much of this material was tendered at a public hearing and is available from other sources.'

Mr Duell: Yes.

Mr Davis: If you then look at recommendation No. 1 in the document that actually went up, it just says, 'Reduce the restricted access period of 65 years to 20 years.'

Mr Duell: Yes.

Mr Davis: So the recommendation has become stronger: rather than consider doing it, you actually do it. Do you agree with that?

Mr Duell: Yes. There are two points there. I can remember the discussion we had over this at the time—the request to remove the restricted access period. I said to Suzanne, 'You have to set a restricted access period. You do not remove it. We can change it back to zero years,' which is basically freely available at that time. I said, 'Given that we have had people requesting this material and having to go through a significant process to get access to it, if we change it back to 20 years it

has the effect of basically removing the restricted access period.' But it means that it was not as embarrassing, perhaps, to the CMC that we went from a position of not giving these people information and then telling them that, 'Well, we could have given it to you from the outset.' So that was the intent of that change.

Mr Davis: What was the second point?

Mr Duell: I honestly cannot recall that. I cannot recall that being discussed at the time.

Mr Davis: Why did you go from considering removal to reducing the period? It just seems stronger.

Mr Duell: Look, I agree: it does seem stronger. I cannot recall there being a discussion on 'consider removal' versus 'reduce'.

Mr Davis: All right. Can I just take you to the next point.

Mr Duell: Yes.

Mr Davis: If you look at the draft, the second sentence of recommendation 1 is, 'Much of this material was tendered at a public hearing.' Do you see that?

Mr Duell: Yes.

Mr Davis: So that surely is suggesting that some of the material was tendered at a public hearing but some of it was not?

Mr Duell: Yes, that is how I would interpret it.

Mr Davis: If you then go to the final version it says, 'This material was tendered ...'

Mr Duell: Yes.

Mr Davis: Do you see that?

Mr Duell: Yes.

Mr Davis: So I think your evidence is that whatever changes were made between the draft and the final document were changes initiated by you, or am I putting that too highly?

Mr Duell: Well, there was certainly a discussion on it. I am not sure whether, you know, I edited her draft—I could have—and sent that back to her.

Mr Davis: Well, how did it go from—

Mr Duell: We certainly had a discussion on it before any of that took place.

Mr Davis: Well, how did we go from much of the material being tendered at the public hearing in the draft to, it seems, all of the material being tendered at a public hearing in the final document? How did that change come about?

Mr Duell: I honestly do not know. Certainly the first recommendation has been made stronger and that point has been made stronger. As I said, I can remember that first bit because we had a bit of a discussion over the 65 years to zero or 65 to 20. I can't remember why 'much' was changed to 'this'.

Mr Davis: If you look at the draft—and this is a memorandum prepared by Sweeper at your direction—I suggest to you that it is something that was as much for your benefit as it was for general counsel, because you were getting her to look at this or 'get across it', as you were saying. Do you agree with that?

Mr Duell: Yes.

Mr Davis: So the draft comes to you and you learn from the draft that much of the material was tendered at a public hearing. But the draft doesn't say that all of the material was tendered at a public hearing. Do you see that?

Mr Duell: Yes, I can see that. As I said, I can't remember the discussion on that point. I may have asked at that time, 'When you say "much of the material", what part of the material wasn't?' And it might have been a case of—look, I can't speculate on that, I am sorry.

Mr Davis: But shouldn't that have put you on notice—

Mr Duell: Looking at it now, yes, definitely.

Mr Davis: Well, did you look at it on 7 September 2011?

Mr Duell: Yes, and I suppose that is why I am questioning myself, as to what was the discussion that took place on that.

Mr Davis: And I suggest to you that not only would you have read it but you also changed it, which means you have considered it.

Mr Duell: Well, I do not know whether I changed it. As I said, I'm not sure. But when I talked to Suzanne about it we discussed this together.

Mr Davis: If you didn't change it, you were part of a process whereby it was changed.

Mr Duell: Yes.

Mr Davis: There were only two of you working on this document, weren't there?

Mr Duell: As you can see, my influence on that was that first sentence and one word in the second.

Mr Davis: So surely when you got the draft you must have known, must have realised, that some of the material that you were considering was tendered at a public hearing and some was not?

Mr Duell: Well, my understanding was that some of it was not. That was the stuff that had a 100-year not-for-publication order placed on it—

Mr Davis: Mr Duell, that is a different category of documents. That is not the removal of the restricted access period of 65 years, is it?

Mr Duell: No, that is correct.

Mr Davis: That material that was not for publication had the 100-year RAP on that, as you well know. That is right, isn't it?

Mr Duell: That's correct.

Mr Davis: So recommendation No. 1 does not relate to that material; it just relates to the material of the 65-year RAP?

Mr Duell: Perhaps that point was what was discussed at the time.

Mr Davis: And you learned from the draft that some of that material the subject of the restricted period of 65 years was not tendered at the public hearing. That is what the memorandum tells you.

Mr Duell: Yes, the draft says that.

Mr Davis: I seek leave to table the draft, which apparently has not been tabled before.

CHAIR: Is leave granted? Leave is granted. It is document No. 114.

Mr Davis: Could you have a look at these documents for me, please. They are at tab 29 in the bundle. They are exhibits 75 and 76. They are a couple of file notes, Mr Duell. Do you see those?

Mr Duell: Yes, I will just read them. Yes, I have read those.

Mr Davis: All right. They're not your file notes obviously?

Mr Duell: No.

Mr Davis: Do you know whose they are? Do you recognise the handwriting?

Mr Duell: I don't recognise the handwriting, but I can see that they would be Sidonie Wood's, I'd guess.

Mr Davis: Very well. This obviously is at a time when it's been revealed that the surveillance material has been released.

Mr Duell: Yes.

Mr Davis: If you look at the second one, which is exhibit 76—

Mr Duell: Yes.

Mr Davis:—'Confer RH', which presumably is a reference to Rob Hutchings; is that right?

Mr Duell: That's what I presume, too.

Mr Davis: 'PD response—administrative error/mistake'. Do you see that?

Mr Duell: Yes.

Mr Davis: So that's what you told Sidonie Wood.

Mr Duell: That's consistent with my email to Rob.

Mr Davis: Very well. Could you have a look at this document for me please. It's exhibit 62. Have you seen that email before? I appreciate it's not an email directed to you.

Mr Duell: I can't recall. Did you show me this one last week? I hadn't seen it. I hadn't seen it before.

Mr Davis: I'm sorry: assuming you haven't seen it in the committee, have you seen it before?

Mr Duell: No.

Mr Davis: If you have a look at the document you'll see that Sidonie indicated that you—and it's addressed to Rob Hutchings—would 'like me to follow up on the mystery of what records/documents the State Archives has with regard to the Fitzgerald Inquiry'. Do you see that?

Mr Duell: Yes.

Mr Davis: After 29 May 2012 were you ever given any instruction to follow up and see what documents were in the State Archives in relation to the Fitzgerald inquiry, including covert documents?

Mr Duell: No.

Mr Davis: All right. Could you look at this document for me please. It's exhibit 35 which is in tab 31. In particular, this is your email to Rob Hutchings saying that 'QSA have rectified the issue'—

Mr Duell: Yes.

Mr Davis:—and the 'surveillance reports have been returned to their 65 year restricted access period'.

Mr Duell: Yes.

Mr Davis: That's true, isn't it, that that's what you did?

Mr Duell: I restricted more than just the surveillance records.

Mr Davis: Yes.

Mr Duell: Yes, but they were definitely part of what was restricted.

Mr Davis: But you still allowed certain other parts of the 65-year RAP documents to remain unrestricted; that's right, isn't it?

Mr Duell: Yes.

Mr Davis: And in fairness you've explained why you did that. Could I take you to this document for me please. It's exhibit 38. Just before I show you that, you've been asked some questions and given some evidence about the metadata.

Mr Duell: Yes.

Mr Davis: And you now know that the metadata was available online for searching.

Mr Duell: Yes, I do know.

Mr Davis: You know that now.

Mr Duell: Yes.

Mr Davis: And you now know that the metadata itself contains information that's sensitive.

Mr Duell: Yes.

Mr Davis: When did you first learn that the metadata was online?

Mr Duell: It was I think when Sidonie emailed through Rob to me at about—

Mr Davis: Which email are we talking about? Just tell us—was it the May incident?

Mr Duell: I think it's this one. Yep; when Rob sent that email to me on 29 May at 10.40 and my first response to Rob was, 'That's not possible,' and I said I'd look into it but I said, 'That can't be,' and I looked into it and saw that I think—I went to the online catalogue and saw that Krosch's surveillance report was available.

Mr Davis: What steps did you take to make sure that the metadata was removed from the system?

Mr Duell: I didn't take any steps.

Mr Davis: Why?

Mr Duell: At the time, I suppose, I just accepted that that's the way that State Archives had stored the material. I didn't turn my mind to it at that point. Of course I'm looking at it now and I say I should've thought, 'Why is that even available to be seen as metadata?'

Mr Davis: So when did it dawn on you that the availability of the metadata was a problem? Was that only recently?

Mr Duell: I—when I changed the—at that point in time when I changed it from 20 years to 65 years, my expectation was that there wouldn't be metadata available.

Mr Davis: And were you—

Mr Duell: I was aware that the 100 year didn't have metadata available. But because I had changed it from 65 years back to 20 years, which effectively made it available to the public, the metadata was there to enable people to search for those records, which I had made available to the public at that point incorrectly.

Mr Davis: Could you have a look at this please. It's exhibit 38, tab 32. This is relevant to the September issue where the CMC's contacted and it's obvious that there are documents still confidential that ought not be in the public domain.

Mr Duell: Yes.

Mr Davis: Right? If you have a look at your email of 19 September 2012 at 4.18 pm to Elizabeth Hawkins—

Mr Duell: Yes.

Mr Davis:—you'll see—

This is to confirm that all items in Transfer ID: 5422, Series ID: 18651 with a description commencing with 'CONFIDENTIAL' or '*** CONFIDENTIAL ***' are to be considered exceptions from the series RAP.

Do you see that?

Mr Duell: Yes.

Mr Davis: 'Consistent with the previous advised exceptions to Series 18651, these items will have a RAP of 100 years applied.'

Mr Duell: Yes.

Mr Davis: Do you see the next sentence there—'These items should also not be web enabled for online searches'?

Mr Duell: Correct.

Mr Davis: So you must have known at least by that stage that the metadata was searchable online.

Mr Duell: Yes.

Mr Davis: So was your state of mind that once you classified the material back up to 65—

Mr Duell: That material was reclassified to 100 years.

Mr Davis: I'm sorry; classified to 100, or, for that matter, if something was classified to 65—

Mr Duell: If it was past the current date type of thing.

Mr Davis: Yes.

Mr Duell: Yes. If it wasn't accessible to the public—

Mr Davis: Then the metadata ought not to be accessible either.

Mr Duell: It wouldn't, yes.

Mr Davis: Very well. In September of 2012 this second problem has arisen in relation to 18651.

Mr Duell: That's what that was dealing with.

Mr Davis: That's what I've just taken you to.

Mr Duell: Yes.

Mr Davis: Who did you tell about that problem? Anyone?

Mr Duell: I think I—I haven't gone through my transcript for the last week, but I believe I said I would've discussed it with Edith Mendelle at our fortnightly meeting. I heard a bit of her evidence whenever she came here this week—

Mr Davis: I think we can tell you that she denied that you told her.

Mr Duell: Yes, I picked that up. So I went back to September to have a look at when our meetings would've occurred in that month. At that point in time I had applied for a couple of weeks off on leave and I wasn't—I don't think I would've had our regular fortnightly meeting, so it might've been out of sync considerably. So it's probably more likely that I would not have raised it with Edith on my return from leave at that point of time when we were trying—when there was significant activity in reducing staff, and that was a more topical issue at our discussions when I came back.

Mr Davis: So is it more likely then, now that you've had time to reflect upon her evidence and reconsider your position—

Mr Duell: Yes.

Mr Davis:—that you in fact told no-one about this incident?

Mr Duell: Yeah, I think that's more likely, yes.

Mr Davis: Did you fail to disclose the issue in September because you were concerned about ramifications for yourself if you did?

Mr Duell: I don't believe that was my thought processes. Ross had made it very clear in the May episode that he wanted sensitive material unavailable. When I was alerted to the fact sensitive material was available, I acted straight on it and removed it.

Mr Davis: But to put it mildly, it was a big fuss in May, wasn't it? It was a major mistake and—

Mr Duell: Definitely.

Mr Davis:—it's fair to say, isn't it, that it was a mistake that was at your feet?

Mr Duell: Yes.

Mr Davis: So there was criticism of you in May?

Mr Duell: I didn't receive any direct criticism from Ross. I explained it to him.

Mr Davis: Were you embarrassed by it?

Mr Duell: Yeah. I'd made a big mistake.

Mr Davis: And here in September you've made—it's evident that you made another one.

Mr Duell: I hadn't cleaned it up correctly.

Mr Davis: So did that lead you to then not disclose in September the problem that was revealed in September?

Mr Duell: Mr Davis, I agree I should've done that. There's no dispute that I should've raised it with Ross or Sidonie—probably Ross or Rob at that point in time—and I failed to do so. My state of mind at that point in time was I was quite upset about what was happening at the commission before this incident and that's why I had requested the leave to get a break to get my head back together.

Mr Davis: Sorry; what were you upset about?

Mr Duell: We were under significant financial pressure and after having gone through a significant review the previous year where Information Management was cut to the bone we were again being targeted for further cuts.

Mr Davis: So did you think that your job may have been in jeopardy?

Mr Duell: I wasn't thinking about my job at that point in time that it was going to be—that my job would be in jeopardy, but there were certainly staff within Information Management that would most likely have to leave and they did.

Mr Davis: Did it cross your mind that your job might be in jeopardy if this second error came to light?

Mr Duell: No, not at all.

Mr Davis: I will just show you exhibit 26, please. These are the two chronologies that you have prepared?

Mr Duell: Yes.

Mr Davis: This is tab 2. Now, in the first one—and I have drawn your attention to this before.

Mr Duell: Yes.

Mr Davis: In the first one there's no mention of any incident in May.

Mr Duell: That's correct.

Mr Davis: And indeed, in the first one the reference to the former employee is made by reference to the September incident?

Mr Duell: Yes.

Mr Davis: In the second one, both the May and September incidents are revealed?

Mr Duell: Correct.

Mr Davis: By the time you produced the first of these chronologies, you had no reason to believe that anyone knew about the September incident?

Mr Duell: I honestly hadn't turned my mind to that. I was aware—you know, I was aware of the incidents. When I put that together, as I said, at short notice I was really just throwing things down as quickly as I can and I suppose my energies were actually spent on that issue No. 2, trying to get a bit of an idea about how many documents had been destroyed.

Mr Davis: If one looks at the first chronology that you prepared, it reveals one error by you in September 2012.

Mr Duell: Correct.

Mr Davis: If one looks at the second chronology, it reveals two errors by you—one in May and one in September?

Mr Duell: Correct.

Mr Davis: Was the first chronology prepared in the way it was by you to give the false impression there was only one error by you?

Mr Duell: Not at all, and it was at my initiation that the second one was produced immediately. In fact, I think we were sitting outside the PCMC meeting and I was just reading back over it when the penny dropped for me. But Mr Martin was in there with the copy I had given him at that point in time just outside the meeting room.

Mr Davis: Very well. Could you have a look at this document for me, please? It is a letter, 20 September, from you to Ms Hawkins and it is not in the bundle. Now, this is a letter you wrote in September?

Mr Duell: Yes.

Mr Davis: You had made the RAPs and you had changed the RAPs and you had always given a formal notice, hadn't you?

Mr Duell: A change to the RAP? Yes.

Mr Davis: Yes. It seems this is the only occasion—this letter—where you changed a RAP, or made a RAP, or anybody made a RAP, without putting in an official notice.

Mr Duell: This was at Liz Hawkins' request.

Mr Davis: Okay. So she asked you what? To not bother sending a form but just to send a letter?

Mr Duell: Yes, just to send a letter would suffice.

Mr Davis: Very well.

Mr Duell: Just on that point, Mr Davis, in the previous exceptions, the exceptions are only noted in a letter also and the RAP just had a tick box—'are there exceptions to the series'—and the exceptions are noted in another letter.

Mr Davis: Yes, but there were forms accompanying them, though, weren't there?

Mr Duell: For the—

Mr Davis: For the change.

Mr Duell: Not for the—not for the exceptions.

Mr Davis: All right. I will show you this document 35. I seek leave to table that last document, though, please.

CHAIR: Is leave granted? Leave is granted. It is document 115.

Mr Duell: Excuse me, madam chair, just with that last document there was an email trail associated with that between Liz Hawkins and myself which might be of value to put that letter in context.

CHAIR: Noted.

Mr Davis: All right. That is an email between Hawkins and QSA public access; do you see that?

Mr Duell: Yes.

Mr Davis: That refers to a conversation with you about series 18651?

Mr Duell: Yes.

Mr Davis: And that records you in March effectively shutting down the whole of 18651?

Mr Duell: Yes, that's the first—that was the first response to—

Mr Davis: I understand that. I will table that document with leave, please.

CHAIR: Is leave granted? Leave is granted. It is document 116.

Mr Davis: Could you have a look at this document for me, please? This is tab 36. That is you sending the request form on 5 March; is that right?

Mr Duell: We are just talking about the RAP document at this point in time?

Mr Davis: Yes, the top document and if you look further in you will see the request form is there.

Mr Duell: Yes—what? There's two emails from me to Elizabeth Hawkins at that point. The first one just had the Word document and then I sent her the scanned—after I signed it I sent her the scanned copy of the authorisation.

Mr Davis: And that was just formalising the shutdown of 18651?

Mr Duell: Correct.

Mr Davis: I seek leave to table that document, please.

Mr Duell: The whole six pages?

Mr Davis: The whole six pages. There is nothing in the other pages that you want to comment on?

Mr Duell: It's just a thankyou, yes.

CHAIR: Is leave granted? Leave is granted. It is document 117.

Mr Davis: Could you just have a look at this document, please? That seems to be a copy of the memorandum of 7 September, but that one is signed off formally by you.

Mr Duell: Yes, Suzanne.

Mr Davis: And also by her; is that right?

Mr Duell: Yes.

Mr Davis: I seek leave to table that document as part of exhibit 7. So perhaps it could be 7A.

CHAIR: Is leave granted? Leave is granted. It is document 7A.

Mr Davis: Now, when a request came in for release of documents that otherwise had a 65-year RAP—

Mr Duell: Yes.

Mr Davis: What was the process? What did you actually do in order to make a determination?

Mr Duell: It was—first of all, there was very few of those that came to me. I wasn't aware of any process. There was no policy procedure, work instruction, handover notes—anything—related to it. So it was very a case of, 'What's this doing with us?'

Mr Davis: Well, did you set up a process?

Mr Duell: Sorry?

Mr Davis: Did you set up a process? A system?

Mr Duell: No, I suppose my response to it was—the initial request to Ms Sweeper to have a look at what's going on with these and why are we getting them. There's no reference to this type of thing in my position description. There's no authority or delegation in my position description relating to it. It was basically all news to me.

Mr Davis: Well, what, in fact, happened I suggest to you was that a request would be received and then you would delegate that request and sometimes that delegation was to Suzanne Sweeper?

Mr Duell: No, I often wouldn't receive the request at all. As I said, I had acted in the position on a number of times prior to 2011 and had never seen one of these before. It was fortunate that Janet was there at the time and she said that she dealt with them.

Mr Davis: Have a look at this document for me, please. Now, that is a file, isn't it?

Mr Duell: Yes.

Mr Davis: All right. And you will see that there are certain tabs that have been placed on the files. Do you see that?

Mr Duell: Yes.

Mr Davis: Just yellow sticky tabs?

Mr Duell: Yes.

Mr Davis: Now, if you go to tab B you will see some documents.

Mr Duell: Yes.

Mr Davis: Now, they are printouts from the Queensland State Archives, aren't they?

Mr Duell: Yes.

Mr Davis: And if you look at those printouts that are part of B there you will see an entry which is headed 'Description'. Do you see that?

Mr Duell: Yes. The highlighted part? Yes.

Mr Davis: Do you see that?

Mr Duell: Yes.

Mr Davis: Now, that description comes from the metadata, doesn't it—the metadata is the database from which—

Mr Duell: Yes.

Mr Davis: All right. So I suggest to you that what actually happened was if there was such a request then Suzanne Sweeper, if it was delegated to her, would print out that information from the database, which is B; do you see that? And then would hand that on to you and you would make a decision about it; is that right?

Mr Duell: No. I can recall this request for access for materials from Boggo Road, because Suzanne mentioned it to me along the lines of, 'I've got another request for Fitzgerald inquiry material.'

Mr Davis: So who made the decision about the request? Not you?

Mr Duell: Correct. I didn't.

Mr Davis: So who did?

Mr Duell: Suzanne.

Mr Davis: So she did that off her own bat without reference to you at all?

Mr Duell: Yes.

Mr Davis: I can tell you that there is some evidence from her to the effect that you made the decision and she produced the documents to you. So she produced those forms that are exhibit B and then you made the decision.

Mr Duell: I am unaware of it. As I said—

Mr Davis: Could that have happened, I am sorry?

Mr Duell: The records manager used to deal with these requests. As I said, I only became aware of it, I think, with the Tony Reeves request and the Matt Condon request, which didn't come through the normal process—well, what seems to have been the way that it was done: go out to State Archives, submit their forms. Matt Condon contacted our librarian and she forwarded his email on to me. So that was the first time I had an understanding that people were requesting information management for access to the records at State Archives.

Mr Davis: You've seen that file before though, haven't you?

Mr Duell: Oh yes I have, definitely.

Mr Davis: When you were subpoenaed to give evidence before this committee.

Mr Duell: Yes.

Mr Davis: As part of your preparation for giving evidence you referred to that file.

Mr Duell: Yes, definitely.

Mr Davis: Ms Sweeper had been on leave, hadn't she?

Mr Duell: Yes, she's only been back a few—

Mr Davis: A few weeks ago.

Mr Duell: Yeah, a few weeks, late February, mid February.

Mr Davis: Now, I suggest to you that on 12 March she came into your office and she asked you for access to that file.

Mr Duell: No, she didn't. It was somebody else came. I think it was Wendy.

Mr Davis: Is this Wendy Klynsmith?

Mr Duell: Can I take a moment to try to think? It was definitely not Suzanne. I'm pretty certain it was Wendy. She came—yeah, it was Wendy. She came in and said have I got file 157—AD11-157.

Mr Davis: Is that the document I've just given you?

Mr Duell: That's the file, yes. And I said, 'Yes, but I need it. I'm trying to put together the chronology for the PCMC.' And she said, 'Oh, can I just get it for a second then?', and she took the file and I said, 'Yeah, but I've got to have it back', and so she took the file.

Mr Davis: This is Klynsmidt?

Mr Duell: Klynsmidt, yeah—smith, Klynsmith, sorry.

Mr Davis: Klynsmith.

Mr Duell: Yes, Klynsmith.

Mr Davis: Did she bring the file back?

Mr Duell: No. Later that afternoon I went out and I said, 'Wendy, I need that file.', and she said, 'Suzanne's got it.' And I said—and I think she made a comment like, 'I thought it was back with you.', and I said, 'I really need to get that. Do you know where Suzanne is?' and—

Mr Davis: What time of day is this conversation with Klynsmith?

Mr Duell: I think it was after lunch.

Mr Davis: So you have the conversation and then what does she tell you?

Mr Duell: That she doesn't know where Suzanne is. She said that she thinks she—she thinks—what did she say? I can't accurately recall it, but basically it was indicating that Suzanne had taken the file and she said she might be around with Mark Pollock, I think, and—who was our solicitor here for a year—and I went round there and Mark wasn't there and neither was Suzanne.

Mr Davis: Did you eventually recover the file?

Mr Duell: I don't think I did. I think that the next place it was was down here, because I said—I don't know whether I saw Suzanne after that, but I said I needed that file for the chronology and I'm pretty certain I was informed that it had now gone down to the inquiry.

Mr Davis: Could you go to tab A for me, please?

Mr Duell: Yes.

Mr Davis: Tab A is an email, you see that?

Mr Duell: Correct.

Mr Davis: You will see in the top left-hand corner there is a staple mark—a staple hole?

Mr Duell: Yes.

Mr Davis: Indicating clearly enough that at some stage another document or documents had been stapled to that.

Mr Duell: It appears that it's the access to requested restricted records form behind it.

Mr Davis: Could it be the case that what was actually attached to that document were QSA printouts similar to those that are shown by tab B?

Mr Duell: I suppose that's possible. I'm not aware of it. I certainly didn't remove it and I can state now that I can't say I've ever seen it on this file.

Mr Davis: Well, I hadn't actually yet suggested that you'd removed it.

Mr Duell: Well, I think I could see where you were heading.

Mr Davis: So why are you denying that you removed it? I haven't suggested it to you yet. So why did you deny it?

Mr Duell: My apologies. I thought that's where the questioning was heading. Please proceed with your original question.

Mr Davis: Well, did you remove it?

Mr Duell: I've already just stated that I did not remove it.

Mr Davis: Yes, you did state that before I made the allegation or the suggestion. So it's not the case that you removed any documents from that email?

Mr Duell: No, definitely not.

Mr Davis: Those documents, if they were QSA printouts, would have contained descriptions on them, wouldn't they, like the other ones that are in B?

Mr Duell: Yes, I'd just say so.

Mr Davis: And would have contained therefore printouts from the metadata.

Mr Duell: Correct.

Mr Davis: Wasn't the case that there were documents which you saw attached to that email and the metadata descriptions were of some embarrassment to you?

Mr Duell: No, definitely not. And it's completely against my nature to do anything like that.

Mr Davis: And that you then destroyed the documents or removed them, is that the case?

Mr Duell: I think I've answered this question.

Mr Davis: Very well. Madam Chair, some in camera evidence was given by Suzanne Sweeper on 20 March 2013. In my submission that evidence should now be declared to be open evidence and a copy of the transcript of the evidence ought to be provided to Mr Duell who should have an opportunity to look at it.

CHAIR: The request is that the evidence of Ms Sweeper taken in camera be released for public consideration. Is leave granted? Leave is granted.

Mr Davis: I will provide Mr Duell with a copy and perhaps if the matter could be adjourned for 15 minutes for him to consider it.

CHAIR: Mr Duell, it's my intention to adjourn this hearing for 30 minutes until 20 past 4 to allow you to consider the in camera evidence.

Mr Duell: Thank you, Madam Chair.

Dr Mellifont: Can I very briefly deal with a summons matter before we break, if that's okay? Can I recall Mr Pollock, please?

CHAIR: Mr Duell, you're excused to have a look at that material. We are doing a procedural matter. Have you got the document yet?

Mr Duell: No.

Mr Davis: I'll provide it in just a moment, as soon as I can find a clean copy.

CHAIR: There's one. Mr Duell, please feel free to go out.

Dr Mellifont: Can I recall Mr Pollock?

POLLOCK, Mr Mark Dominic, Solicitor, Crime and Misconduct Commission.

CHAIR: Mr Pollock, you are still under oath.

Dr Mellifont: Mr Pollock, can you look at this document, please.

Mr Pollock: Yes.

Dr Mellifont: Mr Pollock, is that a document which you delivered this afternoon?

Mr Pollock: Yes.

Dr Mellifont: Was that given to you by Mr Horwood?

Mr Pollock: It was sent to me—forwarded to me as a screen shot and I printed it out and brought it here.

Dr Mellifont: Forwarded to you by Mr Horwood?

Mr Pollock: Yes.

Dr Mellifont: Your understanding is, tell me if I'm wrong about this, that this is a screen shot of Mr Hutchings' current Outlook account, is that correct?

Mr Pollock: Yes, correct.

Dr Mellifont: I seek leave to table that document, please.

CHAIR: Is leave grant? Leave is granted. It will be document 118.

Dr Mellifont: Might Mr Pollock be stood down?

CHAIR: Under your own undertaking to appear if required?

Mr Pollock: Yes, Madam Chair.

CHAIR: On that basis you are stood down, thank you. Any other matters, Dr Mellifont?

Dr Mellifont: There always are. Just one more. Can I seek leave to table this document? This comes from the Queensland State Archives by email today, 1.40 pm. You will recall that Ms Prowse undertook to provide us with the recent correspondence from the CMC and the metadata. This is what has been provided in that respect. So I seek leave to table that.

CHAIR: Is leave granted? Leave is granted. Is it such material that needs protection?

Dr Mellifont: No.

CHAIR: It is item 119.

Dr Mellifont: And I don't have anything further.

CHAIR: Therefore the hearing is adjourned until 20 past 4.

Proceedings suspended from 3.54 pm to 4.34 pm.

CHAIR: Prior to dealing with Ms Florian, I seek leave of the committee to authorise Mr Davis to hand to Mr Duell's solicitor, Mr Reidy, a file requested by Mr Duell on the undertaking that Mr Reidy return the file to us intact. Is that authorisation granted? Authorisation is granted. Please swear in Ms Florian.

FLORIAN, Kathleen Mary Therese, Assistant Commissioner—Crime, Crime and Misconduct Commission

Witness was sworn—

Dr Mellifont: Can you state your full name, please?

Ms Florian: My full name is Kathleen Mary Therese Florian.

Dr Mellifont: What is your current position?

Ms Florian: My current position is the Assistant Commissioner Crime of the Crime and Misconduct Commission.

Dr Mellifont: Can I ask you to look at this document, please? Is that the role description for the position you currently hold?

Ms Florian: It is.

Mr Davis: How long have you held that position?

Ms Florian: I have held that position since January 2012.

Dr Mellifont: I seek leave of the committee, please, to table that role description.

CHAIR: Is leave granted? Leave is granted. It is document 120.

Dr Mellifont: Can I just briefly place some of your qualifications on the record. You hold a Bachelor of Arts, Bachelor of Law Honours, from the University of Queensland, the latter in 1991.

Ms Florian: I do.

Dr Mellifont: Were you admitted as a barrister at law at the Supreme Court of Queensland in 1992?

Ms Florian: I was.

Dr Mellifont: Have you been with the Crime and Misconduct Commission from 2012 to 2013?

Ms Florian: I have.

Dr Mellifont: Prior to that, did you have an SES position at the Australian Crime Commission, 2006 through 2011?

Ms Florian: I did.

Dr Mellifont: And prior to that, 1995 through 2006, with the Australian Crime Commission, National Crime Authority, executive level 2?

Ms Florian: That's correct.

Dr Mellifont: I ask you to look at this document, please. Is this a report which you have prepared and forwarded to the committee in respect of some matters the subject of the inquiry?

Ms Florian: It is. Annexure A is duplicated on the back, but it is.

Dr Mellifont: It is undated, but can you say when you prepared this statement?

Ms Florian: I prepared this statement on Monday of this week.

Dr Mellifont: I seek leave of the committee, please, to table that document and may I suggest it be marked 'not for publication'. It does have some sensitive material in there as to risk.

CHAIR: Is leave granted that the document be tabled, not for publication? Leave is granted. It is document 121.

Dr Mellifont: Ms Florian, is it the case that material has come to you which, if you are able, to provide a supplementary report on Monday that will make that report more up-to-date?

Ms Florian: Correct.

Dr Mellifont: Do you undertake to do so?

Ms Florian: I do.

Dr Mellifont: Might I suggest to the committee that when that document is received it too be marked 'not for publication' because of the same reason as the substantive report?

CHAIR: Is leave granted? Leave is granted.

Dr Mellifont: Ms Florian, we want to get a sense of what it was that you did. Following the discovery in early March 2013 that former Fitzgerald inquiry documents had been available for public viewing by the Queensland State Archives, were you tasked with analysing the information that had been viewed or may have been viewed and assessing any risks posed by the public dissemination of that information to persons, especially informants or witnesses?

Ms Florian: Especially informants or witness protectees.

Dr Mellifont: Can you briefly outline the process you undertook?

Ms Florian: Okay. A series of documents were scanned by the Queensland State Archives and received by the CMC on five discs. Those discs were received between 11th and 14th March. Firstly, the discs were triaged to determine, of the documents contained within those discs, who was the agency who was the owner or had responsibility for those documents. That allowed us to identify what documents were, in effect, documents that the CMC controlled the risk in respect of and what documents created an exposure for other agencies, principally the ACC on behalf of the National Crime Authority and the Australian Federal Police. Once that triaging process was undertaken, steps were taken to disseminate the relevant documents immediately to the Australian Crime Commission and to the Australian Federal Police, so that they could independently undertake their own assessment of risk in respect of those documents.

We then commenced a risk assessment process in respect of the documents for which the CMC was the risk owner. That risk assessment process involved understanding, firstly, what was the risk that we were looking at. There are a number of categories of risk which emerge in a consideration of a situation like this. But the risk that we honed in on was the risk of identification of informants or witness protectees and what safety concerns that might mean.

After that, we set up a small team of senior officers who then assessed all documents that were provided by the State Archives to identify any references to informant information or witness protectees in circumstances where the name of that source or protectee was identified. Then, in respect of each of those identified occasions, we asked a number of questions: who had accessed the document; is the informant still alive; what was the nature of the information provided; the seriousness or the context of that information; who did they provide that information about; is the target that they provided that information about still alive; has their assistance previously been disclosed, either through a court or an inquiry process or through the media; and what is the known capacity or the likelihood of targets to seek retribution. A risk ranking was adopted of low, moderate and significant.

It should be noted that there are some limitations on a risk assessment of this kind. Ideally, if you were doing a risk assessment and it happened fairly recently, you would have a very high degree of certainty about the nature of your assessment. But because the events involved in this occurred up to 26 years ago, that presented certain difficulties for us in accessing the information necessary to make a strong assessment of risk. Finally, we were able to make an assessment of exactly the number of people identified and what level of risk resulted from that.

Dr Mellifont: Did the risk analysis involve a consideration of the reputational risks to persons adversely mentioned in the material but never charged or disclosed in the inquiry?

Ms Florian: I considered at the outset of this about four or five different possible risk categories and that was one of them. It is certainly the case that the material identifies issues which could affect the reputation of persons. But it was considered that a legislative response to that risk would probably be a much more effective response to that risk and, rather, the risk around potential informants was something that required an urgent consideration to get a sense of whether the safety of any persons had been compromised and to take all necessary action in respect of that.

Dr Mellifont: Did the risk analysis involve looking at revelations of investigative methodology?

Ms Florian: No, it didn't. Investigative methodology is, again, a context of risk that I considered. But given that the investigative methodology revealed here is an investigative methodology that was in place some 26 years ago and investigative methodology has evolved significantly since that time, particularly around informant management I am pleased to say, I took the view that revelation of that investigative methodology, while of historical interest, could not compromise current investigative methodology.

Dr Mellifont: Perhaps in a similar vein, was consideration given to the risk of identification of ongoing investigations?

Ms Florian: Yes, but because of the age of the matters I have no concern that ongoing investigations are compromised.

Dr Mellifont: Just a few more questions to get a sense of the numbers. Your report reveals that 510 documents have either definitely been accessed or may have been accessed; is that correct?

Ms Florian: That's correct.

Dr Mellifont: And the commission has examined, at the time of your report, 459 of those documents?

Ms Florian: That is correct.

Dr Mellifont: And of those documents, 200 were definitely accessed through the Queensland State Archives?

Ms Florian: That's correct.

Dr Mellifont: Is it the case that, in respect of these documents, your examination identified a number of living persons, 13 to be precise, where there was either a low or moderate risk?

Ms Florian: That is correct.

Mr Davis: And further, of the 281 documents that may have been accessed, three further persons were identified that are still living?

Ms Florian: Yes.

Dr Mellifont: And the risk to two of them has been assessed as low and the risk to the other is still under consideration?

Ms Florian: All three, low. That is one of the amendments that I intend to make to my report, that the one under consideration has now been assessed as low risk.

Dr Mellifont: In respect of the persons considered at moderate risk, has the CMC taken what it deems to be appropriate action?

Ms Florian: Yes, we have.

Dr Mellifont: Has the CMC received feedback from some of these persons a desire that the protective legislation passed by the parliament in early March continue so as to prevent republication of the material?

Ms Florian: Yes, we have.

Dr Mellifont: Those are my questions for Ms Florian.

CHAIR: Are there any more questions? Thank you, Ms Florian, you may stand down.

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

CHAIR: Welcome, Mr Hutchings. I remind you that you are still under oath. I call Dr Mellifont.

Dr Mellifont: Can I show you tabled document 112. This is the document that I tabled before without the presence of a witness and explained that it had come from Mr Eberhardt. Mr Hutchings, you weren't present before but that document was received by the committee as a document provided to my instructing solicitor from Mr Eberhardt as a document you provided him. You have that before you?

Mr Hutchings: I do.

Dr Mellifont: Is that a document you in fact provided to Mr Eberhardt?

Mr Hutchings: Yes.

Dr Mellifont: In the course of preparing for these proceedings?

Mr Hutchings: Yes.

Dr Mellifont: Where did you get that from?

Mr Hutchings: Because it has got my name at the top I've printed it from my work computer because it is a draft email on my work computer.

Dr Mellifont: And today did you give Mr Horwood access to your Outlook?

Mr Hutchings: Yesterday. I gave him access yesterday.

Dr Mellifont: But today at around lunchtime did you attend at the CMC with Mr Horwood specifically to allow him to gain access to this particular document?

Mr Hutchings: Yes, he was already into my emails when I got back to my desk.

Dr Mellifont: I'm going to show you tabled document 118. Have you seen this document, Mr Hutchings?

Mr Hutchings: I've seen it briefly today, yes.

Dr Mellifont: Looking at the right-hand side of both pages we appear to see that draft email which was TD 112.

Mr Hutchings: Yes.

Dr Mellifont: And on the second page the view that we see in this screen dump records a creation, modification and receipt date and time of 3.30 pm on 30 May 2012?

Mr Hutchings: Yes.

Dr Mellifont: All right. Are you able to say now whether that accords generally with your recollection as to when that draft would have been prepared?

Mr Hutchings: Generally, yes.

Dr Mellifont: I'll turn to the chronology soon. I just want to take you to a copy of other documents first. Can I ask you please to be shown tabled document No.7. This is the memorandum from Ms Sweeper to General Council in respect to the access to Fitzgerald inquiry records. Can I also ask that you be shown tabled document 18. Tabled document 18 has within it your email advice of 23 December 2011.

Mr Hutchings: Yes.

Dr Mellifont: In compiling that advice was that in response to Ms Sweeper's memorandum of 7 December 2011?

Mr Hutchings: It was.

Dr Mellifont: Going then to the memorandum of 7 December 2011 you will see that in the first line the background records that the majority of records relating to the Fitzgerald inquiry were transferred to the Queensland State Archives.

Mr Hutchings: Yes.

Dr Mellifont: Upon reading Ms Sweeper's memorandum did it occur to you that, apart from public exhibits and exhibits which were made not for publication, it is likely that the Fitzgerald records also included documents which fell within neither of those categories?

Mr Hutchings: Can you repeat that, sorry?

Dr Mellifont: Yes, I will. Perhaps I'll rephrase it. You will see from the memorandum that certainly spoken of in specific terms are exhibits which were made public?

Mr Hutchings: Yes.

Dr Mellifont: And exhibits which were marked not for publication?

Mr Hutchings: Yes.

Dr Mellifont: Did it occur to you that, apart from those two categories of documents, the Fitzgerald inquiry records would have also comprised documents that fell within neither?

Mr Hutchings: It did not occur to me that that was the case. In any event, my attention would have been drawn to the issues identified on the second page because that's what I was asked to advise on.

Dr Mellifont: So to your mind what you were being asked was limited to those two categories of documents? That is, the ones which were marked not for publication and the public exhibits and transcripts?

Mr Hutchings: Yes. Because in the five items listed under issues identified on page 2 there is only two categories of documents to my understanding. And I'll also point out that in the recommendations recommendation 1 relates to one category of documents and recommendations 2 and 3 appear to relate to category 2 addressed in my advice.

Dr Mellifont: Prior to providing your advice did you have any conversation with anyone as to the general nature of the Fitzgerald inquiry holdings or were you being purely responsive to the memorandum by Ms Sweeper and the issues identified, as you perceived them, in that memo?

Mr Hutchings: Correct, the latter.

Dr Mellifont: I just want to take you back please to 29 and 30 May 2012.

Mr Hutchings: Yes.

Dr Mellifont: Can I ask please that you be shown tabled document 99 and tabled document 35. Firstly, in respect of tabled document 35, which is the draft email, and above the line at the top is Zora Valeska, can you tell the committee how the printout with her name at the top left came to be?

Mr Hutchings: Yes, the exercise of responding to the summons last week was handled by the creation of a separate TRIM folder into which all responsive documents were put. I asked Zora to assist me to extract relevant emails from my computer. She sat with me at my machine. She copied over emails. They went into this TRIM folder.

Dr Mellifont: Were you with her when that was occurring?

Mr Hutchings: Yes.

Dr Mellifont: Identifying emails for her?

Mr Hutchings: Correct. She was doing the mechanical aspects. They then made their way to electronic and hard copies for the committee pursuant to the summons.

Dr Mellifont: All right. Insofar as the printout, what's your understanding as to where she was when she did the printout?

Mr Hutchings: My understanding is that if there is a header with a person's name on a printed email it means that that person would have printed it from their machine. So what I expect has happened is that—and, in fact, she asked me if it was okay to go and print them from her machine, I recall. I said, 'Yes.' She's obviously done that and that's why her name appears at the top.

Dr Mellifont: All right. Can I ask you to place—you probably already have—tabled document 99 and tabled document 35 side by side.

Mr Hutchings: Right.

Dr Mellifont: In tabled document 99 we have the email from Mr Duell at 9.45 am on 30 May to you in which he told you that—

... the issue identified by Barry Krosch arose from a misunderstanding at our end and was discussed yesterday with Queensland State Archives. QSA rectified this immediately and the COI surveillance reports have been returned to their 65 year restricted access period.

Mr Hutchings: Yes.

Dr Mellifont: Now what appears to happen next chronologically, so far as we can tell on current information, taking into account this screen dump which is tabled document 118, is your production of the draft email to Mr Martin. If that 3.30 pm creation date is, in fact, correct that is what appears to happen next in the chain?

Mr Hutchings: I agree with that, yes.

Dr Mellifont: So at 3.30 that day you had started the process I suggest of producing some correspondence to Mr Martin to give him an update as to inquiries being made in respect of the restricted access issues?

Mr Hutchings: That appears to be the case, yes.

Dr Mellifont: Right. At this point in time would you agree that the draft seems to indicate that you felt that there was more that needed to be done in respect of those inquiries?

Mr Hutchings: Well, that's the language used in it, yes. I don't recall specifically writing that but—

Dr Mellifont: Is that what it indicates to you?

Mr Hutchings: Yes.

Dr Mellifont: You know how you operate. Is that what it indicates to you?

Mr Hutchings: Yes.

Dr Mellifont: On the last occasion you gave evidence you indicated that on 30 May there was a staff briefing as to potential future staff cuts?

Mr Hutchings: If I mentioned it was the 30th, then that would have been an error because I thought I had mentioned it was the 29th.

Dr Mellifont: Yes, your memory is correct of your evidence and my mine is incorrect. So the next thing we have which occurs in the chronology is your communication to Ms Valeska cc Wood at 5.29 pm.

Mr Hutchings: Sorry, would you excuse me? Sorry.

Dr Mellifont: That's all right. Is there something you wanted to bring to my attention?

Mr Hutchings: Well, I just notice that Mr Duell had cc'ed Sidonie Wood on that email. So, to the extent that I copied Sidonie into that reply, she would have already known.

Dr Mellifont: Yes, that is apparent on the face of the email. Thank you.

Mr Hutchings: It's a minor point.

Dr Mellifont: Very well, thank you. So we see at 5.29 pm, a couple of hours after the draft, you write to Ms Valeska—

See the attached reply from Peter. Not sure if this addresses the concern we had. In any event, we can discuss tomorrow.

Rob

Mr Hutchings: Yes.

Dr Mellifont: So at this point in time, 5.29 pm on 30 May, you're not satisfied in your mind that Mr Duell's response addresses the concern that you had. Correct?

Mr Hutchings: That seems to be what I had in my mind, yes.

Dr Mellifont: And you suggest 'we can discuss tomorrow'.

Mr Hutchings: Yes.

Dr Mellifont: Did you in fact discuss it the next day?

Mr Hutchings: As I indicated, I don't recall having a discussion the next day. But it may have happened given that the draft email to the chairperson never went.

Dr Mellifont: Yes.

Mr Hutchings: That would be consistent with it, having had a discussion at which I was told that something was already occurring about this.

Dr Mellifont: You've done all you possibly can in terms of interrogating your email records including requiring that backup tapes be interrogated for any emails on this topic. Correct?

Mr Hutchings: I've done what I think is necessary to do the most thorough job of finding emails relevant to this.

Dr Mellifont: Yes, and it seems that the result of that interrogation, and your efforts in that respect, has turned up nothing subsequent to 30 May 2012. Is that correct?

Mr Hutchings: Well I've been through my emails at least two times now around that time and I can't locate anything else.

Dr Mellifont: Yes. So what appears to be the case insofar as the records we have been provided is that there is a lot of communication by email and some discussions occurring on 29 May, 28 May and it would seem the few days prior, and then it just stops. Are you able to explain what happened after that in respect of you being satisfied that the concern you had was addressed?

Mr Hutchings: Well, I would like to say that the chairperson had told me that he had tasked Sidonie with doing some sort of investigative activity in relation to it, because that would explain why it does just stop. But I just can't remember a discussion about that.

Dr Mellifont: So you don't know now whether the chairperson did task Sidonie to do that?

Mr Hutchings: Now, today?

Dr Mellifont: Yes.

Mr Hutchings: Well I do know now that he had tasked her and according to his evidence he—

Dr Mellifont: Sorry, I will rephrase. It was a very badly asked question. At the time of these events—that is, late May 2012—were you aware that the chairperson had tasked Ms Wood to make inquiries in respect of the issue?

Mr Hutchings: No.

Dr Mellifont: On 29 May and 30 May, that period of time, did you have any understanding at all as to why the Legal Services Unit was being involved in looking at the issue?

Mr Hutchings: Well, it would have only been because Sidonie had received an email from Barry Krosch. That would have been my understanding at the time.

Dr Mellifont: Did you make any inquiries of Sidonie, of Ms Valeska, of Mr Martin as to why the LSU was involved?

Mr Hutchings: Well I wouldn't have needed to make inquiries about any of them if it had been forwarded to me from Sidonie because there it was. It had come to her.

Dr Mellifont: I am just trying to get a grasp—you actually became involved in giving some direction as to what should or should not occur in respect of this issue. Do you accept that?

Mr Hutchings: Yes.

Dr Mellifont: Why? Why did you become involved?

Mr Hutchings: Because, as I explained the last time I gave evidence, it would have been a collaborative effort at the time to address what was perceived to be an issue, and it was elevated to the chairperson and he took action. I now know he took action on it.

Dr Mellifont: You would have perceived it as having true potential for embarrassment to the commission that this sort of information was out there I take it?

Mr Hutchings: I would have perceived it as an issue because I got involved at the time. I can't recall the specific discussions that took place, but some of them are reflected in the emails. But I don't—as I said, my memory fails me on what those specific discussions were.

Dr Mellifont: What I am suggesting to you is, apart from merely observing it to be an issue, it must have occurred to you that this was a potential source of embarrassment or risk to the CMC that this kind of information was out there and that it was important for it to be closed down.

Mr Hutchings: It would have occurred to me that it was an issue that needed attention which is why I got involved.

Dr Mellifont: And your role as General Counsel really is to provide such support as you can as a lawyer to the chairperson. Correct?

Mr Hutchings: Support in terms of legal advice, yes.

Dr Mellifont: And in terms of the possible wrongful dissemination of protected information, that really does fall within the sort of category that a lawyer would engage themselves in in reporting back to the chairperson and making sure the commission's position was protected. Do you agree with that?

Mr Hutchings: Yes.

Dr Mellifont: Why then did you not make sure that the concerns were addressed and the chairperson was fully reported to?

Mr Hutchings: The issue was of no greater significance at the time to me than other matters of pressing concern and, having elevated it to the chairperson and having received assurances from the director of information management that the issue had been resolved and had apparently been a relatively minor issue, then I would have felt that there was no further need for me to do anything more. As it transpired, something had occurred without me knowing it. So I'm not sure—

Dr Mellifont: Sorry, when you say, as it transpired, something had occurred without you knowing, what do you mean by that?

Mr Hutchings: Well I now know that the chairperson had already taken action in respect of it.

Dr Mellifont: But that's information gathered much later in time.

Mr Hutchings: Sure.

Dr Mellifont: I have no further questions for this witness.

CHAIR: I call the member for Redlands.

Mr DOWLING: Mr Hutchings, you have tendered a statement to this inquiry. It is a statement of Robert Russell Hutchings. Are you familiar with that document? I know you don't have it in front of you, so I will work through it.

Mr Hutchings: I've had a few statements, so I am not sure which one.

Mr DOWLING: As long as you are satisfied that that is the document, I would ask you to look at page 3, paragraph 14.

Mr Hutchings: Is this the 17 March statement? There is a date at the end.

Dr Mellifont: It is.

Mr Hutchings: I have paragraph 14, yes.

Mr DOWLING: In that you say—

I asked another CMC officer, Ms Zora Valeska, to locate the Brifman transcripts. I remember her bringing me an archive box containing them, but I do not now specifically recall reading them in any detail.

During your testimony the other day you actually said you remembered seeing the archive box arrive and it was sitting in your office. Whereabouts in your office was it?

Mr Hutchings: It was on a credenza near my door.

Mr DOWLING: How long did it sit there?

Mr Hutchings: I'm not sure exactly. It would have been a few weeks.

Mr DOWLING: And in all that time it never dawned on you, even out of morbid curiosity, to flick it open and see what was in there?

Mr Hutchings: No.

Mr DOWLING: Thank you. The other question I have relates to paragraph 35. It is on page 6, the final page of the statement itself. It says—

Mr Duell's reply acknowledged that the issue arose from "a misunderstanding at our end". I took this 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. Mr Duell reported that the problem had been rectified immediately.

Is that a fair and accurate assessment of what you have provided us?

Mr Hutchings: Yes.

Mr DOWLING: Who did Mr Duell report to that it had been rectified?

Mr Hutchings: That was what was contained in his email.

Mr DOWLING: To whom?

Mr Hutchings: To me.

Mr DOWLING: That it had been rectified and you are accepting on the surface that that was adequate?

Mr Hutchings: I will just check the email. That is what it appears—that is what it says. It says 'QSA have rectified this immediately', and it was copied to Sidonie Wood.

Mr DOWLING: And to yourself?

Mr Hutchings: Yes.

Mr DOWLING: Are either of you Mr Duell's superiors as in he reports to you?

Mr Hutchings: No.

Mr DOWLING: Do you think that that is an acceptable practice for members of an organisation to cross-notify other members of an organisation without actually going up the corporate ladder, as it were, to the appropriate superiors?

Mr Hutchings: Sorry, Madam Chair, I did not catch a word that was used in that question. Was it 'cross-note'?

CHAIR: Can you repeat the question, please?

Mr DOWLING: Do you think it is appropriate for a staff member to report across the organisation rather than up the organisation to his immediate superior?

Mr Hutchings: Well, I asked him a direct question in the email immediately prior. So it would have been appropriate for him to respond directly to me.

Mr DOWLING: And you refer that it was reported—is there such a report in existence that you know of that actually outlines what happened, or is it just this email?

Mr Hutchings: Sorry, I do not—

Mr DOWLING: The last line in chapter 35 says, 'Duell reported that the problem had been rectified immediately.' By 'reported', is your version of a report in this circumstance that solitary email?

Mr Hutchings: Yes.

Mr DOWLING: That is all you required?

Mr Hutchings: Yes.

Mr DOWLING: Okay.

Mr Hutchings: From a member in his position that is all I would have required.

Mr DOWLING: Thank you. I have nothing further.

CHAIR: Member for South Brisbane.

Ms TRAD: Mr Hutchings, as counsel responsible for providing legal advice to the chairperson, did you at any stage advise the chairperson that he should report under section 329 to the PCMC?

Mr Hutchings: No.

Ms TRAD: Why not?

Mr Hutchings: As I think I have said, the matter was not of a sufficient level of concern to do so based on what I had been told at the time.

Ms TRAD: But in your draft email you do make reference to the fact that covert material has been made publicly available. You do not consider that a significant issue?

Mr Hutchings: In circumstances where the responsible head of the department had advised me that there was a relatively minor issue that had been rectified, I would have accepted that and there would have been no reason for me to go behind that and continue with investigations unless some other circumstances had arisen.

Ms TRAD: With all due respect, Mr Hutchings, that is actually about not reporting the fix, reporting the problem. The problem existed and the committee had a right to know about it under section 329. As the CMC's general counsel, I think that you should have had a responsibility to advise the chairperson to report the matter.

Mr Hutchings: Sorry, Madam Chair, was that a question?

Ms TRAD: You can take it as a question if you want, or if you have any comments in response to it. The access—the public access of surveillance material, a significant breach of the confidentiality of those documents, is a significant issue. It is not only a significant issue in hindsight, it is a significant issue that was brought up by Mr Krosch at the time and, as such, should have been reported to the committee. That is certainly how I feel and how the committee feels.

CHAIR: Member for Nicklin.

Mr WELLINGTON: Mr Hutchings, I have been trying to get a picture in my mind of what was happening in the CMC during the time that the committee is investigating. I have heard about staff meetings, about anticipated sackings and redundancies. We have heard about staff acting in acting positions and moving around. Can you just clarify for me your understanding of staff movements? What I am looking for is: was it the situation that staff—what was happening in the offices in relation to staff workloads and the normal work environment as you understand it?

Mr Hutchings: As I understand it, at the time Ross was inordinately busy. He had arrived at the CMC and there had been a couple of rather major issues that confronted him when he arrived. The election had created a couple of issues. I would prefer to discuss those in camera if you need that information.

Mr WELLINGTON: Do not need to.

Mr Hutchings: But as at May the most pressing issue that I perceived for senior management was the prospect of a reduction of the budget and that did have some significant impact on staff generally. That is about all I can say about that.

Mr WELLINGTON: Can you comment on your workload? Earlier I think you indicated that this was not the only matter you had to deal with at the time. Was it a case you had a hundred cases? Were you in and out of court? Just give me a picture as to how things were in the office.

Mr Hutchings: The LSU, you have probably already heard, is a reasonably busy centre. It is not a large team of lawyers, but we advise on every issue that confronts the commission. So we need a unique set of skills. There were a number of legal issues that were pressing at that time. I can dig out what they were for you if you want.

Mr WELLINGTON: I am keen to see what sort of support do you and does your office have? Is there you and a secretary, or a bank of secretaries—

Mr Hutchings: No.

Mr WELLINGTON:—or basically it is a skeleton crew and you are working as if there were twice as many staff?

Mr Hutchings: There is one AO2 legal assistant, who is my PA if you like. Then there is Ms Wood and a deputy official solicitor. Then there is a PO5 and an AO4. The PO5 and the AO4 were principally tasked with TI work.

Mr WELLINGTON: Sorry, TI? What does that stand for?

Mr Hutchings: Telecommunications interception. Since some staff reductions, they now have RTI responsibilities as well.

Mr WELLINGTON: What does that stand for?

Mr Hutchings: Right to information. So there is a unique work mix. I suppose the ongoing litigation that is handled by the official solicitor and the deputy official solicitor can, if anyone who has ever done litigation will know, become all consuming. That can reduce capacity in a small team for handling urgent matters.

Mr WELLINGTON: Earlier in your evidence I think you were indicating that one of your staff was a valuable resource and it was not foreseeable or possible for her to simply go down to the archives to do a fishing exercise; there were more pressing matters. Was that dealing with court appearances or other research matters? I think Ms—

Mr Hutchings: Ms Valeska.

Mr WELLINGTON: Yes.

Mr Hutchings: Ms Valeska and her direct manager, the PO5 senior legal officer, have an extremely important role to perform. They are there principally to attend to applications for phone tapping basically. Now, they do purely responsive work. In other words, they may not know that an application is required. It might come in very urgently and they might have to attend to it on a very urgent basis. If one of those two people was not available it would significantly impact on the ability of the LSU to advise on those applications. Accordingly, one would be reluctant to divert that resource from their core responsibilities. I do not know that that would be too unusual an approach from that taken in other government agencies.

CHAIR: Member for Greenslopes.

Mr KAYE: Do you still have the screen-print of your drafts box there?

Mr Hutchings: I think I have given it back. I have a black and white copy.

Mr KAYE: Just a general question. I know how I use my drafts folder in Outlook but I am just intrigued as to how you use yours. I know everybody has different ways that they use this thing. I notice there are obviously quite a lot of emails in there going back to September of 2011. I think that was the oldest one. Are they all emails that you have started and have not sent, or is there another reason why all those would be in there?

Mr Hutchings: Yes, it looks like they are all ones I have started and not sent, yes.

Mr KAYE: What sort of reasons would you then not send it? You have sent another email or you have had a phone conversation or something along those lines?

Mr Hutchings: It is probable that I have forgotten that I have saved it as a draft and then I have sent a fresh email.

Mr KAYE: Thank you.

CHAIR: Mr Hutchings, can you clarify for me. The official solicitor and deputy solicitor work in the same general area as you, but you said in your testimony earlier that you do not have intimate contact with the official solicitor and the deputy solicitor; they run litigations? Is that correct?

Mr Hutchings: I do not have a directory role to perform in respect of the litigation that involves the CMC. They run that.

CHAIR: Are they answerable to you? Are you the senior person in that bracket of the work area?

Mr Hutchings: Yes, in the sense that I approve their leave and those sorts of things. But when it comes to running the litigation such as QCAT matters or other types of work that they do, they have the full carriage of those matters.

CHAIR: It was not evident when Ms Woods gave her testimony that she had any initiative at all—my observation of her answers to questions. So you are saying that it was part of her job to use her initiative to respond to issues or to initiate issues necessary in her category of work?

Mr Hutchings: My assessment of Ms Wood is that she does have excellent skills as an official solicitor. I was on the panel that appointed her. I do not know what more I can say about that, Madam Chair.

CHAIR: That is fine. Back in August 2011 there was a number of emails that passed with Peter Duell, yourself and Sidonie Wood and it was in relation to the Brifman file?

Mr Hutchings: Yes.

CHAIR: In 2011. You provided us with some emails?

Mr Hutchings: Yes, yes.

CHAIR: The member for South Brisbane raised the issue of whether these matters in relation to the release of the Fitzgerald inquiry documentation should have been referred to the PCMC under 329, and you have said that you felt that it did not meet the threshold of concern—my words, not yours. I have two questions. My first question is: if they did not raise the—if in your opinion they did not raise the 329 matter, did you give no consideration to the political sensitivity of the matters of Fitzgerald to recommend to the chair that he at least alert the committee to some issues, albeit from your perspective, addressed?

Mr Hutchings: Madam Chair, I didn't give consideration to those political considerations. It wasn't a matter in my mind at the time. There was very little information that I had to support the assertion that the documents were actually out in the public domain. I asked the responsible officer whether that was correct and I was given an assurance that the issue had not been a significant one and it had been rectified. And in those circumstances, no, I do not think it would have met the threshold for improper conduct because that was not a matter that we turned our minds to, based on the advice we had been given.

CHAIR: Can I show you, please, a copy of an email that you provided to us. It is dated Tuesday, 16 August 2011. There are three emails that date between Sidonie Wood, Leanne Hardyman and yourself. I will take you to the second email. It is dated 16 August 2011, time-stamped 12.48 pm. Leanne writes to Sidonie—

Hi Sidonie

Peter has since contacted me and said that the matter is with Rob, so I will leave it with Rob to determine what needs to occur.

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

And then later on in the afternoon Sidonie Wood writes to you, in confidence—

Query whether Peter Duell's statements to the journalist is improper conduct under our Code of Conduct. It was clearly an unintentional dissemination. I will leave that to you to assess.

Did that email give you cause to think about the conduct of the officer and whether it triggered the obligation to advise the committee of a potential 329?

Mr Hutchings: Madam Chair, could I see the email that Leanne Hardyman speaks of in her email of 16 August?

CHAIR: We can provide what you provided us. Certainly.

Mr Hutchings: Yes, sorry. I should have it. Madam Chair, I am struggling to see why it would have been an unintentional dissemination as Ms Wood suggests. I do not perceive there to have been a dissemination of any information as that term is used in the act in sections 55, 60 or 62. So I wouldn't have perceived it to be a dissemination of information. In any event, using less-than-discreet language to a journalist would not ordinarily or automatically constitute improper conduct.

CHAIR: She doesn't call it 'less than discreet'. She says, 'Peter Duell's statements to the journalist ... It was clearly an unintentional dissemination.' She is using quite definite words. She hasn't hinted at it. She said, 'It was clearly an unintentional dissemination'—that Peter Duell's statement to the journalist is improper conduct under the code. I am just wondering whether that gave rise for you to consider an advice to the chair to alert the PCMC. A question to interpose in there: in your role as the legal adviser to the chair, do you give advice on each and every suspected 329 breach?

Mr Hutchings: No, definitely not.

CHAIR: So when you received this email from Sidonie Wood—and it has 'Matt Condon request' as the subject—how did you consider the concern that Ms Wood passed on to you?

Mr Hutchings: I do recall this email because it struck me as one that was less than discreet. But just because it demonstrated a level of discretion that I wouldn't have demonstrated in one of my emails, I do not think it would have automatically followed that it was improper conduct. That is possibly why I didn't take any further action about it. Even reading it now, there are things in there that certainly I wouldn't have put in, but it's not an email that causes me sufficient concern that it has disseminated information that the CMC is in possession of.

CHAIR: The email dated 15 August, at 3.25. I believe you have that there?

Mr Hutchings: Yes.

CHAIR: From Matthew Condon to Peter Duell—and this is in the thread that you have—it is stated—

Has there been any movement whatsoever on the Brifman transcripts? I'm preparing to write the book at it would be a great relief to know if I can view those documents... I have recently read a manuscript that has been submitted to a local publisher on Glen Patrick Hallahan, and the book freely uses extracts from Brifman's transcripts.

I'm assuming that that is the conduct she is talking about? No, it can't be. My apologies. Can we adjourn for five minutes, please.

Proceedings suspended from 5.36 pm to 5.39 pm

CHAIR: I will rephrase my question because I have had a misunderstanding, I believe, of the context. The question from Sidonie Wood to you on 16 August was—

Query whether Peter Duell's statements to the journalist is improper conduct under our Code of Conduct.

Do you recall what those statements related to?

Mr Hutchings: I have taken it to mean the statement contained in Peter Duell's email to Matthew Condon of Monday, 15 August at 4.51.

CHAIR: And are you saying that Sidonie Wood was suggesting that Peter Duell's statements to a journalist about perhaps the lack of staff in the Legal Services Unit was seen by Ms Wood and improper conduct?

Mr Hutchings: That seems to be what she thought was the case, yes.

CHAIR: Did you reply to her at all?

Mr Hutchings: I assume if I had I would have provided that to the committee. I did notice that that email from Ms Wood does suggest she is going to leave it to me to assess.

CHAIR: Okay. When you went out to the QSA, you were tasked—because it appears at the CMC you only respond if you are tasked—to go out to the QSA and to go through the string of documents—the situation as it was on 6 March this year. What days did you go out to the State Archives?

Mr Hutchings: Yes, I think it was 6 March, in the afternoon.

CHAIR: What was your reaction when you started to see the documentation that had been made available?

Mr Hutchings: Madam Chair, I might preface my response by saying that I do not agree with the statement that we only respond if tasked to do so. When I went to the State Archives I was required to locate and scan or copy all of the documents that were either made available to those who requested them—and by that I mean documents that were actually requested or documents that were in boxes that had been provided to requesters—and to report back on those documents.

CHAIR: And it was the report that you provided that was the basis of Ms Florian's report to us about the risk assessment? Would that be right?

Mr Hutchings: Well, the report was eventually morphed into a provision of documents in toto. So all documents we asked State Archives to scan and provide to us electronically. That was the quickest and most efficient way of doing it in the circumstances.

CHAIR: Sure.

Mr Hutchings: But the first assessment I had to make was what documents had been provided. And we were provided with a spreadsheet from State Archives which you have seen. That was a reasonably accurate estimation of the documents that had been provided between February 2012 and March 2013. But we learned that there were other documents that had been made available because of State Archives' practice of providing entire boxes to requesters. Now, that is what engaged my attention and that is why the 230-odd entries becomes a larger number in terms of assessing the documents that we ultimately assessed. I am not sure if that is terribly clear, but there are more documents that were potentially made available to people who requested them than appears on that list.

CHAIR: So how can we be sure that Ms Florian's assessment of the risk profile is accurate?

Mr Hutchings: Well, as I said, what we have done is we have asked Archives to scan all documents in the box if the entire box was given to a journalist—or to a requester.

CHAIR: So what was your reaction when you saw the documents that had been accessed?

Mr Hutchings: Obviously concerned.

CHAIR: Let me go back to your response about being tasked. We've had quite senior people from the CMC sitting here this week—and possibly last week—and in response to questions about their role in a chain of events, they're response—more than one person and more than one time—was, 'I wasn't tasked to do it.' It was more than once that that response was given—I wasn't tasked to do it.' Indeed—and I can't speak for the rest of the committee—my impression certainly is that many at the CMC work fairly much in silos and if they're not tasked they don't think. I would've thought the organisation operated differently to that, but I can only form an opinion on what has been said here, and hence my comment about being tasked to do it. When you saw the documents—and this is perhaps a rhetorical question—a week ago, did it in any way inform your memory of the matters that we're discussing now—this is the historical matters? Did it bring to your memory the historical matters and how you dealt with them and how you should've dealt with them?

Mr Hutchings: Well, obviously with the hindsight that we now apply to this, I would've dealt with it differently had I known what I know now. But at the time when I inspected the documents at archives, no, I didn't. I didn't have a flashback, if that's what you're asking for.

CHAIR: One last question, and it is my last question: right back in May and September of 2012 did you at any time access or see or were provided with the metadata strings?

Mr Hutchings: I don't recall ever being given any of that. The first time I saw that metadata, to my recollection, was when I was handed the spreadsheet at State Archives when we turned up there on the afternoon of the 6th.

CHAIR: Dr Mellifont, do you have any more questions?

Dr Mellifont: No, I don't; thank you. Might Mr Hutchings be stood down.

CHAIR: You're stood down, Mr Hutchings.

Mr Hutchings: Thank you, Madam Chair.

Mr Davis: Can I re-call Mr Duell please.

DUELL, Mr Peter, Director, Information Management, Crime and Misconduct Commission

CHAIR: Mr Duell, I just remind you that you're still under oath. Mr Davis.

Mr Davis: Mr Duell, have you had the opportunity to read the in-camera evidence of Ms Suzanne Sweeper given before the committee on 20 March 2013?

Mr Duell: Yes, I have.

Mr Davis: All right. Do you have any comment on that evidence?

Mr Duell: Yeah, if I can just work my way through that.

Mr Davis: All right. Just tell me where you're going to start please.

Mr Duell: Just with the issue that was raised before we moved on to that transcript, which is discussing where's the documents missing from that file. At that time I think I was visibly upset and it just took me a little while just to get my mind back into gear about what happened. Can I just reinforce that I have never removed or destroyed any documents from that file. Just going through the events in that transcript, Suzanne Sweeper did come in the previous Tuesday and—

Mr Davis: That's the 12th?

Mr Duell: That's the 12th, and requested to look at that file that I was working on at the time and I told her to look in the electronic document and records management system, TRIM, because I said most, if not all, those documents should be visible there.

Mr Davis: Okay. Perhaps the best way to do this is could you go to page 4 of the transcript.

Mr Duell: Yes.

Mr Davis: Okay. Now, you'll see about a third of the way down Ms Sweeper says, 'I was in Peter Duell's office' et cetera—so that conversation—and then my question, 'So that conversation was on 12 March?' Do you see that?

Mr Duell: Correct.

Mr Davis: Okay. What she's saying there is that she went in and she asked for the file. You effectively said that you needed access to it for your purposes and that she could access the documents on TRIM.

Mr Duell: Correct.

Mr Davis: So all that's true?

Mr Duell: Yes.

Mr Davis: Okay; very well. She then says, if you just follow it through a little bit, that she went off and accessed the documents on TRIM. You wouldn't have any idea about what she did about that?

Mr Duell: No.

Mr Davis: Okay. She then says that later in the day she went back to your office, but it'd seemed that you weren't there. You obviously don't know if she has visited your office when you're not there.

Mr Duell: No.

Mr Davis: Okay. You say though that she took the file—that Klynsmith took the file at some stage.

Mr Duell: That was this week.

Mr Davis: That was this week?

Mr Duell: Yes.

Mr Davis: Okay. So have you got confused in relation to episodes?

Mr Duell: No; no. The day that file was tabled here was the day that Wendy came and requested the file from me. I think—

Mr Davis: That was the day the file was tendered here; is that right?

Mr Duell: Yes.

Mr Davis: So that would be, we think, 19 March.

Mr Duell: Yeah, that sounds correct.

Mr Davis: That would be right; okay. So on 19 March Klynsmith took the file and Suzanne Sweeper was looking for it; is that right?

Mr Duell: No. Wendy came in and said, 'Can I get that file from you?'

Mr Davis: Yes, that's on the 19th.

Mr Duell: That's on the 19th and she said—she needed it urgently, I think she said, and I said, 'Fine, but I've got to have it back.'

Mr Davis: What is Ms Sweeper's involvement in that?

Mr Duell: When I went back to say to Wendy, 'Where's that file? I need it,'—this is several hours later—she said, 'I don't have it.' Susan had it. I said, 'Do you know where Susan is?' and she said, 'I'm not sure. I think she's preparing for coming down here.'

Mr Davis: So how did you get the file back?

Mr Duell: I didn't get it back. I've never seen it since Wendy took it.

Mr Davis: So it just appeared here as far as you're concerned?

Mr Duell: Well, when I tried to trace it they then said that they believed that Mark Pollock has tendered it as an exhibit.

Mr Davis: Okay. Can I take you back to the 12th.

Mr Duell: Yes.

Mr Davis: So as far as you're concerned, there was a conversation on the 12th where you directed Sweeper towards TRIM if she wanted to access the documents—

Mr Duell: Sure.

Mr Davis:—and then that's it; you have no more contact with Sweeper about the thing?

Mr Duell: No.

Mr Davis: That's right?

Mr Duell: Yes.

Mr Davis: So she says in her evidence that she came into your office when you weren't there and she noticed that there were a bundle of documents on the file that she subsequently sees are gone and they're the documents that I suggested to you may have been attached to tab A.

Mr Duell: Yes.

Mr Davis: Now, do you remember seeing those documents which were attached to tab A?

Mr Duell: No, I don't. I don't remember seeing them. That doesn't mean they weren't on the file, but I don't specifically recall those documents on the file.

Mr Davis: Right; so you don't recall seeing them there or seeing that they were not there?

Mr Duell: Yes, basically.

Mr Davis: Very well. Well, you are not in a position then to assist further in relation to where those documents may or may not be.

Mr Duell: Possibly that file was copied in full, in my understanding, for the committee on the 12th and 13th and I think they were brought down here on the 14th. That was the summons that Sidonie Wood responded to with a stack of documents. That file should be copied in full as part of those documents. So if we can locate those in the index we may see if those documents were on there at that time.

Mr Davis: All right. I don't know whether you noticed this when you were going through the file, but there are several documents which do appear to have been stapled and restapled. Did you notice that?

Mr Duell: I noticed that. I also noticed that sometimes they had stapled too many documents—too many pages together that were actually different documents. So it hasn't been put back together with care and accuracy.

Mr Davis: Is there anything else you want to say about Ms Sweeper's evidence—I mean, Ms Sweeper's evidence in camera?

Mr Duell: No.

Mrs MILLER: Mr Duell, thank you for coming back to the committee. Mr Duell, I understand that you said earlier that around September there was a lot of financial pressure on the CMC. We certainly are aware of that. You also spoke about Information Management being cut to the bone and that you were very concerned for your staff. Can you just tell us what that was like, not only for yourself but also for the staff maybe in Corporate Services given that the CMC was under attack due to the financial cutbacks being put on you?

Mr Duell: There was a little bit of a history for it, because we'd just gone through that process in 2011. An external review was conducted of Information Management at that point in time. That resulted from me discussing with the then chairman, Judge Moynihan, that we needed to put in place some permanent positions which we had as temporary positions dealing with the eDRMS TRIM and we needed a system administrator for that system which we had basically covered with temporary officers up until the time I discussed it with Mr Moynihan. We'd also had an adverse report from the Queensland Audit Office regarding our implementation of Information Standard 18 regarding information security regarding IT security and there was a recommendation for an information security officer—an information technology security officer. I put forward a proposal to restructure Information Management to try to address those with minimal impact on the establishment—ie, we were looking for smarter ways to do things with Information Management so that we wouldn't be requesting additional establishment. Mr Moynihan said that he wanted to get an external expert, and an ICT professional from Justice and Attorney-General's was seconded to undertake a review.

He made many recommendations, which were very similar to the proposal I had initially put forward. That was agreed to by the commission in May 2011 and saw a total of five positions abolished and four positions created, which took on these new functions. So it wasn't a case of—it was a case of genuine loss of positions, because we took on additional functions with information standard compliance plus TRIM administration at that point.

We then set about trying to fill those positions and that took—and it started actually with my position to be filled first. Well, I was acting as the director of information management and so they wouldn't allow that to be permanently filled until the review had been completed. When the review was completed, my position was advertised and I competed for that. That took several months. It was an unusually long process to have that settled. And then I started on trying to fill the subordinate positions.

Before we had finished that process of filling the new structure with permanent staff, there was a change of government and restrictions on funding. Basically, there was a freeze applied to filling further positions and a process implemented. I think it was called the employee management program and each agency had to establish an agency appointment review committee and requests for permanent filling and even temporary filling and higher duties was instituted. So every time someone wanted to do higher duties you had to go through this process.

So that commenced in earnest in about May 2012. Initial discussions were that, given we had just had an external review of information management and there was no fat left, basically, we would be not considered in the austerity measures to cut staff. That changed and at the end of the day we got another four positions abolished and that was—at the time—that was the biggest cut across the commission. Those four positions from information management had people in them and a lot of the other cuts were sort of positions that didn't have people in them.

So it was a pretty unpleasant time to tell people who were doing a good job, you know, 'You've done a good job and, sorry, you're going.' So it wasn't a pleasant task. I don't think. The only other director that had to advise staff of that—of that kind of number—was Edith Mendelle and she advised two people and I advised four people to leave. So it wasn't pleasant times. When there is a type of uncertainty in employment, it's hard to keep people engaged in their work.

CHAIR: Member for Nicklin?

Mr WELLINGTON: No, the member for Bundamba has asked the questions.

Mr DOWLING: Mr Duell, you have just answered a question about budget cuts and trying to apportion some blame to that on the overwork of the commission. Is it fair to say that in February and in the many years up to February that you were responsible for information management, that the incident that has been the catalyst for this inquiry, there were no budget pressures at that time on your organisation? It was under a previous government? Is that a fair and accurate position?

Mr Duell: Can I just clarify a couple of things, Mr Dowling?

Mr DOWLING: Yes.

Mr Duell: First off, I wasn't using those budget cuts as an excuse for my action. I did mention that it was one of the things on my mind in September and I was in a pretty low point, but with the budget cuts I had a fundamental disagreement with the quantum of that, which I did raise with the chairperson, that I didn't think that the cuts were necessarily going to be that—needed to be that size.

Mr DOWLING: Yes, I didn't think for one moment it was your doing. It was the line of questioning that led you to respond as you did, quite appropriately. The external review, was it the entire organisation or just the information management?

Mr Duell: Just information management.

Mr DOWLING: Who did that review?

Mr Duell: Pat Hollahan his name is. Pat worked at Justice and Attorney-General in the information area and he was recommended by Ken Hunter, I believe, who was a senior officer at JAG.

Mr DOWLING: And when did that review commence?

Mr Duell: February 2011.

Mr DOWLING: Right. And when was it concluded?

Mr Duell: The final report was approved by the commission in the end of May, 2011.

Mr DOWLING: Right. Do we have access to that information? Have we seen that? It predates my membership on the PCMC. That is why I ask.

CHAIR: We would have to check, member for Redlands.

Mr DOWLING: Thank you very much, Mr Duell, for your comments. Thank you.

Mr Duell: No problem.

Mr DOWLING: I have nothing further.

Ms TRAD: Mr Duell, you had a pretty ongoing sort of conversation with Mr Steve Bishop in terms of his request to access some files for his book.

Mr Duell: Correct.

Ms TRAD: And very soon after the RAPs were changed at the beginning of 2012 Mr Bishop was advised that the RAPs had been changed.

Mr Duell: Yes.

Ms TRAD: And he went to view, or to gain access to some of those documents that he had been requesting for quite some time?

Mr Duell: Yes.

Ms TRAD: He gave evidence to the committee last week that, when he went to the State Archives, he was quite surprised at the breadth of information available to him and available to the public generally.

Mr Duell: Yes.

Ms TRAD: And he was so surprised that he actually went and spoke to the archivist and asked her to confirm that these documents were, in fact—or should, in fact—be available to the public. He said that the archivist had disappeared and it was his impression that she had called someone. I am just wondering whether or not the archivist had called the CMC and whether they spoke to you or someone in records management.

Mr Duell: I can't remember the phone call from there. Look, I don't get too many calls from State Archives. You might recall that the September 12 issue when I was contacted by the state archivist—and when I say the 'state archivist' I am not talking about Janet Prowse; I am talking about someone who is working on the counter there—the archivist contacted me at that point and just said, 'There's a person here. They're trying to access documents and they seem to be sensitive' and immediately I investigated that and we set about making sure that they were all restricted. So it's rare that I get phone calls from the archivist—from an archivist at Queensland State Archives—but anything like that it would have—I would have remembered, I believe. So I don't think that I did receive a call. I can't say I didn't.

Based on my understanding of what the records were at that time and if I had been asked a general question that someone was surprised at the breadth of documents that were available at that point in time, I probably would have said, 'There's been a lot now available to the public that Brisbane

wasn't previously.' But I honestly can't remember anything about the State Archivist contacting me—an archivist at QSA contacting me at that point in time. So I can only base it on the fact when I have been contacted—and it is usually by Elizabeth Hawkins but it wasn't in September; it was an archivist at the desk who contacted me—and my response was, 'Shut it down.' So, sorry, I can't give you anything more than that.

Ms TRAD: Okay. That is all, thank you.

CHAIR: Thank you, Mr Duell, you are excused. Okay. My apologies, Mr Davis.

Mr Davis: I think Mr Duell wants to add something.

Mr Duell: Yes, I just wanted to address an issue that madam deputy chair raised—I believe it was yesterday—when you said you just want somebody here to say that it was their fault. I thought I had made that position clear last week that it was my fault. I signed off on that. As I said at the time, I thought I did it with the best intentions and I thought my actions were reasonable in checking. In hindsight, clearly it wasn't. So there's no hiding from the fact that it was my signatures on those changes that brought this about.

CHAIR: Thank you.

Mr Duell: Okay.

CHAIR: Thank you. You are excused.

Mr Davis: There's a couple of minor things. There's a statement of Zora Valeska dated today, which has been received. I seek leave to table it.

CHAIR: Is leave granted? Leave is granted. It is document 122.

Mr Davis: And we have also received a supplementary statement, or a statement by Janet Legg, dated today, which gives some evidence concerning Ms Klynsmith's evidence of yesterday. I seek to table that.

CHAIR: Is leave granted? Leave is granted. It is document 123.

Mr Davis: In our submission there is no need to recall either of those two witnesses.

CHAIR: Thank you.

Dr Mellifont: I call Clifford Horwood.

HORWOOD, Mr Clifford, Information Technology Manager, Crime and Misconduct Commission

Dr Mellifont: Mr Horwood, you are still under your former oath or affirmation. Can I show you please tabled document 118? Are you familiar with this document?

Mr Horwood: Yes, I am.

Dr Mellifont: Can you tell the committee what it is?

Mr Horwood: This document represents two screen shots labelled 'before' and 'after'. It was taken this afternoon on Mr Rob Hutchings' workstation at the CMC. The 'before' and the mnemonic—before I made any changes to the display of data on the screen and the after is the converse, after I added, enabled the display of additional columns.

Dr Mellifont: Yes, thank you. So they are the screen dumps from Mr Hutchings's outlook today.

Mr Horwood: Yes.

Dr Mellifont: And we see on the aftershot creation modification and received date for the relevant email being 30 May 2012, 3.30 pm.

Mr Horwood: Yes.

Dr Mellifont: Do you also have some information for the committee in terms of expected times for completion for the other outstanding matters?

Mr Horwood: Yes, I can read that out. With respect to the summons dated the 18th of the third regarding Peter Duell's email, as the committee is aware we provided electronic copies and printed index copies and then undertook—of the external emails, sorry—and then we would continue to work on the internal-to-internal email.

With the internal emails, my estimate is, as of when I left the office close to 5 o'clock, we still had another 16 hours of work to do to generate the internal emails into, I think you described it as text searchable format on DVD, plus time to then print them all out. As I said this morning, we're—concurrently we're printing the—starting the print—we've started printing the external ones we've already provided. With respect to the summons of 21/3, I've labelled this one of two because I actually received two summonses yesterday so it was the earlier one in the day.

Dr Mellifont: The subject matter, so we can orient ourselves?

Mr Horwood: Subject matter for that one is the draft email.

Dr Mellifont: The draft Hutchings email of 30 May?

Mr Horwood: Yes.

Dr Mellifont: Yes, thank you.

Mr Horwood: The committee asked me to—well, the committee said this morning to go back and start the process of identifying when the delegated permissions were created and I've got information as to what the situation is as of today, but to go back through all the back-ups for the time frame concerned would take between 54 and 86 hours to restore the back-ups and then about 14 hours to actually go through them to verify that there were no permission—whether there were permissions in place at the time the back-ups were taken. It takes between four and six hours to recover our full email system each time we do that.

With respect to the summons of 21/3, two of two, which is the one regarding producing a copy of all the documents in the in, out and draft mailboxes of Mr Hutchings, Ms Wood and Ms Valeska that I received last night, because we have to go—because of the date range again we have to go back through the back-ups. To restore all of those is going to cost—take about—not about, it's going to take 90 working hours and then any time to print after that. The 90 hours will be to get it into a machine readable format consistent with the format that I've been providing so far.

We investigated—we started to investigate some other options so that we could get some of the stuff more quickly and one of the managers suggested that we also investigate outsourcing the printing to a—the actual printing of the document to a company that is better set up, more higher speed printers for that so that would turn the printing time around. At the moment with those printers it's taking, with our printing capacity when we do the printing it's taking about 45 minutes to an hour to print each month's—each person's one month of email. So printing will take a while with what we've got. But the most important thing is the 16 hours, the 54 to 86, plus 14 and the 90 for the respective summonses.

Dr Mellifont: Thank you. Madam Chair, might I suggest we stand down for five minutes so that we can discuss the information provided to us by Mr Horwood?

CHAIR: We will adjourn until 6.30.

Proceedings suspended from 6.18 pm to 6.39 pm.

CHAIR: Mr Horwood, the committee believes that we can reduce the burden on you in relation to the evidence that we have asked you to provide. The committee has resolved to reduce the material that we would like you to provide to the emails of Wood, Hutchings and Valeska for the period 20 May to 31 July 2012. We would accept the copies of those emails electronically, so on a stick or on a CD.

Mr Horwood: Sorry, I didn't have a pen—

CHAIR: Wood, Hutchings, and Valeska for the period 20th May to 31st July 2012.

Mr Horwood: Okay.

CHAIR: Is that acceptable?

Mr Horwood: Yes. As I was explaining before, that might just require—that sort of spread might require just two or three monthly backups to get across that, but certainly it does reduce it a lot, yes.

CHAIR: This morning we also asked for the delegations and permissions material. I believe that that has been answered or our concern in relation to that has been answered by the statement of Ms Zora Valeska. We will relieve you of that responsibility, as well. When do you think you could make that material available to us, please?

Mr Horwood: A very quick calculation—that's about 20 working hours—I'm thinking in my head—

CHAIR: That's all right.

Mr Horwood: Madam Chair, the internal emails from 18th March, we were still to provide electronic copies of the internal emails of Mr Peter Duell. Is that still required?

CHAIR: Yes, please.

Mr Horwood: A total of 36 workings hours, a very quick calculation. That is a lot less than 200.

CHAIR: It certainly is. When do you think you would be able to provide it to us?

Mr Horwood: With all due respect, I would like to send my people home, so that we can reconvene in the morning and start on it and have it ready—

CHAIR: For Monday?

Mr Horwood: I will try to convince them to work on a Sunday.

CHAIR: Close of business Monday.

Mr Horwood: I will make every endeavour to make it before then.

CHAIR: Thank you.

Mr Horwood: Electronic and to provide it directly to?

CHAIR: To the secretariat, please.

Mr Davis: There is one further document that I seek leave to table. It is a memorandum to Mark Pollock from Jens Sorensen, 21 March 2013, and it is the TRIM active audit.

CHAIR: Do you wish to table it?

Mr Davis: Yes please.

CHAIR: Is leave granted? Leave is granted. It is document 124.

Mr Davis: Mr Horwood should be stood down.

CHAIR: Mr Horwood, you are stood down. Thank you.

Mr Davis: That is the evidence that we seek to put before the committee.

CHAIR: Thank you, Mr Davis. In closing this part of the inquiry, that is, this series of hearings, the committee would acknowledge the Acting Commissioner Mr Peter Davis SC and Dr Kerri Mellifont SC for their role in the inquiry to date. The committee would also like to place on the record, even though the inquiry is not yet complete, our appreciation of the work of the Clerk of the

Parliament, Mr Neil Laurie; the Director of Committees, Mr Steven Finnimore; our secretariat, Amanda Honeyman; our Acting Research Director, Mr Peter Rogers; our Principal Research Director, Mr Mitchell Kunde; our principal legal officers—and I only have their first names—Gail, Lyn, Melissa; and the staff of other committees who have worked tirelessly up to this point in time. The committee would also like to thank the IT staff—and again I only have first names—Graham and Lindsay, and our wonderful Hansard staff, the parliamentary attendants, especially Angie who has the way of not looking at evidence, catering and, indeed, all who have assisted to date.

While this committee has further considerations to make, we should not underestimate the time our parliamentary staff have committed to this process to date. From the time the resolution was passed at approximately 3 am on Friday 8 March, the Clerk, the Director of Committees, the Principal Legal Officer, our Acting Research Director and our Principal Research Officer, with other supporters, have worked over weekends, late at night and early many mornings to, firstly, assist the committee to commence and give form to the inquiry and to ensure each day of the inquiry proceeded effectively. Their effort is beyond words to thank.

We have greatly valued the direction and strategic questioning provided by Mr Davis SC and Dr Kerri Mellifont SC. Your insight and incisive questioning has assisted the committee to harvest a great deal of relevant information on these matters. To each and every person involved through parliamentary services, we value your significant efforts.

The committee also thanks those witnesses and their supports who have assisted the committee in gaining an understanding of the actions of and processes followed in the matters under investigation. Finally, I acknowledge the work of the committee to date and that our task is yet to be completed. I look forward to deliberating over the next fortnight to ensure a report to parliament is made that responds to the parliament's motion to the greatest extent possible in the constrained timetable available.

I wish to place on the record that those who have given witness in this inquiry are welcome also to make written submissions to the inquiry, which must be received by close of business on Thursday 28 March. I declare these hearings closed and, again, thank all involved.

Ms TRAD: Just before we close and in the absence of the Deputy Chair, can I also place on record the committee's thanks to the chairwoman, Liz Cunningham, for her leadership in conducting this parliamentary inquiry. Thank you very much, Liz.

CHAIR: Thank you. I declare the hearings closed. Thanks one and all.

Committee adjourned at 6.47 pm