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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION TOLOSA

Reference: Operation E17/1221

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 6 MAY, 2022

AT 11.00AM

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

THE COMMISSIONER: All right. Ready to proceed?

MR DARAMS: We are ready to proceed, Chief Commissioner.

THE COMMISSIONER: Apologies for keeping people waiting.

MR DARAMS: Today we – sorry.

THE COMMISSIONER: Now – yes, you go.

10

MR DARAMS: We're going to, Chief Commissioner, call Mr John Kinsella.

THE COMMISSIONER: Yeah. Mr Darams, just for the information for everyone, I have proposed to adjourn at 3 o'clock this afternoon. There's another matter I have to deal with so we'll go through until lunchtime, that's 1 o'clock, and then we will resume 2.00 to 3.00.

20 MR DARAMS: May it please, Chief Commissioner. With that, I call John Kinsella.

THE COMMISSIONER: Good morning, Mr Kinsella.

MR KINSELLA: Morning.

THE COMMISSIONER: To give evidence you need to either take an oath to an affirmation. What would you - - -

30 MR KINSELLA: Affirmation, sir,

THE COMMISSIONER: Sorry?

MR KINSELLA: Affirmation.

THE COMMISSIONER: An affirmation, very well. My associate will administer the affirmation. Could you stand?

THE COMMISSIONER: Thank you. Just take a seat there. Yes. Now, Mr Kinsella, you are legally represented in this public inquiry, I understand.
---Yes. I am.

And is somebody here appearing for - - -

10 MR CHESHIRE: Yes, Commissioner. Cheshire is my name. I appear for Mr Kinsella.

THE COMMISSIONER: Yes, Mr Cheshire. All right. You start and then I'll deal with any application.

MR DARAMS: Yes. Can you please state your full name for the record?
---John Joseph Kinsella.

20 Just one matter, would you mind taking off your hat while you're in the witness box?---Oh, okay. Sorry.

THE COMMISSIONER: And if you could keep your voice up, please.---
No worries, no worries.

I know some people are softly spoken, others speak naturally at a loud level, but everyone must keep their voice up so that the person in the very back of the room can hear what you're saying. Do you understand? I know you've got every right to use the mask, that's understood. That's - - -?---I've got a bad flu at the moment.

30

That's fine.---So I didn't want to pass it around to other people.

No, no, no. Thank you. No, I fully appreciate that. So if you would just do what I said. Keep your voice up, and if you'd answer directly the questions put by Counsel, so that we can get through this perhaps efficiently.---Thank you.

Yes.

40 MR DARAMS: Just also confirm the record you're legally represented today?---That's right.

THE COMMISSIONER: Yes. Mr Cheshire, any application you have?

MR CHESHIRE: Your Honour, I do have an application for a section 38 declaration.

THE COMMISSIONER: Have you explained that to Mr Kinsella?

MR CHESHIRE: Yes, I have, Commissioner.

10

THE COMMISSIONER: He has an understanding about that?

MR CHESHIRE: He does, yes

THE COMMISSIONER: Very well. Mr Kinsella, I understand that you have had advice in relation to your right to object to answering questions. Is that right?---That's right, Chief Commissioner.

20

And you understand why that right is available to you?---Absolutely, sir.

Just to confirm that you firstly, whether a declaration is made or not, and I do propose to make a declaration, you must answer all questions truthfully. You understand that?---Of course, sir.

An if you're required to produce any document or other thing, of course, you must produce whatever you're required to produce. Understand that? ---Absolutely, sir.

30

The effect of the objection is that the evidence you give in these proceedings can't be used in the future in any other formal proceedings, of a court, for example. You understand that?---Yes, sir.

The only exception, however, to that is that the transcript of evidence can be used as evidence in any prosecution for, for example, an offence by a witness under the Independent Commission Against Corruption Act, such as wilfully giving false or misleading evidence. That's an offence known as perjury, and a witness who does give false evidence can be prosecuted and the term of imprisonment of five years is the prescribed penalty. You understand what I'm saying?---Yes, sir.

40

Okay. It is essential that you give frank, truthful evidence. Understand?
---Absolutely.

You are here as a witness to give evidence before the Commission and to assist the Commission in its investigation. You understand that?
---Absolutely, sir.

Very well. Pursuant to section 38 of the Independent Commission Against
10 Corruption Act, I declare that all answers given by the witness, Mr Kinsella,
any documents or things that he may be required to produce during this
public inquiry are to be regarded as having been given or produced on
objection and accordingly there is no need for the witness to make objection
in respect of any particular answer given or document or thing produced.

**DIRECTION AS TO OBJECTIONS BY WITNESS: PURSUANT TO
SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST
CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN
20 BY THE WITNESS, MR KINSELLA, ANY DOCUMENTS OR
THINGS THAT HE MAY BE REQUIRED TO PRODUCE DURING
THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING
BEEN GIVEN OR PRODUCED ON OBJECTION AND
ACCORDINGLY THERE IS NO NEED FOR THE WITNESS TO
MAKE OBJECTION IN RESPECT OF ANY PARTICULAR
ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Yes.
30

MR DARAMS: Mr Kinsella, you're the Managing Director of the
Billbergia group of companies. Is that right?---Yes, sir.

Do you have any professional or tertiary qualifications?---No, sir.

Do you have any trade qualifications?---Bush carpenter.

A bush carpenter?---Yes, sir.

40 Sorry? What's a bush carpenter?---Self-taught.

Self-taught. Now, is Billbergia Pty Ltd, is that the parent or the head company within the Billbergia Group?---Forgive me for not being able to put some light on that for you because there's so many entities, the people in, in the office, the accountant and all the people that look after the entities, I'm not sure exactly what entity, but, like, I look at it as Billbergia Pty Ltd as being one of the top entities. There's, there's so many different SPVs, special-purpose vehicles, that have different developments and different entities and properties within them - - -

- 10 Yeah. In terms of the other directors within the Billbergia group of companies, do other directors include your brother William Kinsella?
---That's right.

Do they include your son Joseph Kinsella?---That's right.

Are there any other persons who might be directors within any of the Billbergia group of companies that you are aware of?---Not that I'm aware of at the moment, sir.

- 20 Now, in addition to being the managing director, do you have any other title, for example, are you the CEO of the Billbergia Group?---No. I think on my card it's managing director as far as I can remember.

I see. Are you an employee of the Billbergia group?---Probably. I'm not sure who pays my wages to be honest.

But the next question is, you draw a wage from one or more of the companies?---That, that, that, that's right, yeah.

- 30 So you've some sort of employment relationship, you're not sure which of the entities it is, but you get a wage?---Yeah. I do get more dividends now as against a wage because I'm over the retirement age and whatever.

I understand that. Now, for want of a better description or a very broad description, the Billbergia Group is a property development company?
---That's right, yeah. And, and some, we have some property assets as well (not transcribable)

- 40 Has Billbergia been involved in property development from its inception or, for example, did it start at, say, as a construction company and then proceed - - -?---Yeah. It's, we actually started up as a civil contractor,

subcontracting contractor, like doing a lot of work for public works departments, councils and the like, sewage systems, roads, bridges, all, all that type of thing. You know, it was digging holes.

The business developed thereafter to include the purchasing or acquiring of properties to redevelop in its own name?---That's right, yeah. We bought our first property I think in about 1988 or '9 in Annandale.

Sorry, 1988 or '89?---Yes, somewhere around there.

10

All right. Now, Rick Graf, is he an employee of the Billbergia group of companies?---He, he may be an employee now. He started off consulting because he had a lot, he has his own, you know, he had his own businesses as well. Like he had properties and whatever in different places. So, I believe he, he may be, I'm not sure if he's a contractor or whether he's an employee. I, I really don't know the terminology but he, he works with Billbergia a lot.

Whether you know what engagement, the nature of his engagement as an employee with a contract, he works or provides services to Billbergia?
20 ---That's right.

How long has he done that for?---I think about eight or nine or 10 years, somewhere in those kind of - - -

Were you responsible for bringing him into the business?---Yeah, he actually came in, I think, negotiating something, some people wanted to buy what we were selling.

30 Sorry, say that again?---He, he came in on behalf of somebody else, negotiating, we were selling some property and some group I think from Adelaide or whatever wanted to buy that property and he was their representative and how things evolved and he actually ended up doing work for us.

He was on the other side of a transaction, the relationship between Billbergia and Mr Graf developed from there and then he ended up coming to work for your companies in one form or another?---Yeah. Because he's quite an experienced gentleman.

40

That's an accurate description of how he came into the business?---Probably would be, yeah.

Is he someone, since he's been engaged with your business, is he someone you've come to trust as an employee, well trust?---Yeah, yeah, yeah. I, I think he's quite a trustworthy person.

10 Do you work closely with him on a, sort of, a day-to-day basis or a regular basis?---See, when I was working from home and, and all that, and, and he's, he's quite elderly as you know, sir. He's, he's had quite a few health conditions, but, yeah, I've got quite a lot to do with him.

Over the period of time that he has been engaged by Billbergia?---That's right.

20 What sort of role or functions does he fulfil for Billbergia? What does he do?---Well, he's, he's very knowledgeable. If you go back in his history you would probably get he was involved in the starting of Sydney Olympics. He was also involved in the, in Brisbane when they had the world, what do they call it, the thing, expo or whatever there. He's built stadiums in Hong Kong, he's built hotels in the US. So he has a very diverse knowledge.

Sure. No doubt he's experienced and the like, but in terms of what he does for Billbergia, what does he do?---He does a lot of things actually.

What are the types of things that he does?---He, he's very good to look at things holistically.

30 Some sort of strategy advisor?---Yes, strategy, strategy certainly. And, yeah, he, like, also he attends a lot of meetings because we, I don't have time to go to that many meetings.

So does he go in as, in effect, as your, I wouldn't say proxy, but he goes in as someone - - -?---Well, he would be representing the company.

Yep.---Yeah. That would be right.

40 Now, just in terms of this role of Mr Graf – is it “Graf” or “Grahf”?---Graf. Graf.---I'm not sure if it's G-r-a-f-f or G-r-a-f, one of them.

In any event. So is he responsible for dealing with, say, councils where your companies might have developments? Is that a part of his role?---He would certainly talk to council, yeah, absolutely.

Council staff?---Yeah, yeah.

10 Councillors?---I'm sure that, like, he's, he's also got another role with the UDIA, I think he's vice-president. So, no, so he spends quite a bit of time - -

Sure, but - - -?--- - - - in that role as vice-president of the UDIA.

Yeah, I just want to focus on his role with your company in your developments.---Yeah, yeah.

Part of his role, well, liaising or talking to councils?---He would certainly talk to council.

20 Council planning staff?---He would do that as well.

Councillors?---I'm sure he would do that from time to time.

30 Do you know that he does do that, though?---I, I don't know for certain. If you asked me, "Can you tell me on what occasions has he spoken to a councillor?" I actually don't know. But I know we've had meetings with some council and councillors may have been there. He may have said hello and I might have proposed, like, he usually does the presentations, I suppose, as much as anything else. He's very good on presentations.

Now, just moving to the Canada Bay Council area and Rhodes in particular.---Sorry, sir.

You don't need to apologise, Mr Kinsella. Take your time.---Sorry. I'll try not to do that again, sir.

THE COMMISSIONER: Mr Kinsella, if you need to take a break at any point, just let me know, will you?---Okay.

40 MR DARAMS: Mr Kinsella, I was just about to ask you about property that Billbergia or its associated companies, when I'm referring today to

Billbergia, I'm including in that any associated company that might have done something, okay? If Billbergia had purchased and has purchased property in the area that I might refer to as Rhodes West, that is located to the west of the railway station - - -

THE COMMISSIONER: Just in relation to that, could I ask you when your company commenced purchasing land in that area?---In, in Rhodes it was probably 20 years ago (not transcribable). Our first one there would have been purchased from a company called Multiplex Trafalgar. That was the
10 Union Carbide site. The big clean-up was on it where they had a lot of dioxin in the land. So we done a deal with those. They ended up cleaning up most of it and we ended up – so from about 20 years.

Did any of that land, acquired over time, require remediation?---Absolutely.

It did, yes.---Absolutely. Quite a lot. It was probably, I think it was termed at the time the most contaminated dioxin site in the world. That's where they made Agent Orange I think for the, it was used in the Vietnam War and probably a lot of other uses, and sprays.
20

So over what period of time did your company progressively purchase land in the area that's been identified?---Probably started around, in Rhodes West now or Rhodes East and West?

West, West at the moment, mmm.---West. Probably started around the 20 years ago and the last one we would have purchased on the West probably would have been from Ausgrid, and it's probably seven, eight years ago, I'd say, which was the last one.

30 Sorry?---Probably seven, eight years from Ausgrid.

Right. Okay, thank you.

MR DARAMS: So just in that timing, commenced purchasing land around 2002 in Rhodes West?---Yes, around that, yeah, that's right.

The last purchase around 2015, 2016?---I'd say that'd be probably about it.

40 In respect of that land in Rhodes West, Billbergia has redeveloped part of the land?---Rhodes West, yep. Basically there's one site which is the Ausgrid/ETU site, which we haven't even demolished the old buildings yet.

And then we've got part – like, it's, it's lots of different (not transcribable). If we have to break it up, the first one was the, was the Trafalgar Multiplex, which was the very contaminated one. And then we moved up to, that wasn't what we'd call Station Precinct. We moved up then to Station Precinct, and the Station Precinct was land, say, opposite the station. So we probably commenced actual construction – forget about the, I'll say the planning side of it, which is different, 'cause that takes years and years and years, but actual construction on that we probably started maybe six years ago. There's quite deep excavation, about 30 metres deep in sandstone, so
10 the excavation there was about a two-year process. And then, so we finished about two buildings about a year ago, then we've commenced the, the other place, which we bought from Impresstech, which was a sign company, which was about seven, 8,000 square metres. That now, the car park is partially finished in that and it's coming out of the ground on one site.

So just going back to, you say you've completed construction on two buildings. You refer to them, or Billbergia refer to them as building A and building B.---Yes.

20 How tall is building A?---Building A I think is 36 or 37 floors.

36 or 37 storeys? What about - - -?---Yeah, that's the one with the heliostat which you've been - - -

I was going to ask you about that. That's the one with the heliostat.---That's right.

Building A, 36, 37 floors or storeys. What about building B?---That's got about 25 or six floors.

30

THE COMMISSIONER: So just to, were those two constructions the first two constructions on land purchased by Billbergia over the period of time you've indicated?---On, yeah, those ones were industrial site and a couple of houses at the back. So that was A and B. So effectively there there was, in purchases there was one, two, three, four, five, six, seven, was seven I think different purchases.

Okay. So buildings A and B, as they've been described, they were the first two high-rise projects that your company undertook, is that right?---No, no,
40 no, no.

No?---No, we've - - -

You had undertaken earlier projects?---Oh, yeah, absolutely.

On the Billbergia sites at the West?---On the, opposite the station? I thought you meant as a company. As a company, we've got I think four high-rise buildings on the, the Multiplex Trafalgar, where the dioxin was.

10 Right.---So we've got high-rise there. And then Wentworth Point, obviously, we've got high-rise as well. So we've been doing high-rise for a long time. Sorry, I, I probably, I shouldn't have cut you off, sorry.

Are you able to identify a year in which the first of the high-rise buildings was constructed?---Are we referring to the ones at the station now or before?

I'm talking about what's called Rhodes West.

20 MR DARAMS: Rhodes West, yes.

THE COMMISSIONER: In Rhodes West.---Rhodes West.

MR DARAMS: The land we've been talking about. Not the other high-rise constructions Billbergia has done in the Rhodes Peninsula, but focusing - - - ?---Okay.

30 - - - on the Station Precinct or Rhodes West. Walker, Mary, Marquet. ---Okay. We're probably better off, maybe if we call the Station Precinct West.

Yes.---Because the other ones, remember, on the Station Precinct West, there's only a road and then we have another high-rise, which is just, let's call it outside of that.

Yes.---Which was part of that Multiplex site.

Yes.---So - - -

40 You're talking about the lands on Marquet Street, Mary Street - - -?---And Gauthorpe Street.

Yep.---Walker, Gauthorpe, Mary and Marquet, okay.

So focus on that, and that's where the Chief - - -

THE COMMISSIONER: Can you answer my - - -?---So the first one would have been A and B, that's right.

Can you answer my question, then?---Sorry.

10 When was the first of the high-rise buildings constructed in the Rhodes West?---Station Precinct, sir, is that - - -

MR DARAMS: Yes, yes, that's what – yes.---Sorry. They were completed about a year ago.

When did it start construction? When did you - - -?---Yeah. The excavation took almost two years, so probably two and a half years in building, so it's probably about a four and a half year process. So I'd say we would have started construction somewhere around five to six years ago, probably six
20 years ago.

THE COMMISSIONER: Okay.

MR DARAMS: So somewhere in the vicinity from 2017 to 2018?---I think that'd be right. '16/'17 I would say.

'16/'17. And when you - - -?---I couldn't swear on it, but that, I would say looking at that chronology that'd be right.

30 Sorry. When you answer "construction", do you mean actually tearing down whatever was - - -?---Digging the hole.

Digging the hole.---Demolishing, digging holes and, yeah.

That's the start of it. Started about 2016 to the best of your recollection? ---That'd be right.

Did building A start – well, did the second building start about the same time or some time after?---Yeah, the, this, at the time this was the largest
40 excavation happening in Sydney, right? So if I can explain that when we were excavating they went down on one site first, which is at Walker Street,

which would be building A, right, and then we progressively worked our way across. Because it was quite, as I said, quite a large excavation. So we wanted to start the car park construction while we were still excavating part of the site.

So building A are residential units, is that right?---And a shopping centre at ground level. Actually, one level below ground, the shopping centre.

10 So shopping centre but residential units. Do you know how many units are in building A?---Oh, jeepers, 300 and something.

Are they all, have they all been sold?---They would be, yeah. They would.

Is Billbergia responsible for selling those?---Billbergia, that we've got an internal sales department and then we use a lot of external agents as well.

20 What about building B? How many units?---Building B would have been (not transcribable) we would have sold building A first. Because of funding, you need debt cover to secure funding, so we would have concentrated on one building, then we'd concentrate on the next building.

Yeah. Sorry. In terms of how many units in building B?---B would be quite a bit less, probably about 250, '60, something around there.

260, about that. Now, is it also the case that Billbergia is currently constructing buildings D and E that you call them?---That's right.

30 It's also intended to construct a building C?---That's right. That'll be between the two, yeah.

So that's the Station Precinct or Station Precinct West and that's the land located to the west of Rhodes railway station?---And, and, on, on building D and E, we're building a, a leisure, what would you call it, recreation centre for government there also.

Sorry? What do you call it? Leisure or recreation - - -?---Leisure or recreation centre, yes.

40 Right. Who are you building that for?---That's being built. It'll be handed over to council.

Council.---On the planning proposal or VPA.

So there's a VPA in respect of which building, sorry, was it? Buildings B and - - -?---No, no. The, the VPA in terms of the funding for it actually comes from all of the buildings. So, so far, I think we would have paid in from A and B maybe \$36 or '7 million towards the cost of the recreation centre.

10 Do you know who's building the recreational centre?---We were building it ourselves.

You're building, Billbergia's building it?---That's right.

I see. Just going back now, I want to focus on - - -?---It's, it's under the building, by the way. It's, you've got the car park and you've got the recreation centre and the apartments on top of it.

Yeah. Under which building?---Under, both D and E.

20 D and E. Moving - - -?---So it's quite big. It's about 10,000 square metres.

Moving away from Station Precinct West, I want to now ask you about the acquisition of property in the east of Rhodes Railway Station. So Billbergia has or its related companies have purchased a number of properties on Blaxland, Concord, Denham and Llewellyn Street. Is that correct?---And Leeds Street.

And Leeds Street?---Leeds Street, that's right.

30 Do you know how much property Billbergia has purchased there or currently owns there?---An awful lot.

Yeah, but do you know the sort of area?---Well, jeppers, I could make it up I suppose. One, two, three, four, five, six, probably about seven hectares, something around there, anyway.

Seven hectares - - -?---Hectares, something around that, yeah.

40 Greater, larger than the amount of property that it had purchased in the Station Precinct West, is that right?---Yeah, the, we probably, yeah, we

would have had more property in the west if you consider all of the west, but not, not the Station Precinct, no.

No, I'm just focusing on the Station Precinct.---So the Station Precinct would have been, let's see, seven, seven, fourteen, one thousand (not transcribable) – about two hectares would have been there.

10 I see. Now, in terms of the property in Rhodes East, do you call that Station Precinct East, is that how you refer to it or how do you refer to it?---No, that, basically, I look at that as Rhodes East.

Yes. So if I refer to it as Rhodes East today, then you'll understand what I'm talking about?---That's right.

Now, none of that land, am I correct, has been redeveloped at this stage? ---No, none.

20 No. What stage are you at in terms of the development of that land? ---We're, we're considering whether it's worth developing.

I see.---Parts of it, parts are probably, may end up long-term hold.

Sorry? Say that again?---Parts, parts of it, its probably highest and best use may be existing uses.

What, as residential property or something like that?---Well, we've got quite a bit of industrial property, as well.

30 Now, I want to ask you now about Mr Chidiac.---Yes, sir.

Now, when did you come to meet Mr Chidiac?---Oh, years ago (not transcribable)

So when you say "years ago" can you please just try and assist us with an approximate time?---Yeah, that, that's, and time, time just goes. It, it, it, it's, it's hard to figure out the years, the way they're going, even with the bloody virus thing, but I - - -

40 THE COMMISSIONER: How did you come to meet - - -?---Sorry. He was introduced by I believe Andrew Ferguson. From memory, that, I'm pretty

sure, I wouldn't swear on that but I'm pretty sure it was Andrew Ferguson introduced him.

In what context?---He's, Joe Chidiac, he's, he, he lives in the area. I, I, I think the, I think that they were all, like, looking, and I, I didn't know at the time, of course, but I think they were all in politics together, somehow. So it, it, it was to do with looking at properties and purchasing properties and, and whatever but I can't exactly, when we introduced them, from memory it was somewhere near the Rhodes Railway Station and he, I forget the
10 complete context of why he introduced them. Obviously they must have had some relationship, whatever, but - - -

MR DARAMS: Yeah, but why was he, Joe Chidiac, introduced to you? What was the reason you understood he was being introduced to you or your company?---I, I suspect with, with the kind of person he is, he's a real networker. You know, the networking people, they, they kind of - - -

THE COMMISSIONER: What do you mean by that?---They, they network a lot, they go to functions and they hand out cards and this bloke is doing
20 concreting, this bloke is doing steel, this bloke is doing something else, and they try and get people together. At that time Andrew Ferguson was, I believe he was working with Coverforce, but he's ex-secretary of the CFMEU and he was also trying to sell us insurance, which he eventually actually did take over most of our insurances. So, he was, I suspect what he was doing is networking to introduce people that may be of some value to other people or would be of value, you know, the general networking thing that people would do. He understood the networking, like, he, he did it - - -

In what field of activity are you talking about he was an introducer of
30 people to one another?---Like, for, for us obviously it's more to do with obviously property acquisition. Yes, probably, not, not that I exclusively look after all the property but I generally look at the, the properties to see what opportunities there would be, and we generally only pick up, with sale properties we look at what's advertised in the paper or out for government tender or whatever, you only generally pick up 5 to 10 per cent of them. So you're looking at an awful lot of opportunities to try and – number one, it has to be the right one, but to win it and because there's a lot of competition in the industry, so to win them – so it's, it's that kind of thing. I can't remember the words because it is a long time ago, but I'm pretty sure it was
40 Andrew who introduced him. I'm pretty sure it was somewhere and, and

near, near outside on the footpath near the coffee shop on the corner of Walker Street and, I think, Mary Street, somewhere around there.

MR DARAMS: Yeah. So I know the location but I just wanted to try and understand a couple more things about the introduction. The timing of the introduction, so you've referred to him being introduced by Mr Ferguson? You obviously had a relationship of some kind at this stage with Mr Ferguson?---Absolutely, yeah. Obviously, as I said, he was in the CFMEU and obviously construction and CFMEU have to work at least, let's say
10 they, they were always a stakeholder.

No, no, I understand all that. I get that. You also referred to selling insurance. Was Coverforce the insurer for Billbergia or some of the Billbergia companies at the time of this introduction?---I don't know exactly when he came to us. He we went from CFMEU to Coverforce. So I'm not sure we actually had taken out the insurance. We probably had some. Like, his object was to take out all of our insurance. I don't think he ever got to that stage.

20 THE COMMISSIONER: Well, as you say, he was an introducer of people to one another. Who has he been able to introduce you to? What people has he successfully introduced you to other people?---I, he would have introduced us to other people in the industry like maybe, might be concreters, it might be suppliers of doors, it might be any of that kind of thing. Maybe we can, you pick up the phonebook you can get a lot of them as well, but generally one-to-one introductions probably does give the person that's introducing the other side maybe a little bit more of a leg in if you know what I mean?

30 Ah hmm.---So they hand you their card and you kind of feel that – I then would hand the card to the project manager or whatever and say, "Listen, give those, those guys a crack at the job," in other words put them on the tender list. That, that kind of thing.

MR DARAMS: Just want to help you to try and see if I can assist you with your recollection of timing. Could the witness be shown volume 6.10, page 2? Now, Mr Kinsella, this is some information extracted by the Commission from your mobile phone and it refers to a calendar entry that
40 appeared on your phone where it's referring to a meeting on 18 October, 2012 and the description is "Coverforce meeting with John and Bill Kinsella

and John McGarry re. insurance program followed by lunch with Angelo Tsirekas.” Could I then ask you to be shown - - -?---2012?

So that’s 2012. Could I ask you to be shown page 4? It appears that someone else has sent you the same invitation and it’s either been accepted by you or someone on your behalf and it’s appears on your phone. But in any event, what I just want to draw your attention to is it’s the same, it refers to a proposed meeting on 18 October, 2012 but you can see there from Mr Ferguson at Coverforce. So - - -?---Yeah. I’m looking at some
10 names, John Kinsella and then there’s Glen, Glen, Glen S. What’s Glen S? Glen Schultz? And Bill McGarry at Billbergia, Coverforce administrative, yeah, Jim Angelis, Jim Angelis, who’s Jim Angelis? Maybe he’s in Coverforce.

So what I’m suggesting to you is that at least back in 2012 Coverforce, I mean, maybe I’m hoping this might assist you. Coverforce might have had your insurance or some of your insurance, Billbergia’s insurance at this stage, you have a meeting with them in relation to the renewal.---They might have been looking for it, yeah.

20 Or looking for it, and then you have a lunch with Mr Tsirekas after this.---I don’t know, I don’t know that I had lunch.

Sure.---I, I can’t remember. Remember this, if you get an invitation, it doesn’t necessarily mean – I, I get hundreds and hundreds of invitations. You just, you, you don’t, if you plan, you, you planning on going to one where it’s practically possible, but you, you don’t go to all the invitations you get.

30 Sure. That’s fine, and I’m going to come back to these.---And I, I may not have even been at this meeting. I, I may, I, I don’t know to be honest.

Mr Kinsella - - -?---Yes, sir.

I’ll come back to this shortly and you can have an opportunity to answer the questions then. All I was trying to do was to see whether this assists in your recollection.---In, in relation to Mr Chidiac?

Correct.---Yeah.
40

So - - -?---Probably doesn’t, this doesn’t.

Okay. So let's then go back to Mr Ferguson has introduced, I think you've referred to a number of trades, but going now to Mr Chidiac. How was he introduced, don't say oh, here's Joe Chidiac, I mean how was he introduced? This is what, he's Joseph Chidiac, this is what he does. What do you remember you were being told about that? How did you understand that he, Mr Chidiac, could help your business?---That he would be able to help pick up land. I, I suppose, if we step back just one second, just one second, Billbergia likes to do bigger projects where we stay in the same area
10 for a long time, not, not, we don't generally do a building and move onto another building, another suburb, another building, we, we do larger projects where we like to put in all of the infrastructure where we can, like the schools and the parks and everything else that goes it with. We like to stay in an area. So, Wentworth Point, we've been there for about, whatever, 15/16/17 years and we still have another maybe four or five years to do that. In Rhodes we've been there for close on 20 years, and in my view we'll be there for another 20 years. So basically, and, and, and it's helpful, it, it's difficult to pick up sites, especially when we've got desperate, I don't want to say desperate landowners, but lots of landowners, right? So in Rhodes
20 East – West wasn't too bad. We wanted to do a deal with, say, Multiplex Trafalgar and - - -

Just don't, don't - - -?--- - - - get a big site, yeah, but you have to look at it like this - - -

No, no, please, please, please, please.---Sorry.

Please.

30 THE COMMISSIONER: Mr Kinsella - - -?---Sorry. (not transcribable)

No, that's all right. Mr Kinsella, you may or may not be familiar with the way in which proceedings, hearings of this Commission proceed. As you have gathered, it proceeds by way of question and answer, rather than statements being made. So - - -?---I, I just want to assist - - -

So, I'll just finish.---Sorry, sorry, sorry.

40 I want you to listen to the question put, whether it's by Counsel Assisting or myself, to catch the point of the question and answer it directly, the point of

the question. So the answer must respond to the question and we don't want to have long statements about things.---Okay.

There will be an opportunity provided. If you want to further explain something that's been raised, you can just indicate that you would like to clarify something you've said or - - -?---Some more, yes and no, sir.

10 - - - something you've been asked and so on. Are you understanding me?
---Sorry, I cut you short again. Sorry, a habit. Sorry, I shouldn't be cutting you short, sir.

That's all right. Okay. Well, I just want to try and - - -?---Yeah, I understand, sir.

- - - assist us, otherwise - - -?---Yeah.

- - - it might take longer than otherwise would be necessary. All right, yes, Mr Darams.

20 MR DARAMS: Thank you, Mr Kinsella. I want you to focus in your answer - - -?---Is it okay if I take off the - - -

Sorry? Just one moment.---Just (not transcribable) I'm sorry.

At any stage, take your time to compose yourself, take a drink.---Yep.

30 My question was what was the basis of Mr Chidiac being introduced to you? That is, how did you understand that he could your business or Billbergia's business?---What, what – I'm not sure if he was introduced in this way. He may very well have been. But to acquire or put together properties – again, may I just, I don't know (not transcribable)

Acquire properties where?---Properties in Rhodes East.

40 Rhodes East. Did Mr Chidiac or someone describe him as a real estate agent?---I thought more as someone that would be able to assist because his – everybody in the area, 'cause we're in (not transcribable) quite a long time, knows the Chidiac family are very big into real estate or real estate transactions. So it was certainly, and again we have a lot of people knocking on doors, trying to get properties, and I expected that was what he was going to do.

THE COMMISSIONER: So when you said more to assist you or your company, assist in relation to what?---To acquire properties.

To acquire properties. Is that all?---In, in, in Rhodes East, sorry.

In Rhodes East?---That's right.

10 And did he, was there anything else that he provided services for to assist you other than acquiring properties?---I don't believe, I don't, there was other things. Like, I suppose if I break it down, when he was introduced to me in the first couple of meetings with him, that's what I expected he would endeavour to do.

MR DARAMS: So just going down to this, as I understood, Billbergia had already acquired property in Rhodes West for that Station Precinct and commencing 2002 or something like that. Why was it that Billbergia needed Mr Chidiac's assistance to acquire properties in Rhodes East?---In, in Rhodes West we picked up properties from about six or seven
20 landowners. In Rhodes East there was hundreds of people, some as small as 250 square metres, some as large as whatever, 10,000 square metres, but there was so many owners. And if you look at, because Billbergia had been in Rhodes for a long time, and this is one of the disadvantages as being seen as a big player, if, if Billbergia or Billbergia's representative knocks on the door and someone has a house that has 500 square metres on it, and its true value is 2 million, they will certainly look for 6 or 7 million, because they say Billbergia's building this over here. So when we're trying to acquire properties, we try to get someone doing, we don't mind paying one and a half of top, double even what we think it's worth (not transcribable)

30

THE COMMISSIONER: All right, just pause there. I think you're going beyond the question.---Sorry, again, sorry. Okay.

MR DARAMS: So - - ?---But I just want to explain to you why we would send someone like other agents or other people in.

Yeah, so that's what I want to understand. So, what, you have some conversation with Mr Chidiac where he tells you the skills or the experience he has in acquiring properties, is that right?---Yeah, I would, I would say
40 that.

So what did he tell you?---He probably said he could assist.

But what does that mean? Does he - - -?---Assist in, in, in negotiating property.

So do you have the conversation or the negotiations with Mr Chidiac in terms of the services he would provide Billbergia?---I can't, I can't recall exactly what was negotiated on that, but it was always the intention and, I believe, the understanding that what he would do was try and acquire
10 properties so we could put some sites together.

No, my question was were you the Billbergia employee representative who had the conversations or the negotiations with Mr Chidiac about what he would do?---Yeah, yeah, yeah.

You were the Billbergia employee or representative who had the negotiations with Mr Chidiac about how much Billbergia would pay?---Did we ever discuss the percentage or, or whatever, probably not with most of the agents. Most of the agents said, listen, I need 50,000 for this or 500,000
20 for that - - -

No, no. My question was different.---No, well – sorry.

THE COMMISSIONER: No, just listen to the question again. I'll have the question put to you again a second time. I want you to listen and answer it directly.

MR DARAMS: You were the Billbergia employee or representative who negotiated with Mr Chidiac about how much Billbergia would pay him for
30 these services you negotiated for him to provide?---There wasn't a fee structure negotiated at the time, from memory, from memory.

So when you say "at the time" do you mean at the time that you have this negotiation with Mr Chidiac where you work out what he could provide in terms of his services to Billbergia? Is that what you're talking about, at the time?---Yeah, yeah.

So when did you have the discussion or negotiation with him, that is Mr Chidiac, about how much Billbergia would pay him for these services he
40 was going to provide?---When he negotiated something and he got something done, he would send the bill.

So do I understand this. You have - - -?---He wasn't on a retainer.

So let me just understand your evidence. You have this conversation or negotiation with Mr Chidiac where he tells you the types of services he could provide to Billbergia. Is that correct? Have I got that part right?
---Yeah, there was an understanding of that. I'm not sure of the exact words, whether he said, "Listen, I can, I, I, I can (not transcribable)" I don't know what was said in, in that instance but what, there was an
10 understanding that he would be able help acquire properties for them together.

You don't have any conversation with him or negotiation with him at that time as to what he might charge you or that you might be committing Billbergia to pay in relation to that?---No.

None at all?---None at all.

20 THE COMMISSIONER: I think you said he wasn't on a retainer?---He wasn't on a retainer.

So what was the basis for paying him for his services? How was that calculated or - - -?---In a sense, it was, it would be a do-and-charge.

Pardon?---It would be a do-and-charge.

Do-and-charge. Can you elaborate on that?---He, he'll do a job, and he'll say, "Listen, that should be, what, 200,000, I think, because I got you a good deal," and I'd say, "Yeah, probably is, probably worth more," that type of
30 thing.

And when you said he would provide services in respect of acquiring properties, what sort of services specifically?---How he acquired the properties, I don't, he obviously knocks on doors or gets other people to knock on doors from his sphere of influence and, "Come on, listen, you, you can buy 236 Blaxland Road for, I'll be able to get you that site for \$3 million and I, I happen to have the one next door." I say, "Sure, that's a pretty good deal. I'm happy with that. Let's do it," that kind of thing.

And in acquiring properties, did you or your companies also utilise licensed real estate agents to help find properties?---Absolutely. We, everything, so - - -

So you did use licensed real estate agents?---We, we did, yes.

Yeah. Okay. And that included for trying to find or acquire properties? ---That's right.

10 Is that right?---That's right.

Is that right?---That's right, sir.

You've got to answer because shaking your head doesn't get recorded. ---Okay.

Yes. Okay. But you say you also used Mr Chidiac to help acquire properties?---That's right.

20 Okay. And what other services did Mr Chidiac provide as time went by? ---We had a, a real sticky issue with anchors on our site in Rhodes, Rhodes West.

Was this in relation to a property adjacent to - - -?---Block - - -

Your property?--- - - - B, B and a little bit of A.

So in Mary Street, was it?---That's right.

30 So he was involved in trying to negotiate a solution of some kind to that issue?---That's right because on the other site, we had huge problems. You probably see it in the media. I'm, I'm not sure if you looked, but there's an isolated house - - -

Yes. I think I understand.---Okay.

You've got two properties adjoining?---That's right.

40 On the one property, the owner wants to develop - - -?---Sorry, yes.

- - - but you've got to determine how that's going to go ahead without impacting on your property, which is adjacent. Is that, in essence, what the matter is about?---Yeah.

To find a solution.---We, we had one on the other site which the people were obviously, it was a property that was probably worth 4 million, they wanted 20 million. They tried to stop the anchors from going in, so we ended up with several court cases costing a couple of million and taking 12 months. That probably cost us 10 million in delays. So on the other site, we
10 tried to negotiate it and – we were trying to negotiate there as well, but obviously unsuccessful.

And what was the name of the owner or developer of that adjacent property?---The, the one that went to court?

Hmm?---The one that went to court or the – I-Prosperity on one side, that's on the Mary Street side.

I-Prosperity, was it? Yes.---Yeah. And on the other side it was Dr, Dr Li, I
20 think.

Okay. So you dealt with, at least with I-Prosperity over that issue?---That's right.

Now, apart from that particular issue, has Mr Chidiac provided any other services to you or your companies?---He has brought other sites to us. We ended up not buying them after he brought a site to me in Strathfield North.

Sorry, I missed that. I couldn't - - -?---He, he brought a site to us in
30 Strathfield North beside the, where the new Metro station is going.

Is this in relation to an acquisition of a property or was it - - -?---Yeah, yeah, yeah. He, he brought, I think it was about 100 square metres.

I think I tried to distinguish in my question acquiring properties and other services.---Oh, sorry.

My question is what, if any, other services has Mr Chidiac provided to you and/or any of your companies?---I can't recall that there was other services.
40

Other than acquiring properties?---Acquiring properties, I believe. And, and when, if you call it an introduction, I suppose even acquiring properties is part of the introduction. He did introduce the, the Jacob brothers to us.

He introduced them?---Introduced them, yeah.

For what purpose?---Because they had actually went before, they were in Rhodes before us. Sorry, I shouldn't say Rhodes, Rhodes East, purchasing properties even before Billbergia went to purchase some properties over there. I actually didn't know at the time, I didn't know the Jacobs, I didn't know what or any properties that they had got, but so the knowledge of knowing, number 1, who else is in the area, and number 2, if we can work together in terms of acquiring the property as against us competing on them the whole time, because when you're putting a site together, it, it's a little bit like the screen there. There's no point in having one on each side and missing the one in the middle. That means you can't put a site together. And with the Prolet and Billbergia sites, some of it ended up like that where we had the house in the middle of his houses and he had some houses in the middle of ours, so it actually made it impossible to consolidate. And without the consolidation, very difficult, well there's nothing you can do at a development site without consolidating certain parcels of land. And he introduced the Jacobs, from memory, I'm pretty sure, so I suppose you, you might say that's another service he provided.

So he introduced you to the Jacob brothers?---That's right.

Who owned land in the area. Rhodes East, is that right?---Rhodes East, that's right. I think he may have actually introduced me to someone in - - -

And after he made the introduction to the Jacob brothers, did he provide or continue to provide any other services in relation to matters of interest to your companies and the Jacob brothers?---It's hard, hard to say. Maybe over a cup of tea he might, might have said, "Listen, you, you, you guys should work together" or something. I, I, I can't really remember that now because we had so many – and I'm going off the point, I should wait for the question, sorry.

Well, were steps taken to that end? That is to try and work with Jacobs brothers?---Yes, yes, yes.

40

Right. And did Mr Chidiac provide services in relation to those ongoing discussions with Jacobs brothers?---We had a lot of discussions with Jacobs brothers in terms of development there. Went on for years.

Yeah, but my question was whether Mr Chidiac assisted - - -?---Was he - - -

- - - by providing services in relation to such discussions.---Was he completely involved in, in day-to-day, no. No, absolutely not. Did we have discussions where we went for a cup of tea and we said, “Listen, we believe
10 that having a crossing from the station to Rhodes East via your land or via our land,” we may have mentioned those things to him. Like we’ll say above-road crossings from the station across, we, we could have discussed those things that we’d say to say, “Listen” - - -

What’s the answer to my question?---Yeah, yeah.

Is yes?---Did we discuss other things besides - - -

No, no, no, I’m talking about Mr Chidiac’s role in providing services in the
20 context of Jacobs brothers/Billbergia.---Only advice to say, “Listen, you guys should work together.” He probably did say that. Did I feel there was another service being offered in organising something? I didn’t feel that.

You didn’t - - -?---I didn’t feel that, no.

You didn’t see it. Does that mean he didn’t provide any services beyond the introduction?---I suppose it’s fair to say that. As I said, he, he may have tried to push us in directions that would maybe work for both of us in terms of infrastructure, but, yeah, I would say it’s fair enough to say what you’re
30 saying, that he didn’t, yeah.

What sort of directions were you there referring to?---That perhaps we should do a joint venture or perhaps we should, we should help, because the Jacobs were smaller developers and they had only capacity, I suppose, for banking and other things to go a certain amount. And we actually did discuss from time to time, I’m not sure Chidiac was involved with this or not, but that we would actually project-manage the Jacobs building and therefore it would give them the capacity to do more in terms of funding and, and we’ll say bigger structural buildings. Yes, we were looking at
40 project management type of thing, but that was only one of so many things discussed. Like, what eventuated ended up very different. But that

certainly was, we did look at one stage, from what I can gather – and I actually had forgotten this when I was asked a question before, did we consider a joint venture, and I was quite wrong in saying before that we actually didn't, because I believe that we actually did. But I had forgotten all about it. So I believe that we had. Sorry. I'm getting off track.

MR DARAMS: Just going back to the – so Mr Chidiac introduces Prolet to, Prolet and the Jacobs brothers to you. The Chief Commissioner's asked you a couple of times what services Mr Chidiac provided to Billbergia other
10 than – for instance, you've explained introduction of Prolet, that's one. These property acquisition services, that's the other services Mr Chidiac provided?---Yep.

There was some discussions or services he provided in relation to the anchoring issue?---That's right.

They're the only services that Mr Chidiac provided to Billbergia?---Yeah, to the best of my knowledge, yes.

20 You would remember any other services that Mr Chidiac provided to Billbergia, though, wouldn't you?---I certainly can't remember any others.

In terms of actually doing property development, I mean, it's unlikely that Mr Chidiac's going to provide Billbergia any of those services, given how experienced your organisation was in that area. You wouldn't need someone like Mr Chidiac, would you?---To do what?

Well, to assist you in property development, in strategy or anything like that.---In strategy. Probably.

30

Well, did he provide you with some strategy services, did he?---Not, not that I know of.

Well, you would remember if he did do that, wouldn't you? You've got this Mr Chidiac who you've had a conversation or arrangement, agreement with in relation to property acquisition. You must remember what else he would have provided. You've given us the introduction to Prolet. You've given us the property acquisition. You've given us the anchoring. You would remember any other services he provided.---I, I can't remember any others,
40 no.

But what I'm suggesting to you is if he did, you would remember those services.---I think that's hypothetical. I don't remember any, no.

Sorry?---I think that's hypothetical. To the best of my knowledge, he didn't provide any other services.

Now, in terms of the property acquisition services, I want to go back to some of your evidence before. So he'd provide the services. Once the, inverted commas, job was done, inverted commas, he'd come to you and say, "I've done it. Here's what you're going to pay me"?---Yeah, it was like that.

Did you just accept what he paid you or do you have a negotiation with him?---No, if I thought it was a good deal, I wouldn't argue it.

And when you say it was a good deal, what were the parameters of your deal? That is, was it the price or was it the location?---Well, obviously the location is number one.

20 Right.---But both, actually. Tied, they tied together.

Sure. So I just want to ask you just to have a look at a few documents, please, and see whether you can assist us. If you can be shown volume 3C, page 3. Now, a few questions I want to ask you, Mr Kinsella. Do you recognise the handwriting in the bottom right-hand corner?---I don't recognise it, no. But it's probably someone in my office because - - -

Why do you say that?--- - - - every, every invoice is signed.

30 What's the - so when you say "every invoice is signed", can you tell us why the invoice is signed? What is it, does it just note that it's been received or does it note if you sign it that it's been paid?---Somebody in the office signs every invoice because year, years ago - - -

Sure, but why do they sign it? Why do they sign it?---Could you let me get to that?

No, no, just there must be an answer.---Just let me get to that.

40 No, no, I - - -?---No, sir - - -

THE COMMISSIONER: Mr - - -?---You asked me a question. I said, “Years ago we had fraud, we had fraud in the office.”

No, no, no, no. Please, Mr Kinsella.---Sorry.

I’m afraid I have to keep emphasising. You don’t make statements. You answer questions specifically. If there’s a matter that you want to elaborate upon - - -?---I see, Commissioner.

10 - - - I will consider whether you’re entitled to elaborate on it. You understand?---Yes.

These are the rules of the proceedings.---Okay.

So please just confine yourself to the question that’s asked. Put it again.

MR DARAMS: Yes. Mr Kinsella - - -

20 MR CHESHIRE: Commissioner, can I raise an objection in relation to that? I mean, the question that Mr Kinsella was asked was “Why was the invoice signed?” And what Mr Kinsella said in response was “Years ago”, and presumably he was about to explain that years ago something happened and that was why invoices are then signed.

THE COMMISSIONER: Yeah. Yeah, but Mr Cheshire, I don’t want longwinded answers.

MR CHESHIRE: Well - - -

30 THE COMMISSIONER: Simply be answered, “That’s the practice we adopted” - - -

MR CHESHIRE: Well - - -

THE COMMISSIONER: - - - “with all our invoices,” would be a sufficient answer without going back into the history of how the practice came to be.

40 MR CHESHIRE: Well, with respect, the witness has said that that is the practice they adopted, that every one was signed. He was asked why - - -

THE COMMISSIONER: Yes, thank you, Mr Cheshire. I've heard you and – yes, continue.

MR DARAMS: So, Mr Kinsella, the question is, what's the purpose for signing the invoices? I had said to you is it to acknowledge that it's been received or to acknowledge that it's to be paid or has been paid?---Every invoice is signed that comes into the office.

Yes.---I can't elaborate because I've been told not to.

10

No, no. Is it signed to acknowledge that it's been received?---So, may I get permission to elaborate?

THE COMMISSIONER: So all we're trying to work out at the moment, Mr Kinsella, is somebody's signed this. Are you able to say whether you recognise the signature or you don't?---Yeah, I believe that's – Commissioner, it looks like, does it look like Maude to you, sir?

20 Is there a person within your organisation who you think that signature - - - ?---In the Legal Department, yeah, it must be Maude.

So it's got – you'll see the invoice is dated 9 September, then there's, the bottom of the invoice is a signature with the date 15/9/15. Would you, do you know or would you infer that 15/9/15 indicates the date upon which the invoice was paid?---It was either paid, received or going through Accounts, so that's, I'm assuming it was going through Accounts.

30 Well, all I'm trying to ascertain is at the moment, what's your understanding in relation to the signature there and the date? Has it anything to do with recording the fact of payment having been made of the invoice?---No invoice will be paid without a signature.

Sorry, again.---No invoice is paid without a signature.

MR DARAMS: So, can we infer from that answer that if an invoice is signed it will then be paid?---Yes.

40 It's signed to acknowledge that Billbergia or the company on the invoice is obligated to pay the amount on the invoice or accept it?---As, as I said, it won't be paid without a signature.

Sure. So if it's endorsed with a signature that means this should be paid by whoever processes a payment in your organisation?---Yeah, of course.

Yeah. Now, just going back to this invoice. Sorry, can we please bring that back up? Do you know who Clear House Pty Ltd Is?---I, I, I don't know who, who that company is but I'm, I'm sure it must be someone that worked with, with property acquisitions because it's for that property acquisition.

10 So when you say it's for that property acquisition you're referring to the description "Commission for 448 Concord Road, Rhodes".---Yeah, that's right.

So just going back, who else do you know was providing these types of services to Billbergia in terms of property acquisition? So you've given us Mr Chidiac. Was Mr Chidiac doing this at this time?---Mr Chidiac, we, we, we had, there was probably 20 different people endeavouring to, to get properties for us.

20 So did other people have this type of arrangement, as far as you know, where they could, where they would invoice just a, what's called, commission for \$100,000 for that property?---Yeah.

Other people did that, did they?---Of course, of course.

Of course. When you say "Of course" do you mean yes, you agree with me that other - - -?---I, I agree they would have done that, yeah.

Were doing that?---Yeah, yeah.

30 Right. Now, the company Clear House has no, you don't recognise that in any way?---I, I don't recognise it, no.

Do you know that to be a company associated with Mr Chidiac?---I, I don't know.

No. So we've got some evidence that this invoice was paid into Mr Chidiac's account. Are you able to assist us with that?---No.

40 No. So I thought I'd understood before that Mr Chidiac would do some services for Billbergia, that's right?---That's right.

So then he would come to you and you would negotiate the, what I might regard as a negotiation with Mr Chidiac, he would say, "This is what it's worth," and you would say, "Okay. Yeah. That's worth about that," and you would agree to it?---Or he might send it in a bill.

Or he'd just send you a bill?---That's right.

Right. What would happen if he just sent you a bill? Would you pick up the phone and - - -?---At, at some stage someone may show it to me and
10 they would say, "Is this okay?" and I would say, "That's okay."

So you can't assist us any further in relation to this property here and the company Clear House?---No.

No. Now, if I could ask you to be shown page 7. This is a similar looking invoice from 1 February, 2016 but this time it's from Joseph Chidiac & Associates. Do you see that?---Yep.

Now, it's billed to Waterpoint Site 2 Lessor. That's a, or was a Billbergia
20 company?---Yep.

This description here is "Business referral re. 2 Llewelyn Street, Rhodes." Now, do you know that property, 2 Llewelyn Street?---I'm not sure which side of the road. I know Llewelyn Street and at this point we have all the properties on the northern side and Meriton has all the properties, I believe, on the southern side. So I'm not sure, this is one is northern – could you bring it up on the screen or something? I might be able to see whether that's on the northern side or the southern side.

30 Well, let's just focus on this tax invoice for the moment. That's your signature in the bottom right-hand corner?---That's right.

The description on this invoice is "Business referral".---Yeah.

Now, given your evidence before that these invoices are signed off to indicate that they should be paid - - -?---That's right.

- - - can we infer from the fact that you've signed this invoice that you
40 received the invoice, you looked at it, you satisfied yourself that that was an appropriate amount to pay to Mr Chidiac. Is that right?---Yeah, that would have been right.

So what was the business referral in this instance? It's not described as a description, sorry, a commission.---It, it obviously was an, an acquisition of a property. I, I, I don't, I'd have to go look and see what properties or go through the records or, I, if I can take on notice and get you the information on it?

10 Just when you say it was obviously an acquisition of property, are you saying that because that's all that Mr Chidiac was being paid for, that is to help you acquire or help your companies acquire properties in this respect?
---That, that's right and, and, the, yeah, that's right.

Yeah. So do we take that to mean that you didn't focus on whether or not there was some reference to business referral. You were just focusing on the fact that there was a property - - -?---I, I think what you're looking at is 2 Llewellyn Street, yeah, that's what I (not transcribable)

20 I couldn't locate when I did - - -?---Yeah, I'm, I'm not sure exactly, I know roughly the location of that but I don't know exactly the property.

I couldn't locate any 2 Llewellyn Street. There is a 2A Llewellyn Street that - - -?---(not transcribable) that's it.

Yeah. Just in relation to 2A Llewellyn Street, the records show that the price paid for that in about July 2016 was, or in early 2016 was about 2.6 million. Does any of the figures - - -?---It doesn't (not transcribable)

Doesn't?---No.

30 No. Do you know what the status is of 2A Llewellyn Street at all, like, do you know whether any of your companies still own it?---That, that's why, I, I, if I know which one it is, whether it's on the north side of Llewellyn or the southern side, northern side, we would own them, the southern side, we don't.

Right. I see.---The southern side is, was owned by Prolet but I believe that Meriton or one of their subsidiaries have bought it since.

40 Right. In terms of the price that was paid by Billbergia, were you involved in negotiating or agreeing the price?---someone said, would probably have

said to me, "Listen, I can get that for 2.6 million. Are you happy?" I probably said, "Yeah. Do it," that's the type of thing would be said.

Do you recollect whether that's what happened with this property, did Mr - - -?---I can't, I can't recollect that, no. But that would be a general thing on the properties.

10 Right. Now, there's some evidence to suggest that within a few months of this property transferring to a Billbergia entity for 2.6 million, it was transferred to a Prolet entity for 1.95 million. When I say that to you, does that ring any bells - - -?---I, I, I know we were, we, we were - - -

- - - in your memory about why that might have happened?---Yeah. I know we were swapping properties because, like I explained to you before, I had properties in the middle of his, he had properties in the middle of ours and, and then there were things rolling around, as you say, with the joint venture before and putting thing together. And then, then, then the time came that Prolet was of a view that they were only willing to put a certain amount of capital in the area and some sites came up that I thought were kind of
20 strategic in that if you don't pick, if they don't pick them up that it leads other people into the area. So I, I believe at one stage, we actually did help the, the Jacobs out in, in buying a property even that I think that wasn't necessarily strategic for us but was strategic for what we wanted to do in terms of infrastructure and bridges and all that type of thing in the area.

THE COMMISSIONER: Mr Darams, I think we're getting too far away from the - - -

30 MR DARAMS: Yes.

THE COMMISSIONER: - - - issues in this public inquiry, so - - -

MR DARAMS: Now, just, so you can't help us with any of those matters there, Mr - - -?---No.

No. Now, in relation to Mr Chidiac, do you recall whether Mr Chidiac invited you to any meetings or dinners with representatives of I-Prosperty? ---Yeah, he probably did. He possibly did.

40 Can you recollect when that occurred and what the circumstances were?---I was, I was looking that up and I know we got an invitation. I can remember

very vaguely meeting some guys from I-Prosperity somewhere, a big guy. I shouldn't say, I shouldn't, I call him big rather than – he came in. He was rushing around. He came in and had a dinner I guess. At, at, I don't remember what restaurant. I actually thought it was just in some coffee shop, but according to the records, whatever you have there, I think it might have been in that Phoenix restaurant. But at the time, I-Prosperity was big into hotels and that, right, and they were buying hotels and we were told (not transcribable) - - -

10 THE COMMISSIONER: Just pause there, please.---Sorry, sorry, sorry.

The simple question was put to you - - -?---Yeah.

- - - “Did Mr Chidiac invite you to meetings with I-Prosperity?” What's the answer to that question?---I believe we got an invitation to I-Prosperity. I'm not sure who gave it. May very well have been Mr Chidiac, but I don't, I can't recall whether it was him, but we did - - -

20 Are we talking about one occasion or more than one occasion? The question was whether Mr Chidiac had invited you to meetings, plural, with I-Prosperity, and that would cover any period of time.---Okay. I, I can't recall Mr Chidiac inviting me to a meeting. I know I did meet I-Prosperity for a short, just a quick greet, meet and greet. I - - -

All right. Now the next question. Do you recall attending meetings from time to time with Mr Chidiac and members of I-Prosperity, either at a coffee shop or a restaurant or somewhere else?---I remember having that brief, I'm not sure whether it was lunch, dinner, whatever it was, with I-Prosperity, the fat guy. And I can't remember who was there. I'm not sure Belinda was
30 there, but I remember the big young Chinese guy, he was quite young - - -

When was this meeting?---Long time ago. I think it was in the early days of I-Prosperity there, so - - -

Approximately what year are we talking about?---When did I-Prosperity buy the site in, in there?

No, no, no, don't - - -?---It would have been around then, around then.

40 Whenever Prosperity bought in.---It would have been around there, yeah.

Okay. Now what about other meetings? Any other meetings?---I had meetings in the, there was a meeting, I believe in, possibly was Oliveto's, I think, where Belinda was there.

So is the answer to my - - -?---But with anyone else - - -

10 No, just a moment. Is the answer to my question "Yes, there were other meetings"? And then we might decide whether we need to bother you about details concerning individual meetings.---Okay, okay. With Mr Chidiac present, I can't actually remember - - -

What's the answer to my question? Did you or did you not attend meetings with Mr Chidiac and I-Prosperty from time to time? The answer to that must be either yes or no or perhaps something else.---Yeah, I can't recall.

MR DARAMS: Now, you referred - - -?---And, well, in saying, in saying that, I must put a caveat on that, and I tried to say before - - -

20 THE COMMISSIONER: No, just a moment. Just a moment.---Okay.

You say you can't recall. Is that your answer? That's your truthful answer?---I had a meeting with I-Prosperty. That's, that's my truthful answer.

No, please.---But the next part of the question - - -

30 I'll put it once more. Now you listen to me. I'm asking you the question. Do you recall having been invited by Mr Chidiac to meetings, plural, with people from I-Prosperty? Do you?---I don't recall.

Do you?---I don't recall.

You don't – thank you. That's the answer.

MR DARAMS: Now I just want to focus on the one thing you do recall. You remember meeting – you describe him as a large or a fat person. Now, was that at a restaurant?---Yeah, or a coffee shop.

40 Restaurant or coffee shop. Now, do you – can I just show you, to assist you with your memory, volume 6.10, page 14. Now, this is extracted from your

phone. There are calendar entries for 9 December, 2015, Mr Kinsella.
---What part is that in, sir?

Sorry?---The bottom part or the top part?

Both of them. Both - - ?---Okay. Dealing with Joseph Chidiac, that one.

Yes. It says 9 December, 2015. The second entry, same date, same time,
but it has a location, Phoenix Rhodes.---Yep.

10

Does this assist you with your memory?---No.

No.---End time, start time. Start time, 6 o'clock. End time, 7 o'clock.
What exactly does that mean? Start time 6.00, that's only an hour for lunch,
is that what it's saying?

No, I just don't want you to focus on the date, I'm asking you whether this
assists you with your memory and you're saying it doesn't?---No.

20 How many times would you have had had dinner with Mr Chidiac?
---Dinner or lunch?

Sorry?---Dinner or lunch?

Dinner.---Dinner's the night one, isn't it? Probably, with him on his own or
with other people?

Well let's start on own. You and Mr Chidiac?---Alone.

30 Yes.---For dinner?

Yes.---I don't, I can't recall that we ever had dinner alone.

Okay. What about with other people?---Probably at functions or as a
function with, with Balmain Tigers we had dinner. Also I believe he came
to my functions several times, I believe he did.

40 Yes, I'm talking about the dinner that isn't a Balmain Tigers or a West
Tigers functions or one of your Kinsella family dinners, not one of those.
Just a dinner where Mr Chidiac, maybe some others, you, him and maybe
some others, not one of these functions.---Oh, jeepers, yeah, there, there

was, I can't remember where they were, there was one I know in Darling Harbour at night time, that's the only one I can actually recall where we actually had dinner - - -

Who was at that?---There would have been, Chidiac was definitely at it. I'm not sure if Mr Mayor was at it, I think he may have been, and possibly one of the Jacobs. And there might have been someone else, there might have been someone from West Tigers, it might, it might have been Pascoe from West Tigers, I'm not sure, he could have been at it.

10

When was this?---A good few years ago.

Sorry?---A good few years ago.

What does that mean?---Six, seven years, something like that, six years. I would say, I would say six is probably not too far out, it could be longer.

And why were you meeting with Mr Chidiac and Mr Tsirekas?---I got an invitation, I'm not sure what was the - - -

20

Well, why were you having dinner with them?---Probably for, they were looking for money for the Tigers Club, they were looking for sponsorship for the Tigers Club.

So this is a - - - ?---They were also looking at putting a club, at what we call, like an RSL Club possibly in Rhodes for the, for the leagues club. In other words, having like the headquarters of the leagues club in Rhodes.

30 So this event was in relation to something to do with West Tigers?---I believe it would have been, I believe it would have been. But, like, I know we were at one, whether it was that one or whether it was another one, but I know we were at a meeting where I think we had Chidiac, we had one, one or two of the Jacobs, I think the mayor, I think Pascoe, I think that was his name, from the Tigers Club.

Are you talking now about the Darling Harbour dinner?---It could have been that, it could have been that. It was one of those dinners, I'm not sure if it was the Darling Harbour one or whether it was another one - - -

40 So you recollect there being another dinner?---I remember at least heaving one dinner, maybe two dinners.

With Chidiac and Mr Tsirekas?---With Chidiac, yeah, yeah, whenever they wanted a Tigers things, Chidiac was always present with the, with the Tigers Club.

So your evidence, your recollection is dinners with Mr Chidiac and Mr Tsirekas were about Tigers, West Tigers?---A lot of it was, yes.

Well, what else did it involve?---What else, chitchat.

10

Just general chitchat about the weather and things like that?---Yeah, yeah.

Yes. Now - - -?---If I had the opportunity to say to him, listen, I'd like to put a playing field in Rhodes, I would say that to them - - -

Right.--- - - - because I think a playing field, football field is a good idea in your suburb.

20 Did you talk about any of your planning or Billbergia's planning proposals either for the station precinct or plans for East Rhodes?---I can't recall that I would have but it's possible I could be, as I said, we like social infrastructure so I could very well have said, listen, we would like to put a dog walking parks or football fields or parks because we, we like open space in suburbs.

Going back to, you indicated lunches. Now, how many lunches did you go to with Mr Chidiac and Mr Tsirekas?---With those two alone or - - -

30 Well, let's work on Mr Chidiac first. Alone with Mr Chidiac?---I'm not sure I've been, ever been having - I, I've met Mr Chidiac in a coffee shop for a quick cup of tea alone. I'm not sure I ever had actually a dinner or a lunch with him alone.

Right.---I don't believe we have.

40 What about Mr Chidiac and Mr Tsirekas?---Again, we, we would have had - I'm not sure with just Mr Chidiac and Mr Tsirekas. I don't know if we ever had one with just the three of us. I don't, I don't believe that we have, from memory.

Right. Now, you obviously had, at some stage, Mr Tsirekas' phone number?---I possibly could have. I, I, I don't know that I ever called Mr Tsirekas. I can't recall that.

No, no. That wasn't my question.

THE COMMISSIONER: Would you just listen to the question and answer it?---Oh, okay. Yeah, yeah.

10 MR DARAMS: You had Mr Tsirekas' phone number at some stage?---I may have. I, I don't know for sure that I had, but I may have.

Yeah.---I may have, I, I, I don't know for sure.

Okay. Now, you had Mr Chidiac's phone number?---Yeah. I'm sure I would have.

20 Yeah. Now, bear with me. I want to ask you about some correspondence. Now, could the witness be shown volume 6.5, page 151? Now, Mr Kinsella, you use your phone to, and have used your phone to send text messages to people?---I have done sparingly, yeah.

Sure. Sparingly. What do you mean by that?---I don't send a lot of messages but I have, I have, of course, of course I've sent messages.

Sure. So do you see your name in the middle of the page there? Don't read out the number, but that is your number above your name, isn't it?---Yeah, that's my, that's my number, yeah. [REDACTED]-1-1-4-7, that's it.

30 Do you recognise the number below that as being Mr Chidiac's number?---I wouldn't recognise his number anyway, but - - -

All right. Okay. Now, this is an extract of a text exchange on an app called WhatsApp. Are you familiar with WhatsApp?---Yeah, yeah.

Yeah. So this is an exchange between you and Mr Chidiac on WhatsApp. So just for your benefit, the blue balloons are your messages.---Blue balloons, my number, is that?

Yeah. I call them balloons. And anything where there is green, they are the responses to the messages from Mr Chidiac, okay?---So blue is mine, green is his.

Yes.---All right.

So I just want to ask you - - -?---Well, there's no, there's no green on this.

There isn't?---No.

10

No, I know. We'll come to it in a moment.---Okay.

Could the witness be shown the next page? Now, these are messages you sent in February 2019 to Mr Chidiac, okay? Do you see the date, 22 February?---Where is that?

Just see, yeah, see that date there?---Yep.

20 Now, just in relation to this, Mr Kinsella, by this stage, February 2019, is Billbergia still purchasing property in Rhodes East?---The last property we purchased on Rhodes East was only a few months ago.

Were you engaging Mr Chidiac to purchase properties in Rhodes East in February 2019?---I don't know when was the last one, I couldn't say. But I, nevertheless, property we purchased was in, only months ago.

You didn't use Mr Chidiac for that work?---No, that was a, a family lot.

30 Sure. Okay. So when was the last time you engaged Mr Chidiac to provide this property acquisition services you say that he was providing to Billbergia?---He's actually brought several sites to me even outside this area
- - -

No, no. Just focus on - - -?---On Rhodes?

I just want to go back.---Okay.

40 Your company's paid Mr Chidiac significant sums of money in relation to what I understood your evidence to be property acquisition. Okay?---Yeah.
Yeah.

I'm just asking you to focus on when was the last time you engaged Mr Chidiac to provide these property acquisition services in Rhodes East? Because that's what I understood Billbergia had engaged him to provide. That's right?---No, I'm saying that, we bought a property in Mosman and were looking - - -

No, no. Rhodes East.---Yeah, yeah.

10 Rhodes East. Don't worry about Mosman. Rhodes East. When was that?
---I can't recall.

Six years ago?---Probably be a lot later than that but I can't recall. Listen, if you came to me tomorrow morning with a good site, I would take it.

Now, I just want to draw your attention to the second balloon point where you say, "It's hard to contain this anger when someone is trying so hard to fuck you over." So who was trying to fuck you over?---I have no idea.

20 Well, this is your message.---It is. When was it sent?

Yeah. 22 February, 2019.---Yeah. So I have no idea what I was talking about.

Well, this is a message between you and Mr Chidiac.---Yeah.

Why would you be conversing with Mr Chidiac in relation to, is this about a property acquisition?---I don't know. I honestly don't know.

30 Well, what about if you look at the next message.---Yeah.

"Why did he declare war? I don't understand why. What's the reason?"
---Don't know.

Isn't that a reference in that third bullet balloon to Mr Tsirekas?---No idea.

Well, these are your text messages to Mr Chidiac.---Yeah.

You must have some idea what these are about?---I honestly don't. No idea.

40 Now, Mr Kinsella, you're engaging in text exchange here with Mr Chidiac?
---Yeah.

You've given evidence under oath that the only services that he provided to Billbergia were property acquisition services. Correct?---Yeah.

You say that he introduced Billbergia to, sorry, Prolet to you. Correct?
---That's right.

That happened well before February 2019?---Of course.

10 So that's not what you're talking about here?---I have no idea.

No, you're not talking about the introduction to Prolet here?---No idea.
What are we talking about?

Sorry?---No idea what this is about. I have no idea.

Right. None of this assists you?---No.

20 Okay. Well, let's go over to the next page. I just draw your attention to that message in the top.---Okay.

So does that help you with your recollection now?---What, what this is is that the community were very upset on this because the leisure centre was
- - -

THE COMMISSIONER: No, just wait a minute. You haven't been asked a question.---Okay. Sorry.

30 MR DARAMS: No, no. The question was does this help you with your recollection?---Do you want me to explain this stuff or not?

Well, the first question is does reading this help you with your recollection now in relation to who these other messages were about?---No.

It doesn't?---No.

THE COMMISSIONER: Do you know what Counsel is referring to? The previous messages we've talked about - - -?---Yeah. What, what this is - - -

40 No, no, no. Just let me finish. The previous messages, in order to make sure you're on the same page as Counsel, relating to being fucked over by

somebody and there was a reference to somebody at war almost with you.
Do you remember those messages?---I, I don't remember them, no.

Oh, well, we'd better show them again.

MR DARAMS: Page 152. These are the messages that the Chief
Commissioner was referring to. Note the date, 22 February. I asked you
about all these and you had no recollection as to what they were about. I
suggested to you that at least the third one was reference to Mr Tsirekas and
10 you had no recollection. So just so we're clear, when I'm asking you about
is your recollection assisted by reading this other text message on page 153,
I'm referring to whether it assists you in relation to that recollection about
these two text messages. Now, question, reading the text message on page
153, if we can please go to that, does that now assist you with – firstly, were
your messages on the previous page directed to Mr Tsirekas, that is him
declaring war on you?---No. I can't, I don't see that.

Does this message here help your recollection as to whether or not you were
of the view that Mr Tsirekas was fucking you over at this time?---No, I
20 don't, I don't see that.

You don't see that but is that what your messages were intended to convey,
the other messages?---This is the council.

Right. So the council has declared war on you?---If I can explain this thing
- - -

THE COMMISSIONER: No, no, just answer the question.---We're living
in the area - - -
30

No, no. No.---I, I can't, I can't do it without going into it.

Put the question again.

MR DARAMS: Was council declaring war on you?

THE COMMISSIONER: As you saw it?

MR DARAMS: Yes.---No.
40

Who was declaring war on you as you saw it?---I don't believe anyone was declaring war. I was, obviously it was a terminology that was used and, for whatever reason in the heat of the moment, for some reason, okay.

And the someone fucking you over, is that the same person as the person declaring war?---I have no idea what, what that's about.

Now, just back on this message here. Were you sending this message to Mr Chidiac so that he could send the message on or give the message to Mr
10 Tsirekas?---I don't believe that's the case.

Well, why were you sending this to Mr Chidiac then?---Explaining to him about the leisure centre.

Who, Mr Chidiac?---Yeah.

Why did you have to explain the leisure centre to Mr Chidiac?---Because the public were up in arms.

20 THE COMMISSIONER: No, no. Why were you communicating this to Mr Chidiac rather than any other person?---Leaving some steam off probably.

MR DARAMS: Sorry?

THE COMMISSIONER: Hmm?---Leaving some steam off.

Sorry, couldn't hear that.---Leaving some steam - - -

MR DARAMS: I think he said letting, leaving or letting some steam off.
30 ---Letting some steam, yeah.

Venting in other words?---Yeah. That's probably it.

THE COMMISSIONER: But why do that with Mr Chidiac?---I probably done it with a lot of people.

I can't hear you.---I may do it with a lot of people, letting some steam off.

MR DARAMS: No, but the Chief Commissioner's question, and you
40 understood this question because it's quite clear, why are you venting or letting off steam with Mr Chidiac in particular?---No idea.

You do have an idea, Mr Kinsella. You must.---Well, if, if it was every going to this.

THE COMMISSIONER: Mr Kinsella, are you trying to assist or obstruct this Commission?---I'm trying to assist, sir.

MR DARAMS: I note the time.

- 10 THE COMMISSIONER: We might take the luncheon adjournment and we'll resume at 2 o'clock. We'll adjourn.

LUNCHEON ADJOURNMENT

[12.59pm]