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COMPULSORY
EXAMINATION

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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

COMPULSORY EXAMINATION

OPERATION TOLOSA

Reference: Operation E17/1221

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY, 11 APRIL 2022

AT 11.30AM

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

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

Sensitive

THE COMMISSIONER: This is an examination of John Osland. It is being conducted for the purposes an investigation of an allegation or complaint of the following nature. I think we're focusing on a complaint that since 2011 Angelo Tsirekas has partially and dishonestly exercised his official functions and failed to disclose the nature of his relationship with Francesco Colacicco in relation to the sale of council property at 231 Victoria Road, Drummoyne, and development applications and planning proposals associated with Colacicco in return for a financial benefit. I'll take appearances.

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MR DARAMS: May it please the Commission, Jamie Darams. I am Counsel Assisting the Commission.

THE COMMISSIONER: Thank you.

MR PINTO: May it please the Commission, Pinto is my name, seeking leave to appear on behalf of Mr Osland.

THE COMMISSIONER: Mr Pinto, that authority is given,

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MR PINTO: Thank you.

THE COMMISSIONER: The first thing I've got to do is make some directions. Before I do that, can I just apologise to the parties for the later start this morning. The first direction is I direct that the following persons may be present at this compulsory examination: Commission officers, including transcription staff; Counsel Assisting; the witness; and the witness's legal representative.

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I propose to make a direction under section 112 of the Independent Commission Against Corruption Act, restricting the publication of information with respect to this compulsory examination. The direction will prevent those present today, other than Commission officers, from publishing or communicating information relevant to this compulsory examination. It will permit Commission officers to publish or communicate information for statutory purposes or pursuant to any further order made by the Commission. The direction may be varied or lifted by the Commission without notification if the Commission is satisfied that it is necessary or desirable to do so in the public interest. It is a criminal offence for any

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person to contravene a section 112 direction.

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

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SUPPRESSION ORDER: BEING SATISFIED THAT IT IS NECESSARY AND DESIRABLE IN THE PUBLIC INTEREST TO DO SO, I DIRECT PURSUANT TO SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT THAT THE EVIDENCE GIVEN BY THIS WITNESS, THE CONTENTS OF ANY EXHIBITS TENDERED, THE CONTENTS OF ANY DOCUMENTS SHOWN TO THE WITNESS, ANY INFORMATION THAT MIGHT ENABLE THE WITNESS TO BE IDENTIFIED AND THE FACT THAT THE WITNESS HAS GIVEN

20 **EVIDENCE TODAY SHALL NOT BE PUBLISHED OR OTHERWISE COMMUNICATED TO ANYONE EXCEPT BY COMMISSION OFFICERS FOR STATUTORY PURPOSES OR PURSUANT TO FURTHER ORDER OF THE COMMISSION.**

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THE COMMISSIONER: Mr Osland, just to confirm, that means you can have discussions with Mr Pinto if we have a break or after the compulsory examination is finished for legal advice but otherwise you are not to discuss what you were asked today, your answers, you really can't reveal the fact that you have been here and been examined. Mr Pinto, the next issue is a declaration under section 38 of the Act. Have you had an opportunity to discuss that with Mr Osland?

MR PINTO: Yes, we have, Commissioner, and he would like you to make the direction in regard to his evidence today.

THE COMMISSIONER: All right. Mr Osland, I would understand that you've had a discussion with Mr Pinto about such a declaration and its effect.

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MR OSLAND: Yes.

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THE COMMISSIONER: I'll just say one thing and I'll preface it by saying I say this to every witness who appears here and seeks the protection under section 38. It does not protect you if it is alleged you have given false or misleading evidence or information during this examination. If you do that, you may be prosecuted for an offence under the Act. It's a very serious offence, it's in the nature of perjury. The penalty for that includes a maximum penalty of imprisonment up to five years.

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

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

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THE COMMISSIONER: Now, finally, Mr Osland, do you take an oath or an affirmation?

MR OSLAND: Oath, please, Commissioner.

THE COMMISSIONER: Now would you stand, please, and we'll administer the oath.

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THE COMMISSIONER: Right. Mr Darams.

MR DARAMS: Thank you. Mr Osland, I'm just going to get some background information from you. So can you please tell us your full name?---John Dallas Osland.

10 What's your current address?---[REDACTED], Young.

Do you have a mobile phone?---I do. [REDACTED]-2-1-9-8.

Are you currently employed?---On a, on a six-month contract with Snowy Valleys Council.

Sorry? With who?---Snowy Valleys.

20 Snowy Valleys. When you say "six-month contract" is that as an employee or a contractor?---As a contractor.

Yes. And how far into that contract are you?---About three weeks.

Three weeks. What position is it?---Director of Infrastructure.

Right. Before this contract, did you have any other employment?---Prior to that, I was employed by Temora Shire Council as an employee for, part-time employee for 12 months.

30 Right. Now, I'll come back and ask you in a moment your qualifications but you were previously employed with the City of Canada Bay Council. Is that correct?---Yes.

When I refer to "the council" today, I'm referring to that council. Okay? ---Yes.

Can you tell us how long you were employed by the council?---I was employed by the council for a touch over 10 years, from 2008 to 2018.

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Were you employed in the same position in that entire period of time or were there different positions?---Same position as Director Technical Services and Operations.

Now, in relation to your professional qualifications, do you have any?---I do.

10 What are they?---I have a Bachelor of Civil Engineering, Graduate Diploma in Local Government Engineering and a Masters Degree in Local Government Management.

In relation to the cessation of your employment at the council, did you resign or was your employment terminated?---I took voluntary redundancy.

I see. That was offered up and you took it?---Yes.

Now, just in relation to the period 2016, in your role, did you report directly to Mr Sawyer?---Yes.

20 Now, in relation to Mr Walton, in 2016, did he report to you in the sense that you were his boss or was he sort of a paid colleague at the same level and structure?---Around that time, he started reporting directly to me. We restructured and that branch came under my control.

Can you recall when that happened?---I think it was '15 or '16, I'm, I'm unclear on that.

I see. So possibly from 2015, potentially in 2016, Mr Sawyer, sorry, I withdraw that, Mr Walton reported in to you?---Yes.

30 You reporting up to Mr Sawyer?---Yes.

In relation to your position, what were your responsibilities in 2016 in that role?---To lead the Infrastructure Branch, to ensure that all appropriate standards were being met, to ensure the lawful directions of council were undertaken within my branch.

40 Well, can you just assist us with the sorts of things that the Infrastructure Branch would do or was responsible within council?---Yes. We looked after all roads, buildings, parks. That's general terms. In terms of that, yes,

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oh there was an, they were responsible for everything from strategic planning to construction through to maintenance in the future.

Right. Okay. Did you have a role in 2016 in relation to the disposal of any of those what I might call assets or property?---Certainly with respect of vehicles, yes - - -

Vehicles?---Yes.

10 And what was that role or that responsibility?---That was to approve the sign-off. Where vehicles became surplus to our needs, we'd replace them, to sign off the approval to dispose of them.

Like, the council fleet - - -?---Yes.

- - - for want of a better description?---Yes.

20 All right. What about any other assets of the council, did you have any role in the disposal of those?---In terms of property, I don't recall that we disposed of very much at that time but it was to ensure that we got the correct valuations and then to assess what the market value was regarding those valuations and recommended to the general manager how we would dispose of it, whether by auction or private treaty.

When you say property, are you including real property as well?---Yes.

Or is that what you were talking about?---Real property, yes.

30 Real property. Can you recall how many instances of the disposal of real property at the council you were actually involved in during your employment with the council?---No, I can't recall that. I, excuse me, I don't recall.

Do you recall being involved in the disposal of real property though, whether or not you can recall the number?---Yes. Some, yes.

Some, all right. But if I understood your evidence before, it wasn't a regular occurrence, that is the disposal of real property?---No, no.

40 In terms of the disposal of real property, was your branch of the council, was it responsible for the disposing of that property or was there another

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branch of council that was actually responsible for the disposal of that property?---It came under Mr Walton's remit but it was not done without the permission of signature of the general manager.

When you say general manager, in 2016 that would have been Mr Sawyer?
---Mr Sawyer.

So when you say - - -

10 THE COMMISSIONER: Sorry. You said Mr Walton reported directly to you after the restructure.---Yes.

Was he in charge of like a section or a division?---He was in charge of property and buildings.

Property and buildings.---Yeah. So it was leasing, cleaning, acquisition sale.

20 MR DARAMS: So in terms of when you indicated that the disposal of real property was under the remit of Mr Walton, what do you mean by that, that he would be the employee within council, subject to reporting up to Mr Sawyer, who was responsible for presumably obtaining the best price for council in respect of that property, dealing with the mechanics of the sale, the contracting and the like, is that right?---We did the mechanics of the sale, yes.

Yeah, okay. Can I ask the witness be shown additional documents number 13? Perhaps if we go to the next page. I'll just ask you, Mr Osland, to read to yourself Mr Sawyers email of the 7 April.---Yes.

30

Now, do you recall receiving this email from Mr Sawyer?---I don't recall, no.

No. Where it refers to – I'm going to ask you a couple of questions about this. It refers to Victoria Road. Do you understand that to be a reference to 231 Victoria Road, from reading this email?---I suspect so because from memory that was the only property we had for sale, we were trying to do something about on Victoria Road, yes.

40 I see. Now, in terms of this reference to a probity plan, can you assist us as

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to what Mr Sawyer was asking you about, what this probity plan was?
---With most of those sales we would prepare a plan to make sure that all the steps were progressed in the right order and the right people were signing off, yeah, and the right approvals were being gained.

Right. Are you able to assist us as to who would actually prepare the probity plan, is that you or is it some other employee you're aware of?
---Generally Mr Walton would prepare those.

10 I've seen some document called a direct dealing protocol. Does that document, is that familiar, the name of that document?---The direct dealing protocol, I remember that, yes.

Is that another name for the probity plan or is that a part of the probity plan?---Well, it's part of.

Right. Is the probity plan sort of a written document, is it, that sets out - - - ?---Yeah.

20 - - - a process that's going to be applied?---Yes, yes.

You said that if I understood correctly, that was the responsibility of Mr Walton. Is that right?---That's correct.

So would he provide it to you to sign off or review or what would happen with it after he prepared it, in light of the fact that Mr Sawyer seems to be asking you about the document?---Yes. Generally, it should come to me for, for review on approval and then it would go to Mr Sawyer for sign-off.

30 Right. Now, appreciating that this is an email from Mr Sawyer to you, but are you able to assist us as to who might have asked Mr Sawyer about the progress of this plan?---No, I can't.

So Mr Sawyer, at this stage, for want of a better description, was the most senior employee of council?---Correct.

We can safely assume that you didn't ask him about the progress of the plan?---No.

40 Yeah. It's unlikely to be either Mr Walton or Mr McNamara on that email there asking you about the progress of it?---No. No. It's - - -

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Would you be able to have a sort of guess as to who might be asking Mr, just based on your experience, asking Mr Sawyer, who might be asking about the progress of this plan?---It would have been on our work plan to undertake with certain deadlines which I don't, do not recall. That's all I would imagine it was. It was just asking for an update on where we were up to.

10 Sorry. Just if I could draw your attention to the first line. It says, "I have been asked about progress"?---Yes. No, I couldn't tell you.

You couldn't tell me?---No, I could not.

THE COMMISSIONER: Who would see the work plan?---Mr Sawyer. We would then - - -

But - - -?---Sorry?

20 Sorry. The work plan, does that set out a chronology of throughout the year, we anticipate we'll be doing this work or - - -?---At times, yes. At other times, it would be, this is a job that's come up, this is our time frame for delivering.

And other than obviously Mr Sawyer and those within council - - -?---Yes.

- - - employees, would anybody else generally see that?---Generally, it would generally be a conversation between myself and Mr Sawyer.

30 So - - -?---Yeah. Go on. Sorry.

It wouldn't go to the council?---The general time frame probably would but no details.

Okay. So the general time frame of a particular project?---Yes. Yes.

Okay.

40 MR DARAMS: So would it be possible that, from your understanding of the way these plans are prepared and available, that it's possible that Mr Sawyer might have been asked by one or more of the councillors?---I do not know.

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You don't know?---I do not know.

Right. Now, if you could just go back to the first page of the email. Just you respond to that email to Mr Sawyer, excuse me. You say, well, just, can I ask you to read that, just to yourself.---Yes.

10 I want to ask you whether you can assist me just with the structure of this email because the way that I read it is that in order for you to report to Mr Sawyer about the matters you set out under Victoria Road site and under the Hospital Road site, you've actually consulted with Kent, being Mr Walton, and Mr McNamara. Is that right?---It's what I put in that email.

So I guess you drafted this email.---Yes.

20 I'm just asking you whether in order to respond in the detail that you include under the centre, the probity plans, don't read that, in order to include the rest in that email, have you gone to Mr Walton and Mr McNamara to get that information or were you able to simply put that information in there because you had direct knowledge because you had done each of those steps? Does that make sense?---No. I would have had to go back and speak to Mr Walton and Mr McNamara.

30 Yes. And so in terms of just focusing on the Victoria Road site, it's likely that that information there – sorry, I won't say it's likely. Is it the case that the information in relation to the Victoria Road site came from at least a conversation you might have had with Mr Walton?---In terms of valuation and the offer, yes. And in terms of the requirements of the LEP, that would have been Mr McNamara, McNamara.

30 So the first developer told to meet the requirements, that's Mr McNamara? ---Yes.

THE COMMISSIONER: And, sorry, can I just ask, what was Mr McNamara's role?---He was Director of Planning.

MR DARAMS: What about the valuation that's been obtained on this basis, is that - - ?---That would be Mr Walton, Walton, yes.

40 Mr Walton on that one. Offer of 1.8 million on the table, which has been rejected. Is that from Mr Walton to Mr McNamara?---Mr Walton.

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“Once we get probity plan we can go back and negotiate further.” Is that Mr Walton or Mr McNamara?---It would have been Mr Walton, is my interpretation there of what he said, yep.

Yep. Now, can I ask the witness to be shown volume 4.2, page 238? Now, I’ll just ask you to read the email from Mr Sullivan to Mr Bartolotta on 12 May.---Yes.

10 Now, do you recall who Mr Sullivan was?---Mr Sullivan came in as a contractor for us. We had a few staff shortages on and we brought him in as a contractor.

Did he report to you or did he report to Mr Walton? I should, when I say report, I mean directly report to - - -?---Yes, to Mr Walton.

Right. So to the extent that Mr Walton had a reporting line to you then it would have been a dotted line through Mr Walton to yourself, that is Mr Sullivan?---Oh, for Mr Sullivan, yes.

20

Yes. But in terms of day-to-day work and dealings, it would be Mr Sullivan reporting through to Mr Walton?---Yes.

Right. Now, just in terms of the direct dealing protocol referred to in this email, just before we come to it, did you have any experience with these protocols during your employment with the council? And when I mean experience, I mean firsthand direct experience with - - -?---Not that I recall.

30 No. Were you familiar with – or perhaps I’ll just ask the witness to be shown the next page. Now, just first thing I’ll ask you, and maybe you need to read this, but if you don’t, are you familiar with this particular document, that is this one on the screen that’s referring to 231 Victoria Road?---I’m familiar with the general process. This particular document, I don’t recall it, yep.

Yeah, okay. And when you say you’re familiar with the general process, do you mean to say that you’re familiar with these types of documents that were being used by the council?---Yes.

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Yes, I see. Perhaps if you could just have a look through this first page. I want to show you the rest of the document, but just let us know when you want us to go to the next page, please.---Yes.

The next page, please.---Yes.

Next page, please.---Yes.

10 Sorry, if I could just go back to that – could I just, before we go on, I just want to draw your attention to a couple of sentences and ask you to just make sure that you’ve read them because I want to ask you some questions about them later on. So if you can go to under Negotiation Protocol. If you go to the third sentence, “Discussions during face-to-face meetings.” Just note that.---Yes.

The next paragraph, “All communication should only take place between the individuals”.---Yes.

20 Then just if you can be shown the next page.---Yes.

Next page, please. All I’d like you to identify on here, or note on here, Mr Osland, are the individuals who are identified, being Mr Walton, Mr Sawyer and Mr Bartolotta.---Yes.

Now, in terms of the probity plan, I think I recall your answer being that this type of document would form part of the probity plan, is that correct?
---That’s correct.

30 Did you have access to the probity plan if you needed to consult with the probity plan? So what I mean by that is could you go online or access the records to obtain a copy of, or look at it if you needed to?---In general, I could, yes.

THE COMMISSIONER: What do you mean by “in general”?---For most areas, I would have it available. Some areas were confidential, which I wouldn’t, where the general manager and Mr Walton were dealing directly. I do not recall whether this was one of those or not.

40 MR DARAMS: Just on that, when you say you don’t recall whether this is one of those matters where you wouldn’t have had access to the probity plan. Is that right?---Yes.

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So you can't say one way or the other whether - - -?---I don't recall, no.

But if you had gone, you know there's a probity plan for the potential sale of this property, that's right?---Yes.

If you wanted to go and, subject to it being confidential, if you wanted to access the probity plan, you could have done that because of the authority or the level of authority you had within the organisation?---Yes. Yes.

10

It wasn't something closed off to you unless it was otherwise marked confidential?---Correct.

You don't know whether this one was in particular marked confidential?---I don't recall, no.

THE COMMISSIONER: The one we just looked at wouldn't be confidential, would it?---I wouldn't have thought - - -

20 Pretty innocuous.--- - - - I wouldn't have thought so. But I don't recall.

Okay.

MR DARAMS: Now, in terms of, if you want to come back to that, could the witness be shown additional document 18? Now, I'll just ask you to read this email to yourself.---Yes.

30 Now, just in relation to Ms Gibson, Belinda Gibson, what was her role at the time?---Yes, yes. I believe at that time that she was one of the admin staff within my branch.

Sorry? Say that again? Admin?---One of the administration staff within my branch.

Right. Now, I just want to ask you some questions about your email. Do you recall this email now?---I remember Kent being on, well, Mr Walton being on sick leave but that would have been a fairly standard email for any of my managers, just to let the organisation know.

40 Yeah. You say in the first line, "Kent is having a few days sick leave"? ---Yes.

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(DARAMS)

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Just can you help me out. When you say “few days” how you would have used that term “few days” in May 2016? Are we talking five days, six days, six weeks or how would you have used “few days”?---I would generally have used it for less than a week.

For less - - -?---A week or less.

10 Yeah. Can we assume that in order for you to write this, you would have spoken to Mr Walton and he would have indicated to some degree that he’s taking some leave and that he anticipated - - -?---Yes.

- - - being back?---Yes.

Yeah. Would it be fair to say that at the time of sending this email, that in terms of Mr Walton’s sick leave, it wasn’t anticipated that it was going to be for any significant length of time? Is that right?---That’s correct.

20 Yeah. I think if I understand one of your last answers, it’s probably a week, maybe a little bit more, maybe a little bit less?---In that order, yes.

In that order. You then say, “If you need anything on a day-to-day basis, than Brad Roberts is acting.” Who was Brad Roberts? Was he someone who reported to Mr Walton?---Yes.

He was someone who was familiar with Mr Walton’s work, you would have thought?---Yes, yes.

30 Right. When you say “on a day-to-day basis”, what sorts of things would be included within that?---Generally it would be property issues, cleaning, property maintenance issues, those sorts of items.

Right. Anything else you can think of now?---Probably leasing issues.

Leasing issues. What, questions about a lease, when it’s expiring, what I can do under the lease, what I can’t do, those sorts of things.---That’s exactly, yes. Yes, yes.

40 Right. Anything else you can recall that might have been included in that? ---Not that I can recall.

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(DARAMS)

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Right. Then you say otherwise “And if it’s an urgent property matter, I’m more than happy to help.” When you say “property matter” what were you referring to in that circumstance?---If it’s a more major issue, if there’s been a major problem with one of the buildings, or I would imagine if it’s to do with sales or purchasing or procuring property, yes.

Right. Well, I wanted to ask you this proposition about “urgent”. What were you intending to refer to in terms of the “urgent”?---It couldn’t wait until Kent returned.

10

Are you able to assist us as to the types of things in terms of property matters that you were referring to there that couldn’t wait for Mr Walton to return?---No, I can’t assist you.

No.---As I said, if it was an urgent matter, if it required an urgent decision on sale or acquisition, but that would have been the extent of it.

20 Yeah. So when you say something that requires an urgent action in a sale or acquisition, can you assist us or give us some examples as to what might have meant something would be urgent in terms of an acquisition?---Just if a decision had to be made urgently. It couldn’t, if it couldn’t wait for a, week or so. I can’t think of a reason why it wouldn’t but it’s a standard comment there to make sure that the machine keeps ticking over.

Yeah, all right. Likewise in relation to a, I think you also said a – it might have been my interpretation of the word “disposal” of property. What might have been an urgent disposal of property at this time?---No, I can’t think of an option. But the issue is there just to make sure that people are aware.

30 Yes. Now, might the witness be shown volume 4.2, page 254? Now, I just want you – well, firstly Mr Osland, could you just familiarise yourself with this document?---Yes.

Now, perhaps if the witness can now be shown page 246 of volume 4.2. I’ll just ask you to read this document. Tell me when you want to go to the next page.---Yes.

Show the next page.---Yes.

40 Now, have you seen this document before today?---I don’t recall it.

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(DARAMS)

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You don't recall. Does any of the information, well, I shouldn't say that. Does the – when you say you don't recall, is it possible that you were, you would have had access to this document if you'd sought access to it.---Yes.

Yeah. Now, if you could just go back to the preceding page. So we see this is a document dated 17 May, 2016 - - -?---Yes.

- - - by Mr Walton, that's right? So he, Mr Walton, at least from 20 May, goes on leave for perhaps a week, that's correct?---Correct.

10

We can see from this document that Mr Walton is, well, he - - -?---Yes.

- - - is responding to an offer that's been provided on 22 March, 2016. The counteroffer. Do you see that?---Yes.

Now, the terms of the counterproposal is 2.25 million.---Yes.

There's the term of being an increase in the GFA of \$1,000 per metre squared payable to council over the allowable GFA, that's right?---Yes.

20

The settlement period or term is identified as six months from exchange. Do you see that?---Yes.

Then the next, as we indicate, the next matter seems to be that Mr Walton goes on leave on 20 May. That's right?---Ah hmm.

The response, if we can go to page 260, sorry, 254. The, what I might say, I might interpret as being a counteroffer.---Would appear so, yes.

30

Now, this is received or dated 24 May, do you see that?---Yes. Yes.

It's directed to your attention specifically, do you see that?---Ah hmm.

Are you able to assist us as to how it was directed to your attention specifically?---I was the director at the time. If Mr Walton was on leave, it may have been or someone's advised that particular person that Kent's on leave, they would direct it to me.

40

Right. So can I break this down a bit? Did you have a conversation before this came to you with Mr Bartolotta where you've discussed this? ---Potentially. I do not recall. Potentially.

Sensitive

You don't, what, so I'm going to ask you, when you say, why is it potential?---Yeah. It is directed to me, so potentially it may have been a phone or a, a phone call or a face-to-face, but I do not recall that at the time.

Right. Well, when you say you don't – so you don't recall whether you had a conversation with Mr Osland or a face-to-face meeting with Mr Osland, is that right?---With Mr Bartolotta?

10 Sorry, Mr Bartolotta, I apologise.---I do not recall, no.

No. Was it your practice at the time to make any records of any such meetings or anything like that if you were to have one?---I was very poor at record keeping and so I, I may or may not but I, I admit that I was very poor at record keeping.

THE COMMISSIONER: But your recording keeping is such that you kept – how did you keep it? Did you have like a notebook or did you just type something up in a computer?---I had a diary which I made notes in.

20

MR DARAMS: If you had met with, either a face-to-face meeting with Mr Bartolotta or had a telephone conversation with Mr Bartolotta, you would have appreciated that it was about the potential sale by the council, and purchase by Mr Bartolotta of this property, correct?---Yes.

Would that have been something that you would have made a record of, that is the conversation or the meeting with Mr Bartolotta, in your diary?

---Potentially I would have just, I would have noted that I had a meeting.

There, potentially there would have been a note in my electronic diary that

30 there was a meeting.

Right.---Unless it was just that Mr Bartolotta turned up at council unannounced.

THE COMMISSIONER: Did you know him before you – I'm sorry, I withdraw that. Had you met him before being involved in this particular purchase? Had you ever met him before?---Not that I recall.

40 MR DARAMS: So it's entirely possible, Mr Osland, that this receipt of this correspondence, or this counteroffer at or just after 24 May, 2016 would

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have been the first knowledge, or any information about this sale that had come to your attention, is that right?---Entirely possible, yes.

Yeah. Well, you can't recall any meeting with Mr Osland before this -- sorry -- Mr Bartolotta before this date?---I don't recall, no.

You don't recall any telephone conversation with him before this date?---I don't, no.

10 Before this date, it's safe to assume before this date that in terms of the dealings with Mr Bartolotta on this sale, they were being handled by at least Mr Walton and primarily Mr Walton?---Correct.

Right. As at this date here, 24 May, was there anything urgent about the sale of this property?---I don't recall there being anything urgent, no.

Is there a reason why, in those circumstances, that the progress of this sale couldn't have waited until Mr Walton returned from his sick leave?---Not that I recall.

20

Did someone tell you to progress this sale while Mr Walton was on sick leave?---It's possible.

Well, when you say it's possible, can I ask you think back, given you can't tell us that there was anything urgent about the progress of this sale, that's correct?---Correct.

You can't recall whether you had a meeting with Mr Bartolotta before 24 May?---Correct.

30

You're not able to recall whether you had a telephone conversation with Mr Bartolotta before 24 May, correct?---Correct.

You only anticipated that Mr Walton would be on sick leave for a short period of time, maybe a week?---Yes.

You were only, in terms of property matters, including disposal of property matters, you only had indicated that if there was something urgent you would perhaps be able to assist, that's right?---Yes, yes.

40

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You will recall the terms in that direct dealing protocol that I took you to before that referred to dealings with identified parties, that's right?---Yes.

The identified parties were Mr Sawyer, Mr Walton and Mr Bartolotta?---Yes.

So, I want to see whether you can just think again and go back to this period of time. Did someone tell you to progress this sale while Mr Walton was on leave?---I, I do not recall, I'm afraid.

10

Well, why did you progress the sale so quickly then while Mr Walton on leave?---I imagine it was trying to keep the mechanics of the organisation moving. Yeah, as I said, I, that's all I can imagine, looking back on it, yeah.

No, no. I don't want you to imagine it. I want you to tell us why it is then that within the space of perhaps two days, you were recommending council endorse the sale of this property for \$2.1 million. Why were you doing that?---No, I don't recall at the time. I'm sorry. I just do not recall.

20 Did Mr Sawyer come to you and say, "We've got to get this sale going. We've got to get it before council"?---He may have.

Well, when you say "he may have" why are you saying that? Is that the type of thing that Mr Sawyer would do from time to time, come to you and say, "This needs to move along"?---Yes.

Yeah.---Yes.

30 Do you recall him telling you about this sale, "We need to get it to council on the next meeting"? Do you remember him telling you that?---I do not recall, no. It's entirely - - -

Is it likely that he did do that?---Entirely possible but I do not recall it.

Right.

THE COMMISSIONER: When Counsel Assisting started asking you these questions, he's commenced with "Were you told to progress the sale while Mr Walton was away?" You answered, "Possibly."---Yes.

40

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Then your answer has changed to, "I don't recall," though you've now again gone back to "possible". When you've answered questions with "possible" what do you base that on? Is it other experiences you've had dealing with, for example, Mr Sawyer, or what's the basis of the "possible" answer?---Mr Sawyer was my general manager and my direct boss, so to speak. We spoke regularly about where things were up to and what needed to move and what didn't.

10 And because of that relationship within the hierarchy, if Mr Sawyer said to you something along the lines of, "What's happening with that? It needs to move" or "It needs to progress," you would take that onboard and progress it?---Yes, Commissioner, yes.

And would you take a note or any record of where he gave you such a direction?---Not generally.

MR DARAMS: Now, just in relation to the hierarchy, was there any other layer, and this is my terminology, layer of management between you and Mr Sawyer or was it you reported directly in to Mr Sawyer?---I reported
20 directly in to Mr Sawyer.

Yeah. So if he told you to do something, because he's your direct boss, so to speak, you would follow his direction?---Yes.

Well, can I ask you this question. Thinking back now, is there any reason other than a direction being given to you to progress the sale why you would on your own accord or off your accord, sorry, progressed this sale while Mr Walton was on leave?---No other reason I can think of, yes.

30 Yeah. The only reason you would do it, if I understand your evidence, is because you were told to do so, most likely by Mr Sawyer?---Yes.

Did Mr Tsirekas tell you to progress this sale while Mr Walton was on leave?---No. To my knowledge, Mr Tsirekas didn't instruct me directly for anything.

THE COMMISSIONER: Did you have direct dealings with him?---Yes.

MR DARAMS: I'll come back to that in a moment. But when you say, to
40 your understanding, Mr Tsirekas didn't give you any direct instructions, do you mean to say that you understood that Mr Tsirekas might have given

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instructions to you indirectly, i.e., through someone else?---Being a director, I'd be regularly speaking to Mr Tsirekas. I didn't take instruction from him. He may have instructed someone else, I don't know.

When you say "someone else" he may have instructed someone else who then instructed you. Is that what you're saying?---Yes.

Yeah.---Yes.

10 THE COMMISSIONER: Do you know that to have happened?---No, I do not.

It's just - - -?---Yes.

- - - I suppose an assumption on - - -?---It is. In local government, general managers and mayors have to have a reasonably close relationship, and that's what I base that on, yes.

20 MR DARAMS: Can you, just in terms of the relationship between Mr Sawyer and Mr Tsirekas, were you able to form some opinions of that relationship based upon your dealings with either one of them or both of them or your observations?---From my observation, Mr Sawyer always appeared to me to be very straight up and down, and would take instruction from council as he's required to do under the Act.

Yeah, well, my question was slightly different. What about the relationship? Were you able to form any observations of the relationship between Mr Tsirekas and Mr Sawyer?---I'm aware that they had worked together previously.

30

Yeah.---My observation, yes, they got on very well together.

Yeah.---I can't tell you any more than that.

Well, when you say you got on, they got on well together, what do you base that upon?---Interactions I had seen.

40 What are those interactions?---Council meetings. There are also meetings where I was at with the general manager with the mayor. It always seemed personable, professional.

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Well, they're two different relationships. One's a personal relationship, one's a professional relationship, is that right?---As with all, yes.

Yep. So, sorry, I might have confused you, but do you mean to say they had a personal relationship outside a business relationship, or are you meaning to say they only had a professional relationship, i.e. employer, well, not employer-employee but - - -?---I can't answer that. I don't know.

All right.---The word I used was "personable".

10

Sorry, I thought you said "personal".---Yes, no "personable".

Sorry.

THE COMMISSIONER: I noted "personal" as well.

MR DARAMS: Yes, so - - -

THE COMMISSIONER: So "personable"?---Personable.

20

MR DARAMS: Personable.

THE COMMISSIONER: And as you said, that's based on your observations of the two gentlemen dealing together in, for example, at council meetings or something like that?---Correct. Correct.

MR DARAMS: Now, could the witness be shown page 250 of volume 4.2? Now, just read this document to yourself.---Yes.

30

Now, just be shown the next page, please. Just note those recommendations, in particular recommendation 1. Now, if we could go back to the previous page. Now, you've obviously seen this document before today?---Yes.

Did you type this document up? Yourself, I mean.---I didn't type it. I would have written it. I wouldn't have typed it.

Who would have typed it up?---One of my admin people.

40

Can you recall the names of those persons at the time?---My EA at the time was Shobna.

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Sorry?---My executive assistant at the time was Shobna. I can't think of her surname.

Maharaj?---That's the one. Thank you. She would have typed it for me.

Do you know someone by, or did you know someone by the initial C Campbell?---I don't recall. If you gave me a first name, I would possibly would, but no, I can't recall.

10

But in terms of this document here where it says "Author initials JO", that's a reference to you?---That would be me.

Yeah. Now, I just want to ask you some questions about it. If you go to the second paragraph under Report, how did you come to be able to record that in this document?---Well, we'd, we'd had significant discussions and there would certainly have been the couple of those correspondence that you've shown me earlier but I'm also aware that there was discussions between Kent and the applicant prior to that.

20

How do you know that? What's the basis of that awareness, that you spoke to Mr Walton or you sat down with him in these discussions?---I'd spoken to Mr Walton.

Right. Do you recall when you'd spoken to him about them?---No, I don't.

THE COMMISSIONER: Can I just look at page 251 for a minute, please? Was this going to a council meeting?---To a council meeting, yes.

30 Do we know the date of the - - -

MR DARAMS: 31 May.

THE COMMISSIONER: All right, thank you.

MR DARAMS: Just on that there, you knew at the time you were preparing this document that it was going to be put forward or put before council at that next meeting, didn't you?---Yes, yes.

40 We can assume that you knew that based upon whatever instructions you were given to prepare the document, is that right?---I would assume so, yes.

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Yeah. Now, just go back to page 250.

THE COMMISSIONER: Can I just ask, why was it determined that there was a reason for confidentiality? Is it purely that it's a matter of the prices put forward or - - -?---Yes, that's correct.

And is that the standard practice?---It is.

10 MR DARAMS: Now, can I just ask you to – the paragraph that starts “This site is superfluous,” so it's the penultimate paragraph.---Yes.

Yes. You record in there – well, can I ask you this? There's no reference in there to council's offer of 2.25 million. Why didn't you record that?---The valuation was around the 2.4, it was around that number. In terms of dollars, no, I do not recall why I wouldn't have mentioned 2.25.

Well, were you even aware of the council counteroffer?---I don't recall. I honestly don't recall.

20

All right. You then say, “However, it is felt that the current offer of 2.1 million is fair and reasonable.....”---Yes.

What did you do to come to that view?---From memory, and my memory is hazy around that time for other reasons, I looked at the property, I looked at the value council had and the fact that there was easements on properties around there. We could not access our Marlborough Street site without that property. And the Marlborough Street site had a number of restrictions as well. So it was in council's interests to move that along and have it solved.

30 I formed the opinion at the time that the 2.1 was a fair and reasonable price.

So just help me out again, so you have no involvement in terms of any sale price before, or formulating any sale price before you receive the counteroffer on 24 May?---Yes.

Right. You then, if I could suggest to you, within the space of two to three days, you're formulating this document to council where you say that the proposed offer of 2.1 was fair and reasonable, that's right?---Yes.

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J. OSLAND
(DARAMS)

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I just want you to help us, tell us exactly what you did in your steps to work, to come to that, that you were about 2.1 million. You don't remember looking at Mr Walton's counteroffer?---I don't recall, no.

THE COMMISSIONER: I take it there must be a file in existence for the - -
-?---Yes, there was.

Wouldn't you have looked at it?---I would have, Commissioner. I, I just don't recall, I'm sorry.

10

MR DARAMS: So you would have looked at, so when you say you looked at, you would have looked at the file, so can you assist us as to why you say you would have? Well, can you be more specific and say you did go and look at this file?---At the time I believe I would have. I can't recall whether I did or not.

Why do you say you believe you would have?---When I write these reports, I would try and get as much information as I could, because I was the one sitting in the seat, defending it in front of council.

20

Right. So you're saying based upon your practice that you adopted at that time, when you were writing these reports, you tried to get as much information as you could before you would write this report, this type of report?---Within the time frames available, yes.

All right. When you say within the time frames available, what do you mean by that?---Council had a very, we had a very strict time frame that reports that had to be written. They had to be on the agenda as draft reports and reviewed for completeness, for reasonableness before they went to
30 councillors. So there was a time frame involved.

But in terms of the time frame for selling or disposing of this property, you're not aware that there was any particular time frame for it, were you?
---No, I'm not.

No. What you're referring to is just the draft report or the report being available, what, to council?---Yes, general process, yes.

Yeah, okay.

40

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THE COMMISSIONER: You used the word, something about time frame and reviewing this. Did somebody review this?---The general manager would have reviewed it, as he did with all draft reports.

All right.

MR DARAMS: When you say the general manager would have reviewed this, can you recall whether the general manager – being Mr Sawyer at the time – made any changes to this document?---No, I can't.

10

No. Was it your experience with Mr Sawyer that he did make changes to these types of documents that he had drafted?---At times.

Can you help us out with what kinds of changes he might make? Were they substance changes or they were typographical errors or - - -?---In general they weren't substance changes.

Right. Can you give us any examples of the types of changes he did make? ---No.

20

No. Well, what changes did he make?---I don't recall. Without seeing my initial drafts, I don't recall.

THE COMMISSIONER: Are your initial drafts kept?---I don't believe so.

MR DARAMS: Could I just ask this. Why didn't you wait when this offer, the counteroffer, the one on 24 May, why didn't you just wait till Mr Walton came back from his leave and provide that offer to him at that stage for him to continue to deal with it?---I don't know. I honestly, there, there may have been a time frame that we had set to move this along. That potentially may have been the reason, but - - -

30

Where would one find this time frame to move it along, though?---It generally would have been in the probity plan as to what time frames we were trying to get.

You don't recall looking at the probity plan, though, do you?---No.

THE COMMISSIONER: You said a time frame "we" would set to move along. Who's the we?---The administrative arm, generally, so the general manager, myself, Mr Walton.

40

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(DARAMS)

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MR DARAMS: Now, so just going back to why you felt the current offer was fair and reasonable, just help me again. Why is it that in the space of some, let's say, 10 days, council's offer had gone from 2.25 million to a position of 2.1 million being fair and reasonable? Why did you feel it was reasonable to drop 150,000?---Looking at this report and looking at the other documentation you've given me, that there was a large number of easements on that site from the Marlborough Street site that prevented council doing a number of things, yes.

10

But surely Mr Walton, who was dealing with this sale, would have been cognisant of those easements?---Yes.

So my question is that Mr Walton, who's the person dealing with the sale before he goes on leave, puts a counterproposal in at 2.25 million with conditions, et cetera, on it, my question to you was why in those circumstances did you feel that it was in essence fair and reasonable to drop \$150,000 in the space of, you know, 10 days, bearing in mind we're - - -? ---Yeah.

20

- - - talking about the Inner West of Sydney in 2016.---Yes.

Well, not a declining property market.---Yes, I, I, I'm sorry. I do not recall why.

Did Mr Sawyer say to you that the 2.1 million should be accepted?---I would probably have discussed it with him.

30 When you say you "probably would have discussed it with him" why do you say you probably would have done that?---I'll say "probably". As I, as I've said before, I do not have a clear recollection of the time. With something like that, I would normally have spoken to Mr Sawyer and say, "Is that a reasonable value?"

So do we understand your answer to mean that your practice at the time was to raise this type of thing with Mr Sawyer to see whether he would agree with it - - -?---Yes.

- - - or sign it off?---Yes.

40

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J. OSLAND
(DARAMS)

1299PT

And do we take it to mean that it's therefore likely and probable that you did go to Mr Sawyer and discuss this price with him?---It is likely, yes.

Yeah.

THE COMMISSIONER: Like there are reports and there are reports, but this is a report going to the disposal of an asset - - -?---Yes.

10 - - - for over \$2 million. I would assume something like that doesn't happen every council meeting, that it would be a rare occurrence and an occurrence that you would want to ensure the community were getting a proper valuation for that community asset, or community-owned asset?---Yes.

MR DARAMS: But there's no other – I'll come back to this in a moment. Just in relation to the last paragraph, when you say "The contract will include clauses preventing final settlement prior to development applications. This is the reason for the 18-month settlement should the DA be obtained earlier and settlement is required at that time." Do you see that?---Yes.

20

So who told you about the reason for this 18-month settlement?---I believe that I discussed it with Mr Roberts at the time.

Sorry, who?---With Mr Roberts.

Who is Mr Roberts?---Brad Roberts.

THE COMMISSIONER: Brad Roberts.

30 MR DARAMS: Yes.---Sorry. To get a bit, a bit more background there as to why the documents are being put in front of me, asked for an 18-month settlement.

THE COMMISSIONER: What was Mr Walton's proposal with settlement? It wasn't 18 - - -?---Six months.

Six.

40 MR DARAMS: Well, that's what I wanted to ask you, that if we go back to page 246, this is Mr Walton's counteroffer. You can see the settlement "six months from exchange".---Yes.

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J. OSLAND
(DARAMS)

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Right. Well, just go back to the evidence you've given about Mr Roberts, what I want to suggest to you is that the 18 months came not from anyone in council but from Mr Bartolotta. What do you say about that?---Possibly. Possibly.

Well, just go back now focussing on this conversation with Mr Roberts. Tell us when that happened.---It would have been while I was writing the report.

10

What do you mean by that? What, he was sitting in your office while you were typing it up and you were asking him "How about this 18 months?" is that how it happens?---Yes. I would have made a phone call or seen him in the, in, in his area and just said "Why?"

Well, just help me through this. So you go to him with the 18-month – let me come back one. The 18 month-settlement, let's just be clear, that's not something you proposed, the 18-month settlement period?---No, I don't recall I, it may have been, I'm not sure.

20

You would have remembered if you proposed an 18-month settlement?---At the time I don't claim that my memory was all that clear. I may have, I don't recall.

Why would you propose an 18-month settlement if you've just come into this transaction, for want of a better description - - -

THE COMMISSIONER: And the person who was looking after it had only proposed six months. Why on earth would you give him an additional 12 months?---I do not recall.

30

MR DARAMS: Well, what I want to suggest to you, it's not likely that you suggested the 18-month settlement period, is it?---No, it's not likely.

No. So that's not likely that it was you. Going to Mr Roberts, is it likely that Mr Roberts proposed this 18-month settlement in light of what Mr Walton had proposed?---I would think it's unlikely.

Yeah. So that then leaves us with the only other likelihood being Mr
40 Bartolotta who proposed the 18 month, that's right?---I would imagine so, yeah.

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1301PT

So that's why I want to come back to it and ask you how could you include in your report the rationale for this 18-month settlement?--In, sorry, the rationale I put at the time was to ensure a development application was placed in and was approved by council. We're not going to sell a property on spec unless there's going to be some sort of development there. That's the reason for my - - -

10 Sorry, say that again. You're not going to sell some property on spec unless there's going to be some development?---Well - - -

What did it matter to council whether there was a development put on it or not?---We weren't in the business of selling people, so, selling property to people so that they could then hold onto it and make significant profit from it.

Well, let's just walk through that. If you agree to a price of 2.1 million, take that as a point - - -?---Yes.

20 - - - you then agree or propose a settlement period of 18 months.---Yes.

You accept it must have been obvious to you at that period of time in 2016 that the market in the Inner West of Sydney was going to appreciate in price?---Yes.

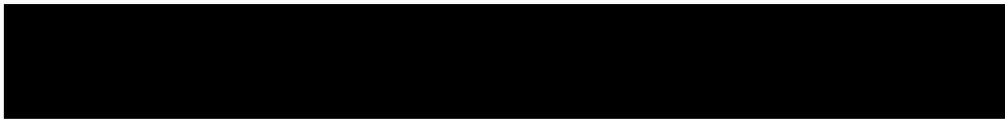
You didn't put any other term in this agreement where council would get the benefit of that uplift in price during that 18-month settlement period, correct?---Correct.

30 Well, so then why does it makes sense to agree or propose an 18-month settlement period with no uplift in price or change in price?

THE COMMISSIONER: Or any compensation to the council. Because I take it the 18 months means the council doesn't get the 2.1.

MR DARAMS: Correct.---With the benefit of hindsight, I would agree. I don't know why at the time I did that.

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40 MR DARAMS: Yes, Mr Osland. Could Mr Osland be shown page 250 of volume 4.2 again? Mr Osland, I was asking you some questions about the settlement period of 18 months, you recall that, before the break?---Yes.

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J. OSLAND
(DARAMS)

1303PT

If we just focus again on that last paragraph, putting this rather crudely, but the effect of that settlement of 18 months is that the council would potentially have to wait 18 months to get \$2.1 million. Correct?---Yes.

This is at a time in 2016 where, would you agree, that property prices in particularly the Inner West of Sydney weren't going backwards, for want of a better description, were they?---Correct.

10 Was this 18-month settlement period, this wasn't your suggestion or idea, was it?---I don't imagine so.

No. Would you agree with this, it doesn't seem to be that commercially sound in those circumstances that I outlined to you, does it?---With the benefit of hindsight, no.

20 No. Now, I wanted to just understand your evidence from some of the questions I've already asked you. In terms of this sale of this property or the potential sale of this property in May 2016, you can't think of any reason why it was an urgent sale at that time. Is that correct?---That's correct.

Yeah. You also accept that this was something in those circumstances that subject to anyone telling you to the contrary could have waited for Mr Walton to return from his sick leave?---Correct.

It's also the case that you didn't, off your volition, decide to progress this sale while he was on leave, did you?---Not that I recall.

30 No. You would though, wouldn't you, I would suggest to you, recall whether it was your decision to progress this sale because, as I understand your evidence before, you weren't often involved in disposals of property, that's right?---Correct.

So this would have been an unusual transaction. And when I say unusual, I mean unusual circumstance for you to have been involved in, that's correct?---Yes.

40 Yeah. So I did ask you before about whether someone instructed you or directed you to progress this sale whilst Mr Walton was on leave. And I'll ask you again. I mean, it's the case that Mr Sawyer gave you that instruction, isn't it?---I, I still don't recall.

Sensitive

But - - ?---I don't recall why, yes. Sorry, I'm not, not trying to be obstructive, I just do not recall.

No one else would have given you that type of instruction, though?---Not normally, no.

Well, when you say "not normally", not anyone in the hierarchy.---Well, I'll say no. I'll say no. Yes.

10

No.

THE COMMISSIONER: I think as Counsel Assisting said, step number one, look at the hierarchy. Within the hierarchy of the council, putting to one side councillors, it could only be Mr Sawyer.---Yes.

The other possibility would be the mayor or one of the councillors.---That's the other possibility, but I did not take instruction from those, apart from council resolutions.

20

Okay.

MR DARAMS: So these are the alternatives, would you agree with me? You did or you decided to progress this sale whilst Mr Walton was on leave?---Yes.

On your own or of your own volition, correct? That's one possibility.---One option, yes.

30 One option. At the other end, one of the councillors, one or more of the councillors instructed you to progress the sale. That's at the other end, correct?---Yes.

THE COMMISSIONER: And, sorry, just there, and you say you wouldn't have accepted an instruction from a councillor because that wasn't the line of authority?---Correct.

40 MR DARAMS: And in fact, I think if I understand your evidence, you do say that no councillor instructed you to progress this sale whilst you were on, while Mr Walton was on leave?---No.

Sensitive

Yeah. When you say “no”, you agree with me that no councillor instructed you to do this?---That’s correct.

So it’s your own volition. You’ve ruled out any councillor instructing you. The last alternative or possibility is Mr Sawyer instructing you to do this, progress this sale, correct?---Yes.

There are no other possibilities, are there?---We’ve wiped out the rest, yes.

10 That’s right. So, with all of that, are you able to, again reflecting on this period of time, say to us that Mr Sawyer did instruct you to do this?---Not with 100 per cent certainty.

What about with 95 per cent certainty?---I wouldn’t like to put a percentage on it.

Well - - ?---It’s, it’s unlikely I would have done it myself, but I wouldn’t like to put a percentage on that. I don’t know.

20 The most probable and likely reason you progressed this sale while Mr Walton was on a short period of leave was because you were instructed to do that by Mr Sawyer, correct?---On the balance of probabilities, yes.

Now, could the witness be shown additional documents number 22. Just read that email to yourself, please.---Yes.

When Mr Walton returned from leave, do you recall having a conversation with him about the sale of this property?---We would have, I don’t recall. We would have.

30 Yeah. Well, when you say you would have, why do you say that?---I put them, put the report to council and council had agreed. So we would have, I would have talked to him about it when we were able to.

When you say you would have, do you remember doing it?---I don’t recall, no.

No. And when you say you would have, are you simply saying that it would have been because that was your practice to do that Mr Walton?---Part of
40 handing back that particular item, yes.

Sensitive

Yeah, I see. Now, just focusing on the last paragraph that Mr Walton writes
- - -?---Yeah.

Now, did you write such a file note?---I do not recall.

If you had written such a file note, what would you have done with it?---I
would have put it back in, or had my staff put it back into the records
management system, ECM.

10 ECM. So if there was a file note that you had prepared, are you saying you
would have instructed your staff to file it in ECM?---Yes.

But you don't recall making a file note such as the one requested there, is
that right?---Yeah, that's correct.

If you had a meeting with Mr Bartolotta, either telephone meeting or a face-
to-face meeting, there would have been no reason for you not to have
recorded that meeting as requested. Is that correct?---Yes.

20 THE COMMISSIONER: With a proposed sale for such a large amount of
money, if you did have a meeting with him, would have you had somebody
else present, like Mr Roberts, who seemed to have been acting in Mr
Walton's position or even Mr Sawyer or somebody else there?---I would
normally ask Mr Roberts to attend with me, yes.

MR DARAMS: Now, if the witness can be shown document 23. Just read
this email to yourself.---Yes.

Do you remember receiving this email?---No.

30

No. Now, do you see that Mr Walton seems to be asking you once again to,
or enquiring again, about your file note?---Yes.

Did you prepare a file note?---I don't know. I do not recall.

All right.---No, I don't know.

Now, if you had prepared a file note, would it have been your practice at
this time, so we're asking November 2016, to have that file note registered
40 or placed in ECM?---Yes.

Sensitive

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J. OSLAND
(DARAMS)

1307PT

All right. So if there's no – can we make this assumption, if there's no note of this meeting or conversation with Mr Bartolotta in ECM then that's because there was no meeting or discussion with Mr Bartolotta?---No, I don't know how to answer that - - -

Well, let me ask it another way. Is there any reason why after being asked relatively quickly after you prepared your report in May 2016 and being asked again or reminded again, for want of a better description - - -?---Yes.

10 - - - in November 2016 why there wouldn't be a file note of any meeting or discussion with Mr Bartolotta that wouldn't have been placed in ECM?---I can't think of a reason, no.

One reason might be that because you haven't got a meeting or a telephone conversation with Mr Bartolotta that you could actually record in a note? ---Yes.

20 You don't remember or recall having a meeting with Mr Bartolotta before 31 May, sorry, before you prepared your report, do you?---I don't recall one, no.

No. Again, isn't it likely that you would have recalled that type of meeting with Mr Bartolotta given the fact that you didn't often involve yourself in the disposal of property?---It's likely. As I said to you before, I don't place any trust in my memory of that time.

30 So it's likely that you didn't have a meeting with Mr Bartolotta - - -?---It's potentially, that's a potential, yeah. I can't discount that. I can't, I can't say I did, I can't say I didn't. I just can't discount that.

THE COMMISSIONER: Putting to one side a phone discussion with him, you gave evidence you hadn't had any dealings with Mr Bartolotta before this matter.---Yes. Yes.

40 Given the amount of money involved in the sale of the property, was it the case that you would expect somebody to contact you and arrange for a time to come and see you, they just wouldn't arrive at the reception desk at the council, would they?---At times they did, but, yes. With this sort of amount of money, I would have expected a formal meeting, but, yeah, at times people would just arrive and expect to speak.

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J. OSLAND
(DARAMS)

1308PT

And if they did arrange a meeting, that should be in your electronic calendar?---Correct.

MR DARAMS: You also said you had, did you have a paper diary, as well?---Just where I took notes of things.

But at this time around May 2016, is that right?---Yes.

10 Was it a, when I say “a paper diary”, you can get some books with the diary dates on them - - -?---Yes. Yes.

- - - or are you talking just like a notebook?---I generally kept a notebook.

You kept a notebook?---Yes. Yes.

Did you keep a notebook around this time in May 2016?---I imagine I would have.

20 What did you do with the notebook when you left the council?---I imagine I took it with me.

So do you have in your possession or somewhere in storage these notebooks that you were maintaining when you were employed?---No, I don't.

No?---I, I moved house 15 months ago and all those other records that were there, I tipped.

30 So are you saying that you had a notebook around this time in May 2016? ---Mmm.

You may have recorded something about any meeting with Mr Bartolotta in that notebook?---Yes.

But you don't know?---I don't recall, yes.

That notebook is no longer in your possession because you threw it out - - - ?---Yes.

40 - - - in the last 15 months?---Yes.

Sensitive

In terms of throwing it out in the last 15 months, you're adamant that you've thrown that out?---Every record I had about Canada Bay, yes.
You threw them out?---Yes, yes.

Why did you do that?---Purely because I didn't want to bring them down here with me.

Sorry? When you say "bring them down here" you mean here to ICAC?
---Sorry. Bring them down to Young with me, I'm sorry. At that stage, I
10 just didn't see the need to keep them.

Right. Well, can you recall how you disposed of them? Did you get some Dial A Dump to come and collect it or something like that?---I had a very large skip.

Right. Just went into a skip?---Yes.

Now, just back to the questions about loading, sorry, preparing notes and putting them into ECM, I just want to be clear on all of this, do you have
20 any recollection of preparing these notes as requested by Mr Walton?---No, I do not.

You do not. There would be no reason, would there, if you had prepared them, for you then not to have included and put them in ECM, is that right?
---Yes.

Yep. Can I put this suggestion to you, then. If there is no note located in ECM or no file note located in ECM, putting aside whether someone's removed it afterwards, but if there's no note in there, it's fair to assume that
30 you didn't prepare a file note of any conversation or meeting with Mr Bartolotta and then recorded in ECM?---That would be my assumption.

Is there a reason why you can think of that you didn't record or make a file note of these conversations with Mr Bartolotta?---No.

No.

THE COMMISSIONER: But you can't remember whether you had any conversations or a meeting with him, is that the position?---That's the case,
40 yes.

Sensitive

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J. OSLAND
(DARAMS)

1310PT

MR DARAMS: I think you accepted one of the alternatives for no note being taken was because you didn't have any meetings or conversations with Mr Bartolotta.---It's one of the options. I can't discount any of them. Yes.

Just in relation to if you had a meeting with Mr Bartolotta and you said you would imagine that Mr, I think, Roberts might have attended with you - - -? ---Yes.

10 - - - is there a reason why you didn't get Mr Roberts or Mr Sullivan to prepare this report that went to the council?---No, I, yes, I don't know.

Just going back to your diary and the electronic diary, so just so I'm clear about it, and I apologise if I've misunderstood you. The notebook that you've disposed of, was that a ruled notebook or was it a diary notebook that you've taken notes in?---Generally I just had a pad of foolscap or A4 paper that I just write things on.

I see.---Yes.

20

So in terms of the diary in 2016, that was an electronic diary?---Yes.

Do you recall whether it was like Outlook or some other system?---Outlook.

It was Outlook.---We were using Outlook at the time.

It was the council's diary system, was it?---Yes. Yes.

30 So if there's a – was it your practice to, and when I mean your practice, either that or your executive assistant who might have helped you, was it the practice to record meetings?---Yes. Yes.

Right. What about telephone meetings? Was it your practice to record them in there as well?---No.

No. Now, in terms of the property at 231 Victoria Road, other than Mr Bartolotta, did you know who was, who the other purchasers or parties behind the purchase were?---No.

40 Did you know that Mr Colacicco was one of the interested parties?---No.

Sensitive

Do you know who Mr Colacicco is?---No. As a matter of fact, no.

What about Mr Triulcio?---No.

Rocco Triulcio? Did you know who he is?---The name Rocco rings a bell. I may have met him once or twice at council functions but, no, I don't recall.

10 Right. Just bear with me one moment. No further questions, Commissioner.

THE COMMISSIONER: Mr Pinto, do you have any questions?

MR PINTO: No, Commissioner.

THE COMMISSIONER: Right. Mr Osland, is there anything you wanted to add or say?---No, Commissioner.

20 All right. Now can I emphasise once again the order I made that, other than a discussion with Mr Pinto afterwards, you're not to tell anybody that you came here for an examination, let alone any questions or answers that you gave?---Commissioner, my wife knows I'm here.

All right.---As does my general manager in Snowy Valleys because I had to let him know where I was.

All right. So you've told both your wife and your general manager that you've - - -?---That I am here.

30 That you are at ICAC.---Not about what it is, just that I'm am here. 

All right. Look, I would be grateful – and I know it's difficult with a partner - - -?---Yes.

- - - but if you can just - - -?---Yes.

40 - - - not take it any further.---She understands that, Commissioner.

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J. OSLAND
(DARAMS)

1312PT



All right. Okay, then.---I just needed to point that out because I don't want to be in trouble.

All right. Okay, then. This compulsory examination is adjourned.

10 **THE WITNESS STOOD DOWN** [1.56pm]

AT 1.56PM THE MATTER WAS ADJOURNED ACCORDINGLY
[1.56pm]

Sensitive