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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE REGINALD BLANCH AM QC

PUBLIC HEARING

OPERATION SCANIA

Reference: Operation E15/0978

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 9 SEPTEMBER, 2016

AT 10.00AM

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

ASSISTANT COMMISSIONER: Yes, Mr Mack.

MR MACK: Commissioner, I call Craig Izzard, but before I do I think Mr Patterson has an application to make.

MR PATTERSON: Thank you, Commissioner. Having examined the transcript overnight, there are a few more questions I would like to put to Mr Kabite in fairness to him and in fairness to Mr Izzard. I understand that Mr Kabite has been stood down not excused.

10

ASSISTANT COMMISSIONER: Yes.

MR PATTERSON: And I wonder with your permission if that could happen on Monday.

ASSISTANT COMMISSIONER: Yes, all right. Yes. Well - - -

MR MACK: Commissioner, the only thing I have to say in relation to that is depending on what comes out in the evidence of Mr Izzard today perhaps Monday – it might be better off just reassessing where we are later on today in terms of when we required or when would be best to have Mr Kabite back.

20

ASSISTANT COMMISSIONER: Yes. Yes, well, there won't be any problem about it, Mr Patterson. If there's an issue so far as – that you see in it then that obviously ought to be cleared up so we'll make arrangements for Mr Kabite to be here and we'll work out later on what that timing is.

MR PATTERSON: I'm obliged, Commissioner.

30

ASSISTANT COMMISSIONER: Do you – are you seeking for him to do that at any particular time, do you want him to do it after Mr Izzard has finished giving evidence or would you - - -

MR PATTERSON: I'm content to do it at any time, Commissioner.

ASSISTANT COMMISSIONER: Okay. You don't want him to be interposed so that Mr Izzard has an opportunity to meet whatever he says?

40

MR PATTERSON: I see no reason for that.

ASSISTANT COMMISSIONER: Okay. All right. Yes, thank you. Mr Izzard, will you take an oath or an affirmation?

MR IZZARD: Affirmation.

ASSISTANT COMMISSIONER: Thank you.

ASSISTANT COMMISSIONER: Just take a seat there, Mr Izzard. Mr Patterson, have you spoken to Mr Izzard, and he probably understands anyway, about the order under section 38?

MR PATTERSON: I have spoken to him about that, Commissioner, and he would ask you to make the order.

10

ASSISTANT COMMISSIONER: All right. Thank you. 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 public inquiry 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 **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
PUBLIC INQUIRY 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.**

30

ASSISTANT COMMISSIONER: And of course, Mr Izzard, that doesn't protect you against perjury.---Thank you, Commissioner.

Yes, Mr Mack.

MR MACK: Mr Izzard, would you describe your relationship with Nosir Kabite as a friendship?---Mr Mack, can I firstly just grab a cup of -- a cup because I haven't got a cup.

40

You certainly can.---Thank you. That's okay. Thank you. Sorry.

Would you describe your relationship with Mr Kabite as a friendship?---A friendship as in not someone that I would - - -

Were you friends?---I would say through work, yes. Not someone that I would - - -

Are you still friends?---I'd say so, yes.

Would you describe it as a – yourself as close friends?---No.

Do you have many other friends that provide you with iPhones for free?
---Yes.

Do you have many other friends who provide you with firewood and don't expect payment?---Yes.

10

Do you have many other friends who provide you with bins to dump your home waste in?---No.

Thank you. Do you have many other friends you discuss going out to get a massage with?---No.

I'll take you to volume 3, page 36. This is your résumé you sent in on 30 August, 2010 when you applied for the position of RID Squad investigation officer and you would agree with me that you have extensive – this is at point 4, paragraph 4. You'd agree with me that you have extensive experience in the field in respect to investigations, investigation management, corporate risk management, fraud prevention and awareness in compliance and auditing?---That's what it says in my résumé, yes.

20

You'd agree with that, that's a true statement?---Yes.

All right. I'll take you to the following page, page 37. You'd agree with me that it's still important, this is in response to the criteria, proven ability to work autonomously in a potentially volatile environment, you'd agree with me wouldn't you that it's important that the risk of any situation is looked at prior to any action?---Yes.

30

And halfway down the page in relation to personal computers, you'd agree with me that you're familiar with computers, the Internet, Word and Microsoft Excel?---Yes, I know how to operate them.

You know how to use a laptop?---Yes.

Microsoft Word and Microsoft Excel?---Word, yes. Excel now and then.

40

And under desirable criteria you're asked whether or not you have a demonstrated working knowledge of the Protection of the Environment Operations Act and Regulations and I take it at the time you filled this out you were unfamiliar with that Act?---Yes.

But you were familiar, you had a thorough working understanding in relation to many other acts of Parliament, including the Crimes Act, Commonwealth Acts, Telecommunication Act, Justice Act, Evidence Act

and the Road Transport Act. That's correct, isn't it?---They're included in there, yes, but it would be more just around the Crimes Act and the Road Transport Act.

All right. So you have a thorough working understanding of the Crimes Act and the Road Transport Act?---I did, yes.

10 And at the time of your application, were you familiar with the enforcement provisions of the Environmental Planning and Assessment Act?---Probably not.

All right. But you were fully conversant with the power of arrest and related evidence proofs that were required for a successful prosecution, weren't you?---Under the Criminal Act, yes.

And you'd prepared countless numbers of briefs for court matters?
---Correct.

20 Are you familiar with the Penrith City Council's code of conduct for staff?
---Not word for word, I wouldn't.

Can you recall looking at it before you commenced your employment?---I'd be telling a lie if I said I looked at it in detail. I probably brushed through it.

30 Well, some of it's fairly common sense, but I'll just make sure that this is what you understood when you took the job at the Western Sydney RID Squad. I'll take you to volume 3, page 52. And this is the Penrith City Council's code of conduct summary for staff. It's as at August 2008. Have you seen this document before?---Probably, but I can't remember exactly, no.

Well, a lot of it's fairly common sense. It says, "You must avoid conduct that is improper or unethical; an abuse of power; causes, compromises or involves intimidation, harassment or verbal abuse, et cetera, et cetera." Do you see that.---Under general conduct?

Under general conduct.---I do, yes.

40 And were you guided by those obligations when you were a Western Sydney RID officer?---I would say so, yes.

And do you understand what a conflict of interest is?---Yes.

And you understand that there's pecuniary conflicts of interest and non-pecuniary conflicts of interest?---I didn't know that there was two different ones, but I know a pecuniary interest.

So you don't know what a non-pecuniary conflict of interest is?---Not really, no.

Not really. All right. I'll take you to what one is and it's at page 53. "A non-pecuniary interest is a private or personal interest a council official has that does not amount to a pecuniary interest as defined in the Act. If a staff member has a non-pecuniary conflict of interest that conflicts with your public duty, the person must disclose the nature of the conflict as soon as practicable. There are two types of non-pecuniary conflict of interest. Significant, where the interest is not pecuniary but involves a relationship between a council official and another person that is particularly close; either relationships that are particularly close, such as friendships; and affiliation between the council and an organisation that is particularly strong." Then it gives an example of a less than significant non-pecuniary interest. So having seen that now, would you describe your relationship with Mr Kabite as a significant non-pecuniary interest?---No.

All right.---In the sense that the organisation particularly strong, meaning that our friendship was strong. Is that what that's implying?

All right. And down at the bottom of page 53, it says - - -?---That's no?

Sorry?---It's not what that implied, is it?

Well, it's asking – I can take you to some tests for what it - - ----Okay.

I might come to that later, once I get through this document. But effectively it says there are situations where a particularly close friendship can amount to a non-pecuniary conflict of interest. That's what it's saying.---Correct.

Well, we'll come back to it. And down the bottom you get fairly obvious stuff like personal benefits. "You must not seek or accept a bribe." You see that?---Correct.

"Or seek gifts or benefits of any kind." See that?---Correct.

"Accept any gift that may create a sense of obligation on your part or may be perceived or be intended or likely to influence you in carrying out your public duty." You see that?---Correct.

"Accept any gift of more than a token value and accept any offer of money regardless of the amount." Do you know what a token gift and benefit is? ---I would say it is a gift.

Do you know what they mean by the word token?---No.

All right. Well, over the page it says, "Token gifts and benefits". And it gives examples. Free or subsidised meals, gifts of single bottles of

reasonably priced alcohol, free refreshments, et cetera, et cetera. Ties, scarves, coasters, chocolates. Cocktail parties. Do you think that an iPhone is a token gift and benefit, judging by the criteria there? Do you think that falls within - - -?---Yeah, I'd probably say under that definition.

Okay. So you say that you've never – this is gifts of value. You've never accepted gifts and benefits of more than a nominal or token value in your role as a Western Sydney RID officer?---Sorry, where's that at again?

10 This is gifts of value.---Yeah.

“You must,” point 2, “not accept gifts and benefits that have more than a nominal token or value.” Can you, sitting here now, can you recall any circumstance or any situation where you accepted a gift or benefit that had more than a nominal or token value, in your role as a Western Sydney RID officer?---Only the ones that are mentioned here in this hearing over the last couple of weeks.

20 You haven't mentioned anything in this hearing over the last couple of weeks. What are they?---Skip bin, mobile phone and firewood.

So you accept the firewood was a gift?---It was paid for, yeah.

Well, you don't pay for gifts, Mr Izzard. Was it a gift or not?---It was paid for.

So it wasn't a gift?---Okay.

30 Are you saying it's a gift or not?---Um - - -

Are you sure you paid for it?---Yes, I did.

Mr Kabite didn't expect you to pay for it.---That's Mr Kabite's opinion.

But you say you put 50 bucks on the front seat of the car?---Correct.

But you've got no evidence of that, do you?---No.

40 No. All right. Is the bin still out the front of your place?---Yes.

Has it ever been picked up and emptied?---No.

How many loads of firewood did Mr Kabite deliver?---One.

But it wasn't him that delivered it, though, was it?---No.

I want you to read halfway down the page, “Improper or undue influence,” to yourself. Read that?---Yes.

Can you think of a situation where you have taken advantage of your status with council in order to obtain a private benefit for yourself or somebody else?---No.

Down the bottom of the page, "Use of council information". Do you accept that you must not use council information for personal purposes?---That's what it's saying, yes.

10 Well, do you accept – did that guide your conduct when you were a Western Sydney RID officer?---Yes.

Well, did you ever use council information for personal purposes?---Not that I know of, no.

Over the page, at the top point, this is page 55 of volume 3. It says, "You must not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other purpose." Have you ever used confidential information in your official
20 position for the purposes of securing a private benefit for yourself or for any other purpose?---Not that I know of.

All right. And have you at all times – this is the next point. It says you must protect confidential information. Have you at all times protected confidential information?---I think so, yes.

All right. And you would only release confidential information if you had the authority to do so. Is that correct?---That would be right, yes.

30 All right. And have you ever released confidential information without authority to do so?---Not that I know of.

Before I was talking about non-pecuniary interests. I'm going to explore with you now pecuniary interest. Do you know what a pecuniary interest is?---No. If you can go back to the definition I'll pick it up.

It's at page 53 of volume 3.---Yeah.

40 I'll take you to volume 3, page 115. This is an extract of an ASIC search for the company Energy Awareness CO2 Pty Limited. Do you see that?---Yes.

It says registration date 5 February, 2008.---That's correct.

And at the time this was presented it says you're a director.---Correct.

And over the page it also says that you held 50 of the 100 shares in the company.---That's correct.

All right. And is this the company that you ran your refrigeration business through, refrigeration unit business through?---Correct.

I'll take you to volume 3, page 64. This is your pecuniary interest return for 2011/2012. It's the acknowledgement of the return. Every year you filled in one of these. It doesn't ask you to fill in - - -.---Um - - -

Sorry?---Yeah, go.

- 10 It doesn't ask you to fill in non-pecuniary interest but I'm just going to take you through the first one you did and at volume 3, page 7. 71, sorry. It's page 7 of the declaration. Scroll down. You declare your interest as a director in EACO2. You see that?---Yes.

And then at volume 3, page 68 question 2 asks "Sources of income I reasonably expect to receive from a trust" and then the second question on the same page is "Sources of other income I reasonably expect to receive in the period commencing the first day after the return date." See that?---Yes.

- 20 So you didn't expect to receive any income from EACO2 in year 2011/2012?---I – excuse me, yes, but I think I just filled it out.

All right. You just filled it out. Do you often fill out forms without looking at them closely?---Occasionally, yes.

Routinely?---No.

You understand this was an important document thought don't you?---I do understand that, yes.

- 30 And you understand why you have to declare a pecuniary interest when you're working for the council don't you?---Yes.

I'll take you to the return for 2012/2013. This is at, starts at page 80 at the receipt of the return. And then in this document I'm going to take you to the same page for 2012/2013, volume 3, page 84 and you've answered nil to both question 2 and question 3 in 2012/2013.---Correct.

- 40 And then at page 87 you don't declare your interest in EACO2 but you were still a director and shareholder in EACO2 in 2012/2013. Is that correct?---Correct.

All right. But you just forgot to - - -?---I wouldn't be able to give you an answer, Mr Mack.

All right. But is this another example of you not paying attention when you fill out a form?---It could be, yeah.

All right. In 2014, you got approval for secondary employment. This is at volume 3, page 93. And it was for Brookside Investigations, and you were subcontracting as Craig Izzard, is that correct?---Correct.

And down the bottom it says it will not interfere with any – it will not affect any duties related to your employment with the RID Squad. Do you see that?---If you can go down a little bit. That's not my handwriting, yes.

Yes, but it's Stephen – do you know Stephen Gillis?---Yes.

10

Does that look like his handwriting?---I wouldn't be able to tell you exactly.

All right.---But it's got his name there.

I'll take you to your declaration for 2013-2014. And this begins, this commences at volume 3, page 94. And at volume 3, page 98, you're asked the question, "Sources of income I received from an occupation at any time during the return period." Scroll down. And you've listed RID Squad investigation officer and also some income from Brookside Investigations.

20

You see that?---Yes. What year is this?

This is 2013-2014.---Yes.

There's nothing there from EACO2, is there?---No.

Was that a mistake? Or you didn't derive an income from EACO2?---It could have been either or either. The business, not much income. But it could be a mistake as well.

30

But you've obviously thought about this form, because you've put down Brookside Investigations onto it. What I'm saying is this isn't an example of you filling out a form carelessly, is it?---I wouldn't be able to answer that.

Volume 3, page 99. Again, you answer "Sources of other income I received at any time during the return period," and you've answered nil. That's correct, isn't it?---Correct, yes. I think at that stage Brookside's income wasn't known.

40

I think, perhaps. I think it's in contrast – question 3 is in contrast to question 1. So if you go back to page 98. "Sources of income I received from an occupation at any time." And you've filled out Brookside Investigations. And then page 99 asks the question in relation to a trust. Question 2 on page 99. And then question 3, "Income I received at any time during the return period." So outside of occupation and outside of trusts, share dividends, et cetera, and you've put nil.---Yes.

Your 2014-2015 return appears at volume 3, page 119. And at volume 3, page 123, you again declare that you've received income from your

occupation from insurance investigations. And then over at page 124, you've declared nothing from a trust but you've also again declared insurance investigations. Do you see that?---Yes.

You don't mention anything there about deriving an income from EACO2, do you?---It's not there, no.

And at page 127, you don't declare your interests or position in EACO2. ---Correct.

10

All right. Mr Izzard, you were employed as an investigator of the Western Sydney RID Squad for most of your employment with the Western Sydney RID Squad. Is that correct?---Correct.

And you commenced your position in 2010?---Correct.

20

I'll take you to volume 1, page 17. This is a position description of an investigation officer and it's the version from October, 2005. There is another version from 2015 but I think this will suffice for the purposes of the questions I want to ask you. It also appears in volume 14 as well behind the statement of Mr James. At page 2 – sorry, this is volume 18, page – volume 1, page 18. Effective and efficient work practices and the key – that's the number 1 key result work practices. Sorry, that's the number 1 key result area and the major actions for achieving that key result area is to issue infringement and clean-up notices that are sustainable. Do you see that?---Yeah.

Maintain database. Do you see that?---Yeah.

30

Assist with the development of efficient strategies to manage RID Squad matters. Do you see that?---Yeah.

And recommend responses to changes in legislation and council direction, and then over the other column it says performance measures. As part of measuring the performance of a Western Sydney RID Squad investigator all of those things are taken into account. Do you see that?---Yes.

Do you want to have a read?---(No Audible Reply)

40

Have you read those?---I acknowledge them, yes.

All right. So you acknowledge that as part of your job – measuring the performance of your job was to make sure that failure to comply were documented and correct procedures were followed, do you accept that? ---They're the performance measures for the investigator's role. Are they the responsibility of the investigator or the manager, the co-ordinator?

Well, this is, this is position description for the investigation officer of a Regional Illegal Dumping Squad and it's saying this is how – a person in that position this is how their performance will be measured.---Correct.

So your performance would be measured by maintaining database records. Do you see that?---Yes.

So you accept that was part of what you'd be assessed on?---I would say so, yes.

10

And it also states at the second bullet point and daily log of activities is documented and provided to the senior investigation officer.---I can see that it's in there, yes.

Did you – when you were in the role did you have a daily log of activities that were documented and provided to the senior investigation officer? ---No.

20

No. All right. Did you maintain database records?---Only when it was required through the, the role in the, in the position.

Did you ever report any problems with the database to the senior investigation officer, I'm looking at about point 8?---Not, not personally but the database initially had a lot of issues with just recording and then when RIDonline came online in September, 2015 I think there was some issues with those but they were more legal matters.

30

Point 2, the key result area. I'm looking at the left-hand column, compliance standards. The major actions that deliver prosecutable cases to council. Did you ever deliver a prosecutable case to a council?---No.

I'll take you to key result area 7. This is on volume 1, page 21. It says, "Carry out major actions. Carry out work in line with relevant legislative and statutory requirements and/or industry codes, practices and/or standards." And then to measure that performance, over at column 3, it says, "Relevant legislative and statutory requirements and/or industry codes, practices and standards are always complied with." Do you see that?---Yes.

40

Is that what you sought to do when you were employed as a Western Sydney RID officer?---I would say so, yes.

And halfway down, in the middle column, on major actions, it says, "Work in an ethical manner and comply with council's code of conduct and other governance documents adopted by the organisation from time to time." Do you see that?---Yes.

And did you always work in an ethical manner and comply with council's code of conduct?---Yes, I thought I did.

I'm going to take you to volume 1, page 220. This is the position – the updated position description as at May 2015 for an investigator. Over at page 221, again you get the key result areas. But the major actions are “To issue infringement and clean-up notices that are sustainable, maintain databases, assist with the development of efficient strategies to manage RID Squad matters, and recommend responses to changes in legislation and council direction.” Do you see that?---Yes.

- 10 Then at point 3, illegal waste dumping. “Reduce the level of illegal dumping within the designated area.” And you'll see the performance measures there.---Yes.

Is it your evidence that you performed in all of those areas?---This is the first time I've seen this document, but I would say yes.

All right. So you regularly conducted patrols, you produced all required documentation for each incident, and you reduced the number of incidents of illegal dumping in designated areas, is that correct?---I would say yes.

20

And over at page 224, this is the same document. Under “Desirable”. This is the same question that was asked at the job application, “A demonstrated working knowledge of the Protection of the Environment and Operations Act and regulations, and an understanding of the enforcement provisions of the EPA Act 1979.” By 2015, would you characterise your knowledge of the – you know what I mean when I say the POEO Act?---I do, yes.

30

Would you characterise your knowledge of that Act as a working knowledge?---It would be a bit of hit and miss, I'd think. I wouldn't have a working knowledge of it. If I needed to refer to it, I would refer to it, but that would be how I work legislation, yeah.

Would it have been as thorough an understanding as your understanding of the Crimes Act and the Roads Act, the Road Transport Act?---No.

No?---No.

40

So after five years in your job as a RID officer, you weren't as familiar with the POEO Act as you were the Crimes Act or the Road Transport Act. Is that correct?---No.

So that is correct? It's correct that you were less familiar after five years with the POEO Act than you were with the Crimes Act and the Road Transport Act?---I would say, yes, yeah, that would be right.

And finally, this is the last page I'll take you to on the 2015 description. Volume 1, 225. “Penrith City Council and staff support the following values and behaviours. Integrity.” There's four dot points there. I want

you to read them and tell me whether or not your behaviour whilst you were a RID Squad officer adhered to those values.---I would say so, yes.

Read the four points under “Honesty”.---Yes.

And do you accept – well, is it your evidence that whilst employed within the Western Sydney RID Squad that you always acted honestly?---I would say yes.

10 Okay. Thank you. You were also employed, from time to time, as a senior RID Squad officer. Is that correct?---Coordinator, that would be right, yes.

No, senior RID Squad officer.---Yes, yeah.

Occasionally?---Occasionally, yes.

In what circumstances would you be employed as a senior RID Squad officer?---Leave, mainly leave. Officers go on leave.

20 And you were employed as a coordinator of the RID Squad. That’s correct, isn't it?---I was, did you say?

Yes.---Yes.

And that was from around November 2015?---Yes.

Do you know the precise date?---No, it was November.

30 Have you read the statement of Ms James that has been tendered in these proceedings?---What's her position?

She’s human resource officer with Penrith City Council. She was asked to provide a statement about your employment history.---No, I haven't read it.

40 All right. Well, it’s at volume 14, page 209. And it goes through your employment history and then it provides a table at page 214. And it gives you a commencement date on 18 October, 2010. And over the page on 215, it goes through your employment history and that continues over to 216, where it says on 17 November, 2015 you commenced on higher duties as the coordinator of the RID Squad. Do you see that?---Yes.

Does that accord with your understanding of when you commenced as RID Squad coordinator? 17 November, 2015?---I'd rely on the statement, yes.

When you were first employed at Liverpool – sorry, I withdraw that. When you were first employed as a RID Squad officer were you immediately assigned to the Liverpool Council area?---No.

Where, where did you go first?---Bankstown.

How long were you there for?---I would say about 18 months but that would be just give or take. I wouldn't know exactly.

And after that were you assigned to Liverpool?---Yes.

Sorry, you said, did you say Bankstown or Blacktown?---Bankstown, yes.

10 Bankstown. And then you were assigned to Liverpool. Who assigned you to Liverpool, can you recall?---I think at the time Barry Ryan - - -

Barry Ryan.--- - - - was the co-ordinator.

And did you remain at Liverpool Council since then?---No, I - - -

When I say remain, were you assigned to Liverpool Council from the point when you concluded at Bankstown Council?---I went to Bankstown first and Liverpool and then I was assigned to Blacktown.

20

Yes. You were assigned to Blacktown 2015?---It'd be beginning of 2015, thereabouts.

Beginning of 2015. Do you draw a distinction between illegal dumping and illegal landfill?---Probably not. They're all, they're both the same. It's just the difference between the material I think. That's my - - -

That's your interpretation.---That's my opinion.

30 And when you commenced at Liverpool Council was it your understanding that you were to enforce or you were to investigate illegal dumping and illegal landfill on public and private land?---I think initially it was, it was that way but again I'd be guessing.

And when you were at Bankstown were you in charge of investigating illegal dumping and illegal landfill on public and private land?---Correct.

40 I'll go back to Liverpool now. Was there a time when you were assigned to Liverpool when you were only in charge of investigating illegal dumping and illegal landfill on public land?---I think at my time at Liverpool I don't think there was any distinction between private and, and public when I was there. I think that changed at a later date.

So is it your evidence that for the whole time you were assigned to Liverpool that you were in charge of investigating illegal dumping and illegal landfill on public and private land?---That's correct but over that same period they had a number of changes and restructures of management and a number of those managers took a number of jobs off RID in relation

to private property and that went backwards and forwards between Liverpool RID, EPA I think had it at one stage, went back to Liverpool and then - - -

You mentioned the EPA. Did you understand that for any illegal dumping matter whether that be a dump or a landfill that involved asbestos that the EPA had jurisdiction?---I didn't know whether it was as clear cut as that, no.

10 Following a meeting in December 2014 with – you would have heard evidence from Mr Krkach, Mr Luna and Mr Bono, but there was also a Ms Mardini there, do you recall that meeting?---I do note it in the statement but I don't know whether I remember the contents of the meeting. But it was about - - -

Were you there?--- - - - it was about Liverpool - - -

20 Were you there? Did you attend the meeting?---I, I can't remember. I attended a number of meetings at Liverpool about them taking over control of private property and a number of meetings of them giving us back stuff. If I was there, I'd be aware of it for sure.

So you say you attended more than one meeting with all four of those other people involved?---Not those four. During my time at Liverpool I attended a number of meetings with their different managers and I think over the period - - -

30 I'm discussing a particular meeting when Ms Mardini, Mr Krkach, Mr Luna and Mr Bono were all present, and you were present as well.---I think the question you actually asked me was, was there another meeting with them four in it.

The question I'm asking you is do you remember a meeting between yourself, Ms Mardini, Mr Krkach, Mr Bono and Mr Luna?---Not directly I don't, no.

You don't remember that?---I, no.

40 Are you aware that all four, that's Ms Mardini, Mr Krkach, Mr Luna and Mr Bono have sworn statements about having a meeting with you in late December 2014?---If that's the case, then, yes, I was there.

Are you aware? Have you read that evidence?---No, I've heard it in the inquiry. I don't recall going to a meeting about Liverpool taking back the responsibility of jobs within their LAC.

And did they – is it your – at any time during the period when you were assigned to Liverpool, was it your understanding that you did not have control of investigating illegal dumping and illegal landfill on private land?

---That's not correct, no.

I'll take you to what Mr Bono says happened. This is volume 14, page 70. Statement of Mr Bono. Not going to read it. I can read it out to you.---No, no. That's okay.

You probably better read it yourself. Read paragraph 57 and 58 and tell me when you're done.---Yeah.

10 Does that refresh your memory about having a meeting?---If I was there, I was there.

Well, do you recall saying - - -?---I recall making a comment about - - -

“Give it six months and I'll have it back again”?---Yeah, for sure.

Is that a reference to them taking private land back on a previous occasion?---Yes.

20 Yes.---Yes. And it actually happened a number of times while I was at Liverpool. It went backwards and forwards to RID and Liverpool.

You just thought that after six months Liverpool Council wouldn't have the capacity to investigate it and it would come back to you. Is that a fair summary of that statement?---Yeah, the workload I was referring to, yes.

Because they wouldn't have the resources to deal with the workload. Is that what you're getting at, but you would?---No we wouldn't either. But I think that that's why it would end up back with us because of the workload.

30 Because Liverpool Council couldn't deal with the workload?---Just, yeah, that's right. Neither could we at that stage.

All right. And so after that date, after being told by Liverpool City Council that you were no longer in charge of investigating illegal dumping or illegal landfill on private land you had no reason to investigate illegal landfill or illegal dumping on private land. That's correct isn't it?---Yeah. But if a referral come through Liverpool on occasions would get us to do it. And vice versa, we would refer it back to them. But there was occasions that
40 RID would still investigate private property.

And sometimes, I'm talking about in the period before this meeting Liverpool Council would receive a complaint and refer it to you wouldn't they?---Correct.

And then you would investigate it?---That's right, yeah.

And as part of your investigation you would go out to a site that was being complained about?---Yes.

Would you take photos?---Yeah, depending on the job.

Would you conduct interviews?---Again depending on the job, yes.

Would you take a notebook?---No.

10 Would you take notes of your investigation?---Depending on if it's needed, yes.

But if it was small dump on the side of the road would you take notes?
---No. You know I may have on a bit information on a bit of paper but that would be it.

You wouldn't go and log that on a database?---That would still be logged, yes.

20 It would be logged?---Oh yeah, yeah.

An infringement notice would be logged if you issued - - -?---If you issued an infringement notice, yes.

And if it was a larger matter would you take notes?---Well depending on the job whether it could be done quickly or not quickly, you know, for sure.

30 And a job that can be done quickly is one where you could issue a statement to an offender. Is that what you mean by done quickly?---Issue an infringement.

Issue an infringement notice to an offender?---Yep.

But if an investigation required more detailed surveillance and analysis you would record the more detailed surveillance and analysis. Is that correct?
---That's correct.

40 You're familiar with the property at 405 Willowdene Avenue aren't you?
---I am.

Was the first time you went – the first time you went out there did you meet Reuben Matthews?---Yes.

And was that the first time you met Mr Reuben Matthews?---That's correct.

Did you meet Mr Cannuli when you went out to 405 Willowdene Avenue for the first time?---Yes.

And did you meet Mr Kabite for the first time when you went out to 405 Willowdene Avenue for the first time?---That's correct.

And you had a conversation with Mr Cannuli and Mr Kabite initially. Is that correct?---Correct.

And then Mr Matthews came from the house to where you were having a conversation with Mr Cannuli and Mr Kabite?---That's correct.

10 And he joined the conversation?---I think we walked off then, when he come down asking what was going on.

So Mr Kabite, Mr Cannuli and yourself walked off?---No, me and Mr Matthews walked off.

You and Mr Matthews walked off?---Yeah.

So you had a private chat with Mr Matthews?---Correct.

20 And you chatted about a development application?---I did.

And you offered to assist in filling out a development application?---I offered to assist, yes.

And Liverpool Council required a development consent before fill was brought into a property. Is that correct?---I believe so, yes.

30 Did Mr Matthews need reassuring – I withdraw that. Was Mr Matthews – did Mr Matthews want to bring fill into his property?---He indicated to me that what he wanted to do is level a part of the land next to the side of his – the main dwelling there to put glasshouses there.

Mr Matthews said that?---Yeah. To me, yeah.

Did Mr Cannuli say that to you as well?---No.

Did Mr Kabite say that to you?---No.

40 Do you know what Mr Kabite was doing there?---I don't know whether they were trying to fix the tractor or the truck or something.

So there was a tractor and a truck there?---From what I can remember. An excavator maybe.

So you were familiar with the DA approval process at Liverpool Council? ---Not, not to the, to the extent that I know what goes on, just that the DA was - - -

You were familiar with how, with how the process operated?---That you need to make application for a DA, yes.

Yes. And it was your understanding that once the development application was completed it would be lodged with Liverpool Council?---Correct.

Did you have access to Liverpool Council's systems that told you what activity had been approved for a particular property?---No.

10 Well, if you wanted to know that how would you find out?---I would contact Liverpool, our RID contact person that we would have there and while I was there my main contact there was Anna Kypriotis.

So you would ask Anna if you had a question about whether or not an activity was approved on a particular part of land you'd ring up Anna and Anna would say this activity is approved or it's not approved. Is that correct?---I don't know whether it was approved about what you need to do but just the history on the, on the, on the place, if I needed to find that inquiry out.

20

If you saw somebody – this is hypothetical. If you saw somebody in the Liverpool City Council area on an excavator and you wanted to find out whether or not there was approval for somebody shifting dirt using an excavator, would you call Ms Kypriotis?---I would, yes.

Mr Kypriotis would report back to you that there was an approval for, for example, cut and fill?---That's how I'd expect it, yes.

Or she would say there's no approval?---Correct.

30

And if there was no approval you would investigate the matter further? ---That's right, yes.

And the same situation if you saw a truck coming into a property with a load of soil, in order to find out whether or not that was permitted you would have to get in contact with Liverpool Council?---Is this another hypothetical?

Hypothetical, yes.---Yes.

40

And was that the same process at Bankstown when you were at Bankstown?---Yeah, I think so, yes, and the same at Blacktown.

So if anybody – I withdraw that. Did Mr Matthews – did you explain to Mr Matthews that – I withdraw that. Do you know how many – how much fill Mr Matthews wanted on his property?---No.

Do you know if it was over 200 metric tonnes?---No.

If it was over 200 metric tonnes would have you advised Mr Matthews to fill out a development application?---I advised Mr Matthews from the start to fill out an application so whether there's a requirement of certain tonnage I – no.

Was Mr – did you know that Mr Matthews had previously attempted to lodge a development application?---After conversation with him, yes.

10 Did you know he was having difficulty with it?---No. I knew he was having difficulty in getting a response and/or filling it out.

So he was having difficulty getting a response? That's right, isn't it?
---Yeah, yeah.

So you inserted yourself in between the difficulty and Mr Matthews?---I assisted Mr Matthews in DA application.

20 Was Mr Matthews – Mr Matthews would have been concerned to make sure that what he was doing was legal, wouldn't he?---I would think so. You'd have to ask Mr Matthews that.

But that's why he wanted the development application, isn't it?---I told him he needed a DA application for the glasshouse.

Did he need reassuring that bringing soil, fill, onto his property was legal?
---Not reassurance from me, no.

30 Didn't need reassurance from you. Did you make a record of the conversation you had with Mr Matthews?---No.

Did you make a record of the conversation you had with Mr Kabite or Mr Cannuli?---No. I made an email record of our dealings with Mr Matthews's daughter.

All right. I'll take you to that. Volume 5, page 83. You'll see the date. You'll be familiar with this document. I've been to it a few times. You'll see the date of 21 October, 2013.---Correct.

40 So do you accept that that's the date you first met Mr Reuben Matthews, Mr Nosir Kabite and Mr Andy Cannuli?---If that's on the document, yes.

Did you meet Mr Matthews's daughter?---Renee, I think she was there, yes. Or I don't know, really, actually. I don't know whether she was there or not, hence the email.

“Could you please let me know what I need to do for dad in regards to the DA?” Then I think you reply – it's a little bit difficult to tell what

chronology this goes in, but there's an initial interaction on 21 October, on page 83. And then on page 84 it appears as though - - -.---23rd of the 10th.

What did I say, sorry? This is two days later on 23 October. "Hi, Craig. Thanks for that. Told dad what you said and had a look at the DA form. I've got a printout from the Liverpool Council website. Looks like dad also needs to have a statement of environmental effects, erosion and sediment control plan, and some type of drawing of the land." What's a sediment control plan? Do you know?---Wouldn't have a clue.

10

Wouldn't have a clue? All right.---That's Renee - - -

So when you said, "Work being required," this is down the bottom. This is your reply. "Renee," first paragraph, and then second paragraph, "for the application, work around this." In single quotes. "Work being required to extend existing shed line, and additional sheds will be erected to support horse activity being carried out on the property. Small amount of clean fill is required. This fill is in no way to have any impact on the creek line. Controlled sediment controls will be in place."---Correct.

20

You don't know what controlled sediment controls are and you're telling Mr Matthews to put it on a development application.---I'm making reference to it up the top there in Renee's email. Controlled sediment controls would be - - -

You're making this up, aren't you, Mr Izzard, on the run?---You want me to answer the question or not?

30

I asked you whether or not you knew what a sediment control plan was and you said absolutely no idea or words to that effect. And then I took you to a passage where you say that controlled sediment controls will be in place. That's what you're telling them to put on the development application.---Because, Mr Mack, when you first was making reference of it, I was looking at Renee's email. Now that it's been scrolled up and opened up, I can look at my, my - - -

All right. Well, what's a controlled sediment plan?---I think it's in relation to making sure that the work that they do there doesn't encroach into the creek line.

40

So you don't know what a controlled sediment plan is or a sediment control plan is?---That would be my opinion, yes.

And it says, "Small amount of clean fill is required."---Yeah.

Is that what your understanding of what Mr Matthews wanted?---Up the top, where he wanted to put it, yes.

So you thought he wanted a small amount of clean fill to support horse activity?---Yes.

Nothing about glasshouses in there, is there, Mr Izzard?---Nothing in my response - - -

Nothing.--- - - - back to it, no. But that's when we had the initial conversation. It was about glasshouses.

10 Why didn't you tell her to put that in the development application?---I wouldn't be able to tell you.

Okay. Why did Renee have to assure Mr Matthews that there is nothing illegal about what he is doing?---Well, because that's what he was worried about.

Well, you said - - -.---He was, when he first spoke to me about it up the top, with the glasshouses, he wanted to make sure that his DA application was right.

20 So you needed to reassure him?---I just told him that he needed the DA application, so - - -

You're not assuring him whether or not the DA application's right. You're assuring him that nothing he's doing is illegal.---That's incorrect.

“Assure him that there is nothing about what he is doing. Assure him that there is nothing illegal about what he is doing.”---By putting a DA application in.

30 By putting a DA application in?---Yes.

So Mr Matthews thought that putting a DA application in was illegal?---No, that he was required to put a DA application in, in relation to the work he needed to be done.

So what did Mr Matthews think was illegal?---That he didn't have a DA application.

40 He – sorry, I don't follow. What do you mean by “Assure him that there is nothing illegal about what he is doing”?---Putting, putting - - -

What is “doing”. If you substitute the words “doing” to give it some more meaning, what would you substitute it with?---The work that he was carrying out on his property up where he wanted the glasshouses.

So what work was he carrying out?---He wanted to get it levelled off so he can put the glasshouses there.

But “doing” implies that he’s doing it at the time.---Well, that might be your interpretation but - - -

So you're saying “doing” is a reference to activity that’s going to be conducted in the future?---Correct.

10 Page 87. This email also appears to be from 24 October, 2013. “Renee, I've had a look at the application. Great reading material...not. Anyway, fill the following in.” And then you're quite explicit about what needs to be filled in, aren't you?---Explicit as in fill in, yes.

Yeah. Was the document over at page 88, was that ever sent to you?---I don't think so.

The proposed work that ended up there is filling and improving property for recreation. Doesn't say anything about glasshouses there, does it?---Well, I didn't fill it out.

20 Do you know if this application got lodged?---I wouldn't have a clue.

You didn't check with Anna?---No.

You didn't follow up on it?---No.

Why not?---I don't think I needed to follow up. If they had any problems they would have rang me if they needed any help.

30 They said they were going to be bringing in clean fill to the property, so they're going to be bringing in soil into a private land in the Liverpool City Council area, you would have been concerned to make sure that they had a development application in place wouldn't you?---I don't think I would follow up, but if there was another complain than I would be required to go.

40 So you wait for the complaint. I'll take you to page 90, volume 5. This is a complaint from 14 November, 2014. It's from Ranger Le. Trucks are going up and down Willowdene Avenue dumping rubbish, going into 405 Willowdene Avenue. About ten feet from this address there is a dirt driveway and they're going in and out. There is a lot of activity in this area. Since you've been investigating this matter I'll refer it to you. Did you check with Ms Kypriotis after receiving this email whether or not there was a development application in place?---Not that I can remember, no.

Why not?---I don't know.

Did you make any records in relation to 405 Willowdene in relation to your investigation?---Without having access to the database no, I wouldn't have.

What do you mean without having access to the database? Did you do it or not?---I don't know. I can't, I can't remember.

You can't remember. It's a possibility though that you didn't keep any records in relation to your investigation isn't it?---I just said Mr Mack, I can't remember.

10 I heard what you said, but I'm saying, asking you a different question, it's a possibility that you didn't make any records?---I can't remember whether it's a possibility or not.

It says you've been investigating the matter. Had you been investigating the matter?---I don't think I had any occasion to go back there, but - - -

Somebody referred you a complaint - - -?---all I was, do you want me to answer the question, Mr Mack?

Did you investigate the matter?---This matter here?

20 405 Willowdene?---I think from memory there was three properties together. We went to the property before, not before Willowdene the one before that one again and - - -

375?---No, not that one. The one before the no, there's no house on it. But I wouldn't, I wouldn't know if this was investigated or not. I think what this inquiry needs to know is that Liverpool, during that period that I was - - -

30 Mr Izzard, the inquiry needs to know your answers to my questions?---And I'm trying to give you that, Mr Mack.

So, I didn't ask you - - -?---Okay.

I'll take you to volume 15, page 34. This is the same document I took you to before but just to be clear about it, it says 10.28 the email's sent at 1.39 on 20 November. Trucks were going up and down Willowdene Avenue, going into 405 Willowdene Avenue. You knew that address didn't you? ---Yeah.

40 So you knew that trucks were going into 405 Willowdene Avenue and people were making complaints about it?---From that email, yes.

From an email. Over at page 36 of volume 15. This is later in – this is on 11 December, 2014. “Hi Craig. I'm just emailing you in reference to the phone conversation. Council have been receiving more complaints about landfill at the property location 405 Willowdene Avenue.” Still didn't investigate, Mr Izzard, after receiving this email. Is that your evidence? ---Because I believed that Liverpool were in the process of taking the landfill jobs back as they did on four occasions over a previous 18 months.

Four occasions?---There's a - - -

I'm not asking - - -.--- - - - email, email from a, from the boss at the time to say - - -

Where is the email?---Well, it's in, it's in your evidence.

10 Whereabouts?---There's an email that says that over the last couple of months the EPA, the council - - -

Mr Izzard.--- - - - and the RID - - -

You need to answer my questions and stop soliloquizing. Hi Craig. This is - - -?---And what, sorry?

20 Soliloquizing. I am just emailing you in reference to the phone conversation. So Ranger Le rang you up about the trucks going to 405 Willowdene. Is that correct?---It would appear from that, yes.

Didn't ring any alarm bells in your head about 405 Willowdene?---From the email, no. I'm unable to comment.

I'll take you to volume 14, page 300. This is an email from you - email to you from Mr Krkach asking for some information in relation to some properties. Do you see that?---Correct.

Did you have files on these properties?---I believe so, yes.

30 On all of them?---They're notifications from Liverpool Council.

So you would have files on your database system?---I would, I would think so, yes.

On your C drive, on your operations drive?---Yes, in the normal way in which it was with the database for sure.

40 Did you have visibility on other people's jobs, other people within the RID Squad?---Yes.

So you could see the entire file base of the RID Squad, you had access to that?---Everyone did, yes.

Everyone did.---Yeah.

Do you recall Mr Bono going out to your offices with a USB stick?---I do.

Do you recall him putting a USB stick in the computer?---I believe I put it in there. He was next to me.

You put it in?---Yeah.

Who was operating the computer?---Me.

Did he ask for all of your records in relation to the properties listed at volume 14, page 300?---Correct.

10

Did you transfer the information from your computer to the USB stick?---I did while he was sitting next to me, yes.

Thank you. Did it come as a surprise to you to learn that 405 Willowdene didn't have a development application for bringing in fill into the site?---I think, yes, it would.

It was a surprise was it?---Well, for sure. Because here had been four or five other rangers and officers out there before me.

20

Did it come as a surprise to you that Mr Kabite got fined \$25,000 for transporting over 200 metric tonne of fill into 405 Willowdene?---I heard that, yes.

Did it come as a surprise to you?---Whatever the court issued then whatever the court issued. It's not a surprise to me.

So it's not surprising that Nosir pleaded guilty to transporting over 200 tonnes of fill into 405 Willowdene?---Your question again, Mr Mack?

30

I'm going to take you to a document and then I'll give you the question. Was it surprising to you when you found out that Mr Kabite pleaded guilty to transporting in excess of 200 tonnes into 405 Willowdene?---Surprised on the amount or surprised that he got convicted?

Surprised that he'd do something like that?---I don't have any opinion on that.

Don't have an opinion on that?---No.

40

Does it surprise you that there were over 200 tonnes of fill being transported into 405 Willowdene Avenue?---Yeah, it would surprise me, yes.

Would it – did it surprise you that 11 samples taken by the EPA from 405 Willowdene contained asbestos?---It would surprise me, yes.

When did you find out that Mr Kabite had been convicted of transporting over 200 tonnes of fill and dumping into 405 Willowdene?---I think after the court matter.

So did he call you and tell you about it?---I don't know whether it was he or Andy.

10 But it would have been fairly shortly after the court matter?---I can't remember exactly when it was but I certainly know that they rang me about it.

Were you disappointed in Nosir for that kind of behaviour, 200 tonnes of fill dumping at 3405 Willowdene?---I probably don't have a comment in relation to that.

20 You weren't disappointed in that kind of conduct, being a Western Sydney RID Squad officer you weren't disappointed that somebody had transferred 200 tonnes of fill onto 405 Willowdene that later tested positive for asbestos, you weren't disappointed?---Of course one would be disappointed 100 per cent.

Were you disappointed?---I'm disappointed in any types of those offences for sure.

All right. So does that mean you were disappointed with Mr Kabite?---I would say yes, disappointed for Mr Matthews's sake.

30 Why were you disappointed for Mr Matthews?---Because he's the one that's been left with the mess.

So you think that Mr Kabite is more culpable than Mr Matthews. Is that - - -?---I don't have an opinion on that, no.

Well Mr Matthews was the occupier of the place and he must have permitted the fill on to his property. That's correct isn't it?---Correct.

So why do you feel sorry for him?---Because I do.

40 Do you feel sorry for Mr Cannuli?---I don't have an opinion on that either.

Sorry before I said that Mr Matthews was the occupier, he's a landowner, Mr Cannuli got slogged with a fine as being the occupier and he wasn't even the occupier. Do you have any sympathy for him?---I don't have an opinion on that, no.

Do you think that Mr Matthews knew that over 200 tonnes of fill had been transported to his place?---I don't know if he'd know the quantity, no.

Do you think he knew that it was a lot?---Well you'd have to ask Mr Matthews that.

All right. Commissioner, I note the time.

ASSISTANT COMMISSIONER: Yes, we'll adjourn for 20 minutes.

SHORT ADJOURNMENT

[11.31am]

10

ASSISTANT COMMISSIONER: You're still subject to that affirmation Mr Izzard, thank you. Yes, Mr Mack.

MR MACK: Mr Izzard, before the break we were talking about the amount of material that had been transported into Reuben's place. And you accept that you were investigating 405 Willowdene Avenue before Liverpool Council took it from you?---In relation to the DA, yeah, when I went there.

20 In relation to illegal dumping were you investigating 405 Willowdene?---My first initial go there is in relation to me driving past and helping Mr Matthews with the DA.

That's the first time. But you went there subsequently didn't you?---No, not that I can remember, no.

Not once?---No, not to 405, no.

30 You had conversations with Mr Kabite following your initial conversation didn't you before – between the time of your initial conversation in 2013 with Mr Kabite and Mr Cannuli when you first met when you drove past? ---Yeah.

And the time when you had the meeting with Mr Krkach, Ms Mardini, Mr Luna and Mr Bono - - -?---In 2014?

In 2014?---Yep.

40 End of 2014 you were in contact with Mr Kabite weren't you?---I would say from what I can remember no.

No?---No.

Were you in contact with Mr Cannuli?---Mr Cannuli I think, yes.

So your evidence is that you simply didn't investigate 405 Willowdene Avenue for any illegal dumping activities. Is that correct?---After my initial

go there no I didn't. And as I said I can't remember those notifications that you showed me.

So were you investigating 405 Willowdene when you first went there?---No, I just was there in relation to that DA after I've drive across what was happening with the (not transcribable) the truck.

10 And your contact with Mr Cannuli in that time between the first meeting and the meeting in December 2014 was that in relation to your refrigeration business?---I think that came later.

Was it in relation to 405 Willowdene?---No.

No. So when Ranger Le said in that email that she thought you were investigating is that a true statement?---I don't know, you'd have to ask Ranger Le, but she probably thought I was investing because I looked after Liverpool.

20 You never said to her in a conversation that you were investigating did you?---Not that I can remember, unless you can direct it to me.

Unless what?---Unless you can direct me to it.

30 Volume 15, page 23 Ms Le says at 1.39 on 20 November, I sent an email to Izzard confirming our earlier telephone conversation in respect to 405 Willowdene Avenue. I also attached the photographs to the property to the email. And then that email appears at page 34. And it says, since you have been investigating this matter I will refer it to you. So had you been investigating the matter?---Not that I can remember. But is she saying there, see you'll have to ask Ms Le, from my recollection and knowledge and of that place I only went there on that one occasion to Willowdene, 405 Willowdene.

Do you recall Mr Cannuli giving evidence about 10 March, 2015 when Rangers Bono and Luna attended 405 Willowdene - - -?---Correct.

- - - to conduct a notebook interview?---Yes.

40 Can you recall that Mr Matthews was interviewed and Mr Cannuli wasn't inside the interview, it was outside. Do you recall that?---Yeah, yes.

And do you recall me taking Mr Cannuli to some phone records?---Yes.

And do you recall those phone records indicating that he tried to call you? ---From what I remember, yes.

And that you tried to call him?---If that's what it is, yes.

Mr Cannuli was calling you about the people that had arrived at Mr Matthews' place. That's correct isn't it?---Mr Bono and Serge, yes.

But you hadn't been investigating the matter had you ?---No.

You hadn't had any dealings with the matter since 2013?---Correct.

So Mr Cannuli called you when Mr Bono and Mr Luna arrived to talk about the development application in 2013?---No. That's not what he said.

10

What did he talk about?---What did - - -

Mr Cannuli ring you for?---Mr Cannuli rang me because he told me that Frank and Serge had been at the property and they were asking questions about myself. That's why he rang me.

Were you disappointed that so much dirty waste had been transported onto a property that was on your beat so to speak?---I never give it a - I, I don't know whether it was dirty or not.

20

It had asbestos in it.---Yeah, but I, I don't know that.

Yeah, you do.---From the test results?

Yeah.---Yeah. Was I disappointed that it was deposited on - what's my beat?

Well, in the Liverpool City Council area.---I don't have an opinion on that, no.

30

So the illegal dumping of asbestos in the Liverpool City Council area didn't concern you?---Of course it concerned me.

Do you recall Mr Antonio Barillaro giving evidence?---Yes.

Did you recognise that man?---No.

Do you recall a property at 100 Martin Road, Badgerys Creek?---I do now, yes.

40

Do now as in today or during this inquiry?---During this inquiry.

But you say you never saw Mr Barillaro there?---Correct.

So there was never a face-to-face meeting?---Never.

He never phoned you?---Not that I can recall, no.

You never solicited a bribe from him?---No.

You never said - he never said words to you, you're not getting a dollar from me?---No.

You never threatened to stop his DA?---No.

Have you spoken to Mr Barillaro on the phone?---Not that I can recall, no.

10 Do you know anybody by the name of Antonio Barillaro?---No.

Is Mr Barillaro's number stored in your phone?---No.

Sure about that?---I wouldn't think so, no. Which phone?

How many phones do you have?---Two.

In either of your phones?---No.

20 Telling the truth, Mr Izzard?---I certainly am.

Do you recall speaking to Mr Kabite in relation to a property at Bandon Road?---In relation to what? Speaking to him?

In relation to a lease at Bandon Road?---I do, yes.

Do you recall assisting him with a development application at Bandon Road?---Not assisting with a DA. Just for him to go and fill it out, yes. I believe he went to the council and lodged the application.

30 Do you recall offering to assist him with the development application for Bandon Road?---In what sense?

Did you offer to assist Mr Kabite in relation to a development application at Bandon Road?---To filling it out, yes.

So you helped him fill it out?---No, I didn't help him fill it out, but if he had any questions about it, then he could come to me.

40 Do you recall speaking to Mr Kabite in relation to a place at 30 Bellfield Avenue?---Yes.

Do you recall – did you ever receive a complaint in relation to 30 Bellfield Avenue, in relation to illegal dumping?---Only from Mr Kabite.

Only from Mr Kabite?---Yes.

So he complained to you about some illegal dumping operations at 30 Bellfield, did he?---That waste was being taken in there, yes.

Do you often listen to what Mr Kabite tells you?---Sometimes.

Do you know that Mr Kabite was responsible for transporting over 200 metric tonnes of illegal waste himself? Do you know that?---Yes, from you telling me.

10 Did it ever occur to you that what he says about other people in relation to illegal dumping might not be the truth?---For sure, yes.

Did Mr Kabite often seek your advice on issues?---Council-related issues, yes.

How often did you – when did you first start your business with Mr Kabite in relation to the refrigeration units?---I would think it's been picked up through Andy, but I might just – October, maybe. September, October last year.

20 2015?---Yes.

What contact did you have with Mr Kabite during 2014?---I would say very little.

You did have contact with Mr Kabite in 2014? What would it have been in relation to?---Wouldn't have a clue.

30 I'll play you the phone call from 22 September, 2015. It's call 4-5-0.

AUDIO RECORDING PLAYED

[12.10pm]

MR MACK: Pretty special relationship you have with Mr Kabite isn't it?---I don't know what you mean by special but I talk to him.

40 Talk to him. Well, in this conversation you're talking to him about three issues. One is the place at 30 Bellfield, Rossmore isn't it?---The Wallgrove Road. Yes, correct.

No, Rossmore.---That says Wallgrove Road.

Well, that was the first place they were moving out of. You understand that don't you, there's a skip bin business operating there?---Correct.

And they wanted to find somewhere else to go?---Yeah, I don't know about Rossmore but, but yeah, I know what you're saying, yes.

All right. And you're talking about – he wants your advice, this is page 7, “What do you advise my nephew to say to Anna?” That's a reference to Anna Kypriotis isn't it?---Correct, yes.

10 So you're advising Mr Kabite who three months ago pleaded guilty to transporting over 200 metric tonne of waste to Reuben's place what he should do in relation to an offence involving Ms Kypriotis?---I was giving a little bit of lip service there just to keep him happy. But I initially said that it's no good with Anna she's too strong.

You had to keep happy did you?---No, just to give him lip service.

Give him lip service?---Yeah.

Did you think that was acceptable behaviour to have a conversation with somebody about how to deal with Ms Kypriotis?---Probably not now, yes.

20 Probably not now?---Yep.

At the time?---I probably didn't give it another thought.

At page 5 there's reference to a big shed, it's not a shed, it's bigger than a shed. Do you see that?---Yep.

Do you understand that now as a reference to 30 Belfield?---Now I do, yes.

All right. But not at the time?---Not at the time, no.

30 And Kabite says he's going to be there and you know what I mean and he called me and said you know can you do something? This is unintelligible but I assume it says do something or I can have it played to you again if you want?---No.

And you say, “Yeah, no worries.” So he's asking you to do something and you're saying yeah, no worries?---I was just agreeing to what he was saying.

40 And what he was saying was, you know, can we do something. And then over at page 10 it's quite clear isn't it that you and him acted together in relation to Bandon Road?---Yep.

It's coming up on the screen, but he says, “Okay and anyway don't forget tomorrow it's important, very important to see you. Oh also, we need to know because the Riverstone place, the guy killing me every day.”?---Yeah, I think the reference is in relation to getting his lease sorted out.

Getting his lease sorted out?---Yeah.

So you had to help him get his lease sorted out?---No, that's what he was going to do.

All right. "Ah Craig, last day for us is after Thursday. We will have to fill the papers", because he said we agreed whatever price he asked for and he said, "I'm ready. You guys have got 'til Thursday to sign the papers otherwise forget about it." And then you say, "Okay. We will do it tomorrow." That's you and him?---Yeah, in relation to his DA but nothing to do with lease. I had no, no involvement with his lease.

10

So you and him had scheduled an appointment for the following day so you could help fill out his DA for him?---Correct. From what I can recall of this conversation, yes.

Did you understand that he needed a DA for the place at Bandon Road?
---For his operations, yes.

What was his operation going to be?---From what he told me it was a skip bin business.

20

A skip bin business. So he needed DA approval from Blacktown Council for a skip bin business did he?---Correct.

And you know what the requirements are for Blacktown Council in relation to a development application for a skip bin business?---I wouldn't have a clue.

Well how are you going to help him?---Fill out the application.

30

What help are you going to be - - - To get - - -

- - - if you've got no idea what the requirements are of Blacktown Council?
---To fill out the application, that's all I was doing.

What in your handwriting?---No.

What do you mean fill out the application?---Help him fill out and understand what he needed in the application.

40

So you knew what was needed in the application?---Yeah, you answer the questions.

So he needed you to tell him that did he?---No. Well, he probably didn't understand a lot of them so I was helping him.

Well, he's got lots of family around. Why did he ask you?---You'd have to ask Mr Kabite.

That was on 22 September, 2015. On 23 September, 2015 you were sent a text message by Mr Kabite. Text message 7-3 – text message 4-8-1. Do you see that, see that address?---I do, yes.

It's the day after 22 September.---Correct.

So on 23 September you knew about the address at 30 Bellfield Avenue, Rossmore.---Correct.

10 Accept that?---Yeah.

I'll show you an MMS message. Do you know what an MMS message is?
---Um - - -

It's a text message in photo format.---Okay. Yeah.

It's from 17 October, 2015. It's MMS 5-6-6-5. Do you recall seeing this before?---Not really, no.

20 All right. Well, it says Blacktown - - -.---But if it's come to me, yeah.

It says Blacktown City Council at the top.---Yeah.

Do you recognise the handwriting on the fourth page?---No.

All right. But between – I'm just going back now to 22 and 23. Do you agree that on 22 September you had a phone call in relation to people moving out of Wallgrove and there was mention of a large shed. You accept that?---Correct.

30

And then the following day you get a text message for 30 Bellfield Road, Rossmore.---Correct.

And do you accept that in the phone call, I'll take you to it again, on 22/9/2015 nothing was said about illegal tipping at Rossmore?---Correct.

I'll play you a call now from 19 October, 2015. It's call 1-1-4-1.

40 **AUDIO RECORDING PLAYED**

[12.28pm]

MR MACK: That's a call in relation to an attempt of Mr Kabite's to lodge an application at council in relation to Bandon Road, isn't it?---Correct, yes.

And when he mentions a four to five page application, do you accept that it's that application that was on the MMS message I showed you before?
---It would appear that, yes.

So this is the type of assistance that you were providing to Mr Kabite, and that you've reviewed documents, is that correct?---To help him get the DA, yes.

I'll play you another phone call now from 20 October, 2015. Call 1-2-0-6.

AUDIO RECORDING PLAYED

[12.31pm]

10

MR MACK: And your evidence is that you're not charging Mr Kabite for any of this assistance. That's correct, isn't it?---Correct.

You're spending a lot of time. You've got two applications on the run here. There's one in relation to Blacktown Council and there's one in relation to Rossmore as well. Doing two things for him.---I don't think there's an application in relation to Rossmore.

20 At this stage?---No.

All right. Well, you've agreed to go out to Rossmore with him tomorrow, didn't you?---That's the property he was sending me out to, yes.

He was sending you out there?---Yes.

There's nothing in this phone call about investigating illegal dumping, is there?---No, but I had spoken to him in person, for sure.

30 So you also spoke to a person at Blacktown Council about his development application, didn't you?---Correct.

Who did you speak to?---Aleks Radovic.

And who's Aleks Radovic?---He was my contact when I had, we went on jobs and that for Blacktown.

40 Your contact from the RID Squad or from Blacktown Council?---Blacktown Council. And I asked him in relation to the DA application and he was going to see what he could do.

What did you tell him the DA was for?---For a skip bin business, Bandon Road.

What did he say to you?---Oh, he said he'd get back to me from what I can remember.

So you've looked at the application and you've gone out to see someone at Blacktown in relation to the application?---I beg your pardon?

You've had a look at the application, the documents that are required for the application?---Correct.

And then you've gone out to Blacktown to speak to somebody about the application?---No, I just contacted him.

10 You rang him did you?---I might have seen him at a meeting, Blacktown meeting, yes.

And you thought he could assist?---He could, yes.

How could he assist?---Well, just to give him some knowledge about how to go about getting the DA.

20 Was Rossmore within – were you assigned investigations in the Rossmore area at that time?---Liverpool.

In Rossmore.---That's Liverpool, yeah. No. Eric Ryffel was.

And you weren't co-ordinator at this time were you?---I was, yes.

What, on 21 October – on 20 October, 2015?---I'll just check. No, I wasn't, no.

30 So your evidence is that Mr Kabite told you about illegal dumping out at Rossmore and that's why you went out there?---Correct.

Can you recall how long there was between the time when Mr Kabite told you about the illegal dumping activity at Rossmore and the time you went out there?---Not really, no.

Well, it wouldn't have been too long because you were concerned with investigating illegal dumping matters weren't you?---100 per cent but I, I can't remember exactly what the time frame was.

40 Well, if somebody tells you there's illegal dumping going on at a location how quickly do you respond?---Well, depends on availability. As soon as possible.

But that discussion definitely took place – the discussion with Mr Kabite about the illegal dumping that definitely took place before 20 October, 2015?---I think so, yes.

Because he's mentioning Rossmore and you're mentioning going out there tomorrow and you wouldn't go out to Rossmore unless you were investigating illegal dumping. Is that correct?---That's correct.

Play you phone call 1-3-1-0 from 21 October, 2015.

AUDIO RECORDING PLAYED

[12.39pm]

10

MR MACK: So Mr Kabite is your friend and he was at that time wasn't he?---Mr Mack, I speak to everyone like that on the phone.

Somebody, somebody you wouldn't forget? You don't leave him hanging like that do you? So you would have gone out the following day to, to Rossmore. Is that right?---I think so, yes.

All right. Well it's not right, but I'm not trying to trip you up?---No, no, I don't know what the date was but.

20

All right?---If you want me to check my calendar I can.

No, we'll get there in a second. But you're doing a favour for Mr Kabite aren't you?---Mr Kabite, I can assure you told me that, initially that there was waste transfer going in there.

Well what in fact Mr Kabite initially told you I played to you earlier on? ---I'm aware of what you played, yeah, he did say that. But he also told me about waste going in there.

30

In addition?---100 percent.

So your intention was twofold. One to make sure the place was clear so that people in Wallgrove could move in and secondly to investigate illegal dumping?---Is that your assumption, Mr Mack?

That's my question. Was it your intention twofold?---Not the first one, no.

40

All right. So you just say you went out there to investigate illegal dumping?---That's what he told me, but as it got on it would appear that he's idea was different to mine.

I'm going to play you a series of calls from 3 November. You've heard most of them, well you've heard two of them, but it's important that I play you the first one so you have an opportunity to respond to it. The first one is from 3/11/2015 and it's part of Exhibit S30 and it's call 1-6-6-0.

AUDIO RECORDING PLAYED

[12.43pm]

MR MACK: You didn't know who owned that skip bin, did you?---I certainly did.

Well, who owned it?---I think the photograph is in evidence, but I don't know who has written on the side of it. That was an investigation from Blacktown and there was some X-rays found in there, possible ID for it.
10 And the chap I eventually spoke with said that he put his X-rays in a - - -

Who owned the bin?---I don't know exactly who owned it.

You said you knew who owned the bin. Who owned the bin?---I rang the number on the side of the bin.

And they said, "I own the bin"?---No, they'd been taken over by Bingo, I think it was.

20 So it would be the property of the person that took over Bingo, surely.---No, they'd gone into liquidation.

So if someone goes into liquidation, you can just take their property, can you?---No, that's not the case. I think Mr Beydoun also gave evidence that he had the bin and the bin company didn't want it.

They didn't want it?---In his evidence, yeah.

I'm talking about – you said you knew who owned the bin and now you're saying it was the property of the liquidator. And then you're saying you – and in this conversation you're telling Mr Kabite to take it.---I was told in the phone contact, that I had with the number on the side of the bin, that they'd gone into liquidation.
30

So when someone goes into liquidation, their property is free-for-all, is it? ---No. And I was going to get the council to clean it up.

You weren't going to get the council to clean it up. You were going to get it taken over to your place.---I've made reference about getting the council and made reference to that, yes.
40

"We'll get the council to clean it up and we'll take it."---Correct.

So you'll - - -?---Council to clean it up.

- - - you'll take the property of a liquidator, is that your evidence?---That is, yes.

All right. And then, "So I ring the bin company and they come and bring my fucking bin for me. It cost me fucking 300 bucks or something."

---Correct.

So it was going to save you 300 bucks?---Yeah, 260, actually.

And how often – that'd happen every month, wouldn't it?---No.

10 Well, so you're lying when you said, "Every month I've got to do a clean-up of my place, see."---In there, yes.

So you're lying in there?---Correct. Well, I'm just making reference that I need a bin to clean up. That's what I'm making.

And you clean up your house every month or so?---No.

So therefore you might need to use the bin every month or so. That's the implication, isn't it?---Not every month, no.

20 So what did you mean? Twice a year?---Yeah, three, four times a year.

Three or four times a year? So about a thousand bucks?---Correct.

Now, this is before you've arrived at 30 Bellfield. No discussion at all about illegal dumping, is there?---Not in that conversation, no.

30 But if that was your sole focus for going out there, you'd expect there to be some talk about the illegal dumping operations happening out there, wouldn't you?---Yeah, talk between me and Eric Ryffel was.

So Eric Ryffel had received a complaint, is that right?---No, I did.

You received a complaint and you told Eric about it?---And I told him, correct. I took him with me.

But you were part of Blacktown Council at that stage, weren't you?---And Eric was in charge of Liverpool, yes.

40 So why didn't Eric just investigate Liverpool?---Because I went out with him.

Well, why did you go out with him? You're fairly busy.---It's a bit of a rural part of the town out there, so I just went for his own safety.

Did you log the job anywhere, so to speak, on your database, when you received the complaint?---No.

Do you routinely not log jobs you receive complaints about?---Yes. And then after completion we would log it.

Did you log this job after completion?---I don't think so because it was being looked after by Liverpool rangers.

How long has Eric been a RID officer for?---Probably –I'd be guessing, three years.

10 Three years now or three years at the time?---Probably three years at the time. He's from council originally.

So he wasn't inexperienced in investigating these types of matters was he? ---He's probably one of our least experiences, yes.

I'm just going to take you to a transcript, Exhibit 30, transcript 1-6-7-0. While that's coming up and before it comes up, it was your expectation that Mr Kabite was going to try and get some money out of the owner of the place wasn't it?---Not that I know of, no. No.

20

Are you sure about that?---No.

You're not sure?---I'm not sure, no.

All right. Well, if it – just before that comes up, what makes you not so sure?---Well, we never had any discussions about that.

So how would Nosir possibly get money out of the owner?---Wouldn't have a clue. You'd have to ask Nosir.

30

Did you ask – or did the owner seem poor to you?---Ah - - -

Did he seem wealthy?---Well, he was sitting in a shed at the time so, you know, I don't know. I didn't really have - - -

Did it feel like he had a lot of money?---I wouldn't know. It's quite a, quite a good property there.

40 Do you recall saying – I'll take you to the transcript. You said, "But, mate, the old fellow, that's the owner, sat me down. Mate, he hasn't got anything, mate. He, he – you won't get nothing out of him".---Meaning he won't get no help out of him in relation to the eviction of the people in there.

In relation to the eviction of the people?---Yeah.

So Mr Kabite wanted them evicted?---No, no. After we spoke with the, with – I think his name is Tony isn't it. After we spoke to him that's what he wanted, them people out because he wanted other people in there.

When did you speak to Tony?---The chap that owns the property there.

The chap that owns the property is Mr Nick Kolovos.---Nick Kolovos, that's it. I meant Nick. When we spoke to Nick on the day we went there - - -

Yeah.--- - - - that's what he indicated to us, that he wanted that company that was in there now out because there was some issues about the leases.

10 Yeah, but this is – I mean this is a conversation you're having with Mr Kabite whilst you're there, immediately after and you're saying you won't get any – nothing out of him and now you're telling the Commission that's a reference to help Mr Kolovos was going to give in kicking out the current tenants.---Yeah, any assistance that he, he could give about getting the people out. He, he was an older chap.

But Mr – so Mr Kabite was concerned with kicking people out?---No, that's what Nick told us.

20 Well, you're telling Mr Kabite that he won't get any assistance in relation to kicking him out.---That he's an old fellow and he can't help.

Can't help what?---Can't help with the eviction of them people out of there.

Why would Mr Kabite care if they're getting evicted or not?---Because as I said, at the end of the day I found out that what Mr - - -

I'm not talking about at the end of the day. I'm talking about 3 November and you should tell the Commission the truth.--- I'm telling the - - -
30

What did you mean by he won't get nothing out of him?---Like I said, he's an old fellow and he won't get any assistance in relation to - - -

Mr Kabite didn't want assistance at this stage.---That is my reference to him, to Nick.

He won't – you won't get nothing out of him.---Correct.

40 So Mr Kabite won't get anything out of Mr Kolovos. Is that what you're saying?---Won't get any assistance in relation to the issue that he has in the shed, yes.

Well what was the issue he had in relation to the shed?---That they wanted them people that were in there now out.

Who wanted them out?---Nick, the owner, the landowner.

Did Mr Kabite want them out?---I don't know. You'll have to ask Mr Kabite that.

Well it's implied when you're saying, "He won't get nothing out of him." I mean if you're saying that he won't get nothing out of him is a reference to Mr Kabite not getting assistance in getting them evicted, that implies that implies that Mr Kabite wanted them evicted?---For sure. But you'd have to ask Mr Kabite that because - - -

10 I don't have to ask Mr Kabite because you're here telling him that he won't get any assistance trying to evict the current tenants out?---Correct.

So you're telling Mr Kabite that Mr Kolovos won't assist Mr Kabite in kicking the tenants out. Is that right?---Correct.

But at this stage on 3/11/2015 you didn't know that Mr Kabite wanted them kicked out did you?---Well I did because - - -

20 You did know. Okay?---Mr Nick told me. Mr Nick wanted them out.

It's got nothing to do with Mr Kabite though?---But that's what I was making reference to, that Mr Nick wanted them out.

It doesn't make any sense does it Mr Izzard?---Well it mightn't make any sense for you but I can understand it.

30 Oh it won't make any sense when on the transcript either, that's the problem. You knew that Mr Kabite wanted the current tenants kicked out when you went there on 3 November, 2015 didn't you?---No.

ASSISTANT COMMISSIONER: Before we go too far past it, Mr Izzard you were asked previously or heard the call previously that the conversation you were having with Mr Kabite about his nephew and the truck and being fined?---Correct.

40 And you gave some advice about that. And the advice you gave was how to avoid the fine, for the driver of the truck to avoid the fine by somebody else taking the blame for being the driver?---I made reference to that and then I corrected it at the back end by saying that if they've got a photograph you can't do nothing about it.

Did it occur to you that the advice that you were giving was how to pervert the course of justice?---I think it was, I probably didn't about it, Mr Commissioner.

MR MACK: Commissioner, I've got about a three or four minute phone call to play. Perhaps I play it and then take the luncheon adjournment. Phone call between Mr Izzard and Mr Bono ten minutes after the

conversation in relation to the “get anything out of him”. And it’s phone call 1-6-7-2.

AUDIO RECORDING PLAYED

[12.59pm]

ASSISTANT COMMISSIONER: We’ll take the adjournment now and come back at 2.00.

10

LUNCHEON ADJOURNMENT

[1.03pm]