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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 MONDAY 12 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: Just take a seat there, Mr Izzard. Perhaps we'll swear you again, I think. Cat, affirmation.

<CRAIG IZZARD, affirmed

[10.03am]

ASSISTANT COMMISSIONER: Just take a seat, Mr Izzard. Mr Patterson, we were going to have Mr Kabite today, weren't we?

10

MR PATTERSON: I thought that he was to come at the end of Mr Izzard's evidence.

ASSISTANT COMMISSIONER: Okay. Sorry, we've sorted that out, have we? I was just concerned about whether you want him to be finished before Mr Izzard.

MR PATTERSON: I'm quite content for Mr Izzard to finish.

20

ASSISTANT COMMISSIONER: Okay. Thank you. Yes, Mr Mack.

MR MACK: Commissioner, the section 38 order that was made last week, that carries over into - - -

ASSISTANT COMMISSIONER: Yes, I confirm the section 38 order.

30

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.

40

MR MACK: Mr Izzard, do you recall a call being played last week between yourself and Mr Ykmour?---Yes.

And do you recall going to Mr Ykmour's new premises?---Yes.

And leaving your card there?---Correct.

Where was that new premises?---From memory, I think it was Hoxton Park area in Liverpool.

But you weren't assigned to the Hoxton Park, Liverpool area when you went there, were you?---That's correct.

Did you receive a complaint in relation to Mr Ykmour's activities at Hoxton Park?---I did, yes.

Was that from Mr Kabite?---It was.

10 Did Mr Kabite say that Mr Ykmour was operating a waste transfer facility?
---I think he made mention that he was storing bins there.

But when you went out there, you didn't see Mr Ykmour, did you?---No.

You left your card there?---I did, yes.

And you had a phone call with him about two weeks later, is that correct?
---That would right, yes.

20 And the purpose of your trip was to go out there and investigate the skip
bins to see if any illegal activity was happening out there, is that correct?
---Yes. To follow up on the information that I got, yes.

Did you tell Mr Ryffel?---I think he may have been away at the time but I
can't recall, no.

Did you tell Ms Kypriotis?---Not that I know of, no.

30 Did you speak to Ms Kypriotis about the property before going out there?
---No.

Did you know what development applications were in place in relation to
the new property at Hoxton Park?---Not until Mr Ykmour told me what he
was doing?

So if Mr Ykmour had have been there, you just would have had a friendly
chat with him?---If everything was okay, yes.

40 You weren't going out there to intimidate Mr Ykmour, were you?---No.

Not going out there to scare him?---No.

I'll take you to that call you had with Mr Ykmour. I can play it for you if
you like.---That's okay.

Just let me find the reference. You don't need it played? The transcript's
fine?---No, transcript's fine.

My apologies. I'm just trying to find the reference. This has been tendered previously in the proceedings. It's call 3-4-7-3. And I'll just get the operator to scroll through, down to the bottom of page 2. You'll see there's some – oh, sorry, just before we get there, page 1. It says, at about three quarters of the page down, "Mate, I dropped a card on your site there a couple of weeks ago. I just haven't heard back from you." So if it's 18 December, a couple of weeks ago would have been about 3 or 4 December, is that around about right?---Oh, that could be the case, yes.

10 All right. And then at the bottom of page 2, well, at the top of page 2 you say there were some skip bins there. So you've gone in and had a look and seen some skip bins, is that right?---No. I seen them from the fence. It was locked up.

All right. And were there – could you see if anything was inside the skip bins?---No.

And then over at page 4 in response to Mr Ykmour saying, "The rubbish is in our bins like the waste that comes back stays in our bin, it doesn't have to leave our bins." And then you say, "Yeah, it doesn't matter, mate. It's still, it's still technically called a transfer station." So you're quite familiar with what a transfer station is aren't you?---Yeah, I know that it's a place where you bring rubbish and transfer it and sort it.

And, sorry?---And sort it.

And sort it. So if there's skip bins there that qualifies it a transfer station and then you have to have appropriate DA approval for a transfer station. Is that correct?---Yeah. Nine times out of 10, yes.

30 On the one out of 10 occasion when you're not required to have a development application what are the circumstances that prevail there? ---Well, I'm not saying about development application. I'm saying about whether it's a transfer station or not. Sometimes it might be just them storing bins and not sorting waste.

So if you're just storing bins you don't need a development application. Is that correct?---Well, I don't know whether I'd be able to answer that. You might need one in relation to operating a business there maybe.

40 So you have two lots of applications, an application in relation to operating a business and then an application in relation to skip bin business of the skip bins are going to be carrying waste. Is that correct?---Well, I would think so, yes.

But if the skip bins have got waste in it you need a development application. That's right isn't it?---I would think so, yes.

Which is what you say at about four point three, “Anything, anything in relation to that you need a DA for.” And then halfway down the page it says, “I don’t know who would have rung up. So you have upset someone lately so that they’ve just rung up about it.” So you did now who rang up didn’t you?---Of course I did.

It’s Mr Kabite?---Of course I did.

10 You didn’t reveal that source to Mr Ykmour. Is that right?---Of course I didn’t.

And then Mr Ykmour says, “It’s working through council.” And then you ask, “Who are you dealing with at council?” And the reason you give, this is down the bottom. You say, “Technically it’s supposed to be, the DA is supposed to be approved because, you know, unless that site is being monitored 24/7 who knows what’s happening.” So there’s a lot of logic in having a development application in place before you start transferring waste to a site isn’t there?---Well, I’d say so, yes.

20 Because the council can’t possibly monitor a site 24/7 and so the council needs to know who is transferring waste to a particular site. That’s correct isn’t it?---I would say so, yes.

And that’s the logic you’re getting at at the top of page 5 isn’t it?---(No Audible Reply)

That’s the policy that underpins having a development application requirement for operating waste transfer stations isn’t it?---And what was the, the point?

30 Well, that council can’t monitor things 24/7 so there’s a process in place which requires people who operate waste transfer stations to get an application, application approved from council.---Well, I think that’s across the board that businesses need to DA and DA approval for council.

40 All right. And over at page 6 Mr Ykmour says that he’s working on a DA. Can you see that – you say, “If all of a sudden you make an application to the council for a DA, you make application in relation for just a transfer station.” And then he says, “Yeah, that’s what we’re working on.” And then you say, “That’s what you’re working on but it should have been worked on beforehand.” Do you see that?---I do, yes.

Do you accept that before you even start transferring waste at a particular property you should lodge and have an application approved. That’s correct isn’t it?---I believe you should make application, yes.

And it should be approved shouldn’t it?---I’m unable to answer that.

Are you saying that you can transfer waste to a particular property without an approved development application, Mr Izzard?---No. I'm saying that you're in a position to make DA application and wait for its approval. I'm – I think that they can still operate.

Even if it hasn't been approved?---Yes, if it's in council waiting approval I believe so, yes.

10 And where did you get that understanding from?---I wouldn't be able to tell you where I got that understanding from but I was of that opinion, yes.

So let's take 30 Bellfield, for example. If Mr Kolovos or Mr Beydoun had have lodged their application, your evidence is that once they lodge the application they can start operating that location in terms of the application, is that correct?---That would not be correct because the zoning for that address there is not right, so - - -

20 But once it was lodged, was there anything preventing them from operating that premises as per the development application?---I wouldn't know, no.

Would have you advised them that it was possible to begin operating at those premises in accordance with the lodged development application?---I didn't have to advise them. I didn't have nothing to do with it.

Is that what you would have advised Mr Kabite?---No, I wouldn't have anything to do with it.

30 You wouldn't have said – you wouldn't have encouraged Mr Kabite and Mr Beydoun to begin operations at 30 Bellfield immediately after the application was lodged? You wouldn't have said anything along those lines?---I can't recall saying anything along those lines, no.

Is it something you're likely to say?---I wouldn't be able to answer that.

But you agree that it's prudent to get your development application lodged and approved before you start undertaking waste activities at a site? Is that correct?---That would be correct, yes.

40 Because otherwise if it operated at the time of lodgement, somebody could bring in a lot of waste that wasn't approved by the council. That's correct, isn't it? Between the time of lodgement and the time of approval.---That's a possibility, yes.

So there's an inherent logic in having the date at which activities are approved at the date of the approval of the development application. That's right, isn't it?---If that's what you're saying, yes.

Well, it makes more sense to have the date when activities are approved not at the date of lodgement but at the date of approval. That's correct, isn't it?
---Correct.

And when you went out to Mr Ykmour's place, your only concern was investigating a possible infringement of the dumping laws, is that correct?
---Yeah, to see if the waste had been stored there, yeah.

That was your sole concern, is that correct?---Yes.

10

Can you recall if you went out to any other properties in Hoxton Park and left your card there?---Not that I know of, no.

Would it be unlikely that you took two jobs around that time in Hoxton Park and left your card there?---Oh, I'd be guessing. I wouldn't know.

20

But because you weren't assigned to the area, can you think of any other jobs that you attended in Liverpool? It would stick in your mind, wouldn't it? I mean, there's the one at Bellfield that you already said you attended and then there's the one at Mr Ykmour's new premises.---If you refresh my memory I'd be able to help you.

Were there many instances, when you were assigned to Blacktown, when you investigated jobs in Liverpool?---There was many jobs when I was assigned at Blacktown that I would assist in Liverpool. I would also assist in Baulkham Hills, Fairfield and Parramatta.

30

Can you recall leaving your card at any other job in Hoxton Park when you were assigned to Blacktown?---Not that I can remember, no. It's a possibility.

Is it unlikely?---I'm unable to answer that.

But if you did leave your card at another place in Hoxton Park, this is your business card for the RID Squad, the only business you would have had at any place in the Liverpool Council area was in relation to investigating illegal dumping laws, is that correct?---That would, I would think, be the case, yes.

40

You definitely wouldn't leave your card somewhere if you were trying to scare somebody, would you?---No.

All right. I'll play you a call. This is call 2-7-0-9 on 3 December, 2015. It's a call between you and Mr Kabite.

AUDIO RECORDING PLAYED

[10.20am]

MR MACK: That's you visiting Mr Ykmour's property, isn't it?---Correct.

And you went out there to scare him on behalf of Mr Kabite, didn't you?
---That's what I just told Mr Kabite. You know, you can see from my conversation with Mr Ykmour, there was no scare in there.

10 But your intent at the time was to convey to Mr Kabite that you were going to scare Mr Ykmour, wasn't it?---That was me just telling Mr Kabite that. And the reference to Fairfield was me getting Hoxton Park mixed up with Fairfield.

And you knew what to do once you got there because you and Mr Kabite had a special relationship, didn't you?---That's not the case, no.

He wanted you to scare Mr Ykmour, didn't he?---That's incorrect.

20 But you wanted Mr Kabite to know that you were going to scare Mr Ykmour.---That was just me playing with him, yes.

Playing with Mr Kabite?---Correct.

So you wanted him to believe that you were scaring Mr Ykmour?---No, that's not the case. That was just me making a comment, making a silly statement.

ASSISTANT COMMISSIONER: Did Mr Kabite want you to scare - - -?
---No.

30 - - - Ykmour?---No.

MR MACK: So you just made a silly statement out of the blue, is that correct?---Correct. Correct.

Is it usual for you to report back to a source what you find at a property you're investigating?---Yeah, it's common to let them know the outcome.

40 Is it common to pretend to a source that you're scaring somebody?---Well, depends on whether that source, you know them or you don't know them, I suppose.

But because you knew Mr Kabite, you were comfortable faking that you were going to scare somebody, is that correct?---Correct. I can't see how someone would be scared over a business card.

That conversation you had with Mr Ykmour that I took you to earlier this morning, is that the first time you'd spoken to Mr Ykmour?---I believe - no,

he might have been the one that I spoke to when I attended Bellfield Avenue.

All right. I'll take you to call 2-8-0-1 from 7 December.

AUDIO RECORDING PLAYED

[10.26am]

10 MR MACK: At the bottom of page 2 your reference to where the message was left, is that a reference to Mr Ykmour's new premises?---No, I think it's in relation to the Hoxton Park one where I left the message in the gate.

For Mr Ykmour?---Correct.

And was he a mechanic?---I wouldn't have, I wouldn't have a clue.

20 So in this call this is quite consistent with what you're saying in relation to a development application, that is you've got to do the DA first before you undertake any activity at Rossmore. That's correct isn't it?---That would appear to, yes.

You recall on Friday I finished asking you questions in relation to a Tony or an Anthony from Liverpool City Council?---Correct.

30 And you said you didn't know him and you were lying to Mr Kabite when you said you'd seen certain information in relation to the development application. Do you recall that evidence?---I think the reference was Tony or Anthony, that is Mr Kabite's. He's the one that made reference to that, yes.

But do you recall telling me, or telling the Commission, that you were lying to Mr Kabite on that phone call?---I think there was mention of that, yes.

40 We have to be clear about this. I'll take you to the reference. It wasn't tendered, but it's phone call 3-7-4-6 from 23 December. At the start of this phone call, it says on 23 December, you see you just had a phone call back from him and then you give various information. The number he's recorded. "It's got a notation but the chap didn't submit it, so, um, and then said it would appear that the issue, the issue that they may face is that there's previous history at the site." And you said you hadn't in fact talked to anybody about it and you were lying to Mr Kabite, is that correct?---I think I did mention that, yes.

Okay. And you stand by that evidence?---Well, certainly, Mr Mack, if you have a phone conversation, me talking to someone, with Tony, then certainly it would assist - - -

I'm not trying to trip you up, Mr Izzard. I'm just refreshing, I'm just getting to where we finished last Friday and then I'm going to move on in the chronology.---Yeah.

But just as a general proposition, did you talk to anybody in Liverpool City Council about the development application for 30 Bellfield Avenue, Rossmore?---Not that I know of. The only person I would ever make contact with there would be Anna. But I may have.

10 But when you're relaying this information, you didn't get this information. This is at the bottom of page 1. You say, "He said, well, it's been identified, a site that they've already had, that they didn't have no DA. Then they applied for it, so hence, hence they would say that it's not going to be approved. But in saying that," et cetera, et cetera, et cetera. It's a reference to a male, and the only person you know in Liverpool City Council is a female, is that correct?---Yeah, no, I know other rangers and other managers. But any contact that I ever had with them would have been just (not transcribable). For sure, yes, that's what it would be implying, yes.

20 But you didn't have a phone conversation with anybody before speaking to Mr Kabite? You're making this up to Mr Kabite, aren't you?---I think I did, yes.

All right. And are you making – I'll take you to Exhibit 32 and phone call 4-1-1-9 at page 5. I just want to take you to page 5 first. So this is in relation to a phone conversation you're having with Mr Kabite about the development application for 30 Bellfield. And you say at the top, "Well, what, what, we'll just have to wait and see how you go there today. So once you let me know there today, I'll see this bloke. I'll give him another ring at
30 Liverpool and just see what the story is." Is that another lie to Mr Kabite?
---Um - - -

Did you ever ring somebody or did you ever have somebody to ring in Liverpool City Council in relation to the development application?---No, I didn't have anyone in Liverpool.

So that's a lie?---(No Audible Reply)

40 Is that a lie, Mr Izzard, would you characterise that as a lie to Mr Kabite?
---Yes, that would be the case, yes.

And then your reference to sending the application upstairs, this is the third exchange, and then Mr Kabite says, "Yeah, that's what they said last time but now I'm going to try and lodge it downstairs. Yeah, downstairs, yeah." Is there any difference between lodging an application at Liverpool City Council upstairs or downstairs?---Wouldn't have a clue, Mr Mack.

So that's you just lying to Mr Kabite again?---That would be the case, yes.

And on the previous page at the bottom of it there's an exchange in relation to start operating. Mr Kabite says, "I mean because, you know, what we spoke last time they're going to – after they lodge the application they're going to start operating." And you said, "Yeah, I know that." So you knew that once that application went in the intention was that they'd start operating, they wouldn't have to wait for approval. Is that correct?---Well, that's what I've said there, yeah.

10 You certainly didn't tell them there to wait until it's been approved though did you?---Not from that conversation, no.

I'm going to take you to a series of text messages and this is in chronology so I'm moving in chronology now. That was from 4 January, 2016 so I'm going to try and keep going forward in the chronology now and if I shift my chronology I'll let you know but I'm talking in relation to 30 Bellfield. I'll take you to text message 4-1-4-8 and this is a text message from Mr Kabite to yourself saying he couldn't lodge it and then you reply at text message 4-1-4-9, which is 8.08, and the question is why and then at 4-1-5-0 Mr
20 Kabite says, "They need more info about the place. She gave us a list." And then you reply at 4-1-5-1, "That's good." And then the next text message is one that's already in evidence. It's text message 4-1-5-2 and it's part of Exhibit 32 and you say, "Any drinks around?" And then Mr Kabite replies at 4-1-5-4, which is in evidence, replies, "Very soon." The reference to any drinks around is in the context of the application being submitted to Liverpool City Council. You accept that don't you?---That, that contact is within that, if you're telling me that, yes, but it's not in relation to submitting the DA application at Liverpool Council. It's about me chasing
30 money for my units.

That's not true is it, Mr Izzard. It's in relation to money – you receiving money in relation to 30 Bellfield?---That's incorrect.

The truth was that you couldn't get a drink, that's money, in relation to 30 Bellfield until that application was lodged. That's correct, isn't it?---That's incorrect.

Did you know that Mr Kabite was receiving money in relation to 30 Bellfield Avenue?---At the time I was doing application, no. In this hearing,
40 I've since found out.

So you didn't know at the time of 4 January, 2016?---Correct.

And you only learnt in August 2016? Is that correct?---In this hearing, yes.

I mean, August-September, okay. And if you're referring to "our drink", getting "our drink", what would that relate to?---I would be just saying that payment in relation to the units.

So “our drink” would be a payment that Mr Kabite owes to you? Is that correct?---Yeah, that would be the case.

So it’s not your common property? “Our drink”. “Our”. When the word “our drink” is used, is that in relation to something that you both are entitled to?---There’s no difference I have in relation to “our drink” or “a drink”. No difference at all.

10 Because when you refer to “our”, that’s something that both of you are entitled to. That’s the normal meaning of using the word “our”, isn't it?---If that’s what you're saying, yes.

All right. But there’s nothing – I'll withdraw that. The issue of refrigeration units and the application at 30 Bellfield Avenue are completely unrelated. Is that your evidence?---Yes.

20 So it would be unusual for references to drinks, that is money in return for refrigeration units, to keep appearing in the context of a development application at 30 Bellfield Avenue, Rossmore?---That’s not correct. I would be chasing - - -

So it’s usual?---I would be chasing money off Mr Kabite. Since I – it was the worst decision I made.

30 Did you understand that Mr Kabite might have some money that he’d be able to pass on to you if this development application was successful?---I was hoping that Mr Kabite would have some money wherever he got it from.

But you had no idea that it might be coming from Mr Beydoun?---No.

And you had no idea that it might be coming from a deal in relation to a development application at 30 Bellfield Avenue?---No.

And you’d never advise somebody to engage in illegal dumping activity when there’s more traffic around to avoid detection, would you?---Are you making reference to a certain - - -

40 Just generally. I mean, if you're – as a general proposition, you being charged with investigating illegal dumping, you wouldn't advise somebody to engage in illegal activity when there’s more traffic around to avoid detection, would you?---Well, I probably wouldn't give that advice. I shouldn't, but - - -

You shouldn't?---If you should – if you're going to make reference to it.

But you shouldn't, you shouldn't give that advice, should you?---Correct, yes.

Because you don't want people avoiding detection, do you, in relation to illegal dumping?---No.

'Cause you're concerned with making sure that they are detected. That's correct, isn't it?---Well, it was a part of my role, yes.

10 I'll play you call 4-2-2-3 from 7 January. I'm sorry, just before I do, there's a text message that needs to be inserted. This is 6 January. So the last lot of text messages was from 5 January. This is from 6 January. It's text message 4-2-0-9 and it's from Mr Kabite to you. And it's from Mr Kabite, and he says, "They lodged it finally." So the development application gets lodged on 6 January and you know about it. Is that a fair - - -?---Yeah, from that text message, yes.

All right. I'll play you call 4-2-2-3 from 7 January.

20

AUDIO RECORDING PLAYED

[10.46am]

MR MACK: Mr Izzard, are you going to maintain that the references to drinks in that conversation is a reference to money that Mr Kabite owed you for refrigeration units?---100 per cent. Whether it's where he gets it from or not but 100 per cent.

30 It just doesn't make any sense though. You're not – an ordinary person's understanding of that conversation, your understanding of the word drink that you're trying to impress upon this Commission is just fanciful isn't it?--
-No, that's not correct. Whenever I spoke to Nosir in relation to him owing money for that, that's what the reference was.

This whole conversation is about an application in relation to 30 Bellfield. At page 3 Mr Kabite says, "And they, they took it and they've been asking me – I'm supposed to get a drink this afternoon or tomorrow but they asking and they so insist, they want to know if they start things, you know what I mean, if they can or not." So just pulling that part, page 3 in the middle,
40 supposed to get the drink this afternoon but they want to know, that's Mr Beydoun, wants to know whether or not they can start. And then you say, "Yeah, but you've got, we've just to be careful about that, they don't go full on." That's a reference to Mr Beydoun and his skip bin business isn't it?---
About them going on there and starting work.

Yeah.---Yes.

And the reference before, Mr Kabite's reference is also a reference to a skip bin business and Mr Beydoun isn't it?---I believe so, yes.

"I'm supposed to, ah, get drink this afternoon or tomorrow morning, but they asking." "They asking" is a reference to Mr Beydoun, isn't it?---I don't know. You'd have to ask Mr Kabite that. But I know what the reference is.

What reference?---The drink reference. It was – my main purpose is to get my money back.

10

But you knew at this time, on 7 January, 2016, that Mr Kabite was receiving money from Mr Beydoun.---No, I didn't.

But you accept that you're telling them that they have to be careful about going full-on with their activities at 30 Bellfield. That's correct, isn't it? ---Correct.

That's what you're saying?---Until the DA is approved, yes.

20

Until the DA is approved. And at page 6, the advice you give to Mr Kabite is that they should "start probably next week, when everyone's back and about moving, you know, when everyone's really back next week, so maybe just wait till next week. Start then, Monday next week. And then 'cause then everyone's back and back working, you know, so there'll be a lot of movements around there, so they won't look out of place." That's a reference to them avoiding detection, isn't it?---Well, you could infer that, yes.

30

Was that what you meant?---Reading it back, it would appear that, yes. But then I make reference to making sure that their DA is right.

So at page 6 there you say, "They should get starting the following week so they don't get detected." Is that correct? At page 6, I'll take you to your reference later on, but that's what you said at page 6, is that correct?--- Where, whereabouts? Can you just - - -

40

This is page 6. A summary of what you're saying at page 6 is that they shouldn't start their activities in relation to 30 Bellfield until Monday next week, to avoid detection. Is that a fair summary?---I don't know if I'd use the word detection, no.

What word would you use?---I probably wouldn't have one. Just to start work.

But you didn't want them starting or you didn't advise them to start work immediately, did you?---It would appear not, no.

And the reason was there had to be more movements around so that they didn't look so out of place. That's correct, isn't it?---That's what I've made reference to, yes.

Over at page 7, you make a reference to Google. "I have to have a look, we'll have to have a look on the web page. I've just got to go to Google and have a look in." And then your advice to Mr Kabite to pass on to Mr Beydoun is that your, that's both of you. See how it says "we are"? "We are just trying to get some clarity around the starting of the application."
10 You see that at the bottom of page 7?---Yeah.

That's your advice to Mr Kabite to pass on to Mr Beydoun, isn't it?---That would appear so, yes.

And "we" is a reference to you and Mr Kabite, isn't it?---Well, I think that's just the terminology I've used.

And then your advice over at page 8, about three quarters of the way down, is "Yeah, don't go full-on and we'll chase up about the DA." So your
20 advice is to go slowly but not full-on. That's correct, isn't it? That's the end point?---Yeah, my advice would be to get started before the DA's approved. That would have been my advice, yes, from what I'm reading.

So you advised them to start their activities before they had an approved application, is that correct?---That would appear so, yes.

Did you tell Frank and Serge that that's what your advice was?---No.

Why not?---No reason.
30

Were you worried that a development application might not be approved?
---There's a possibility that it might not be approved and there's a possibility - - -

Were you worried about that happening?---Not really, no.

Were you worried about them undertaking activities on 30 Bellfield that weren't approved?---I was giving them advice, saying that the DA application and then wait for it to get approved, yes.
40

You're telling them to get started before it gets approved, though, aren't you?---That's correct.

Well, why would you tell somebody to get started before they have approval to do so?---Because I probably didn't think they'd have a problem with the DA there.

But they did have a problem, didn't they?---I don't know. Did they? Oh, yeah, from what he said, yeah.

There's references in that call to loads. Was it your understanding that they were bringing loads of rubbish into 30 Bellfield, Rossmore?---I think I was just making reference to a load as in a skip bin.

As a skip bin?---Yeah.

10 So - - -?---Yeah.

So you thought that they might have up to 20 to 30 trucks a day? This is at the transcript at page 3. Bottom of page 3. Page 3. "You know what I mean, um," and then you say, "You know, 20, 30 trucks a day or something in there. I don't know." Did you think that they were going to have 20 or 30 truckloads?---No, I just made, that's just a reference - - -

20 "A truckload" is a reference to a skip bin?---No, I think I just threw them numbers out. I didn't give any thought to them. That's what I think now, reading it.

And then Mr Kabite, on page 4, says, "They don't have that much, um, Craig. They've got, like, two or three trucks, but." So in your opinion, 20 to 30 trucks wouldn't have been acceptable, but two to three trucks would have?---No, I think I just threw 20 or 30 out.

Well, you agree with Mr Kabite when he says, "Two to three trucks," and you say, "Yeah."---That's what I said, yes.

30 Take you to another phone call. This is from 21 January. So this is two weeks after the previous phone call. Phone call 4-6-6-2.

AUDIO RECORDING PLAYED

[11.04am]

40 MR MACK: There's a lot of concern there about getting busted by Frank and Serge isn't there?---I think their name was mentioned, yes, because I think they had some history with the property there.

And if there's no development application in place they're liable to be breached by Frank and Serge. That's correct isn't it?---Well, I think they're liable to be breached by anyone, yeah.

Well, if they've got an approved development application they can't be breached for carrying on an activity that's not approved can they?---Correct.

So that's the risk you run if you commence operations in relation to a development application that's been lodged but not approved. That's correct isn't it?---That's my understanding, yes.

So it's a lot more prudent to wait until it's been approved before you start any activity?---Yeah, that would be the case, yes.

10 But nevertheless you advised them to just go slowly?---Well, again I was of the, of the understanding that once it's lodged they're able to operate their business but it would appear that that's not the case.

We're talking about loads of waste in a skip bin going into a property. You told Mr Ykmour before that he should have done all of that beforehand didn't you?---Correct, yes.

And now you're telling Mr Kabite who I presume is on speaker to Mr Beydoun that they can commence.---That they should make sure their application is lodged, yes.

20 It was lodged at this stage - - ----That's what it would appear.

- - - but it wasn't approved.---Yeah.

I just want you to be careful about your language. When you say it was your understanding that they could operate a business, it wasn't your understanding that they could bring in waste to that property was it?---That was my understanding, yes.

30 It was your understanding that once the development application gets lodged you can start bringing in waste to 30 Bellfield Avenue, Rossmore? ---Well, you can start to operate your business, yes.

Well, what do you mean by operating your business?---Well - - -

40 There's a difference and there's a very important difference between operating a business and transporting illegal waste.---There might be – the operation of the business might be setting it up, the business setting it up but I can understand what you're saying in relation to transporting the waste, yes.

So when you say, "Yeah, just one here, one there, you know, just to get things going." You see that?---Yeah.

That's a reference to one truckload or perhaps one skip bin. That's correct, isn't it?---Well, it's just making reference to get started with their business, yes. Whatever they need to do.

Just one what?---Just to start with.

You knew it was a truckload of waste, didn't you, Mr Izzard?---No, no, I didn't.

That's what you're telling them. That doesn't make any sense again for you to just sit there and say, "Yeah, just one here, one there," and you have absolutely no idea what their business is.---I made no reference to a truck or a skip bin.

10 You did in the previous conversation. You said 20 or 30 trucks and then Mr Kabite says, no, two or three.---Yeah, but what I was saying in the last question is just me making reference about the business. 20 or 30, making reference that way.

You said you were referring to skip bins, Mr Izzard.---Yeah, correct.

20 So are you referring to skip bins in the previous conversation when you said 20 or 30? You said 20 or 30 truckloads. I can take you to the reference. And then you said you were referring to skip bins.---Yeah, I think I was just saying about getting the business starting. That's all it was. I don't know whether I was making reference to anything.

Were you referring to skip bins?---I can't recall.

"Yeah, but I wouldn't be smashing it because you've just got to wait for the DA."---Correct.

30 "Smashing it" means lots of truckloads or lots of skip bins, doesn't it, Mr Izzard?---That's what it we infer, yes.

But instead of smashing it with lots of skip bins or truckloads, your advice is just one here or one there, as in one skip bin or one truckload. That's right, isn't it?---That's correct, yes.

Thank you.

40 ASSISTANT COMMISSIONER: If your understanding was that they could start operations before approval, why did you tell Mr Ykmour that he couldn't?---I don't know. I don't know. Did I say that? If you can draw my reference to it.

MR MACK: I'll take you to it. It's phone call - - -

ASSISTANT COMMISSIONER: Well, I think you agreed just a couple of questions ago when you put to him that he told Ykmour he needed the approval before he could start and his answer was yes to that.

MR MACK: The call is from 18 December, 2015, and it's call 3-4-7-3 and it's been exhibited. Bottom of page 5. Mr Izzard says, "Let me just tell you the technical problem that you have. Yeah, yeah. When I transfer waste from one site to another, it needs to go to an authorised waste facility. Okay, that's your problem. That's the problem. That's what the council classifies an issue, is that it's not an authorised waste facility." And then a few more exchanges. And then you say, "That's what you're working on but it should have been worked on beforehand." So that was the reference that the Commissioner was taking you to.

10

ASSISTANT COMMISSIONER: That's correct, yes.

MR MACK: Yes. So it needs to be a waste transfer facility, it needs to be approved, and that approval needs to be made before you undertake those activities. That was your understanding in relation to Mr Ykmour, wasn't it?---That's what I believe. Yeah, that's what I think is being said here. If all of a sudden you make application to council for a DA, you make application in relation to the transfer station. Yeah, I think that's what it was reference to.

20

The next point in the chronology is 22 January, 2016 and there's an MMS message, an MMS message of the rejection letter from Liverpool Council and it's MMS 2-0-6-3-7. I'm sorry, I withdraw that. I'll come to that in a second. I've got the date right, so it's 22 January, 2016 and there's a phone call between yourself and Mr Kabite. It's phone call 4-6-9-8.

AUDIO RECORDING PLAYED

[11.17am]

30

MR MACK: And then the reference to the text message appears at 2-3-5-3-6 on the same date about 10 minutes after that phone call, that's 22 January, 2016. So this is a text message from Mr Kabite to yourself. Can you recall seeing this before?---I probably would have, yes.

It's dated 14 January, 2016. So at this point you know that the application has been rejected. Can you recall what your actions were in relation to the rejection of the development application?---Can it be brought back up?

40

Yes, sure?---You know it got rejected, it got rejected. There's - - -

Not much you could do about it because you don't know anybody in council do you?---Correct.

You don't know anybody that can assist in council will it?---No. It's got to go through its processes.

The only assistance you could give is the type of assistance that anybody else could give. Is that correct?---Yeah, I think so, yes.

You couldn't give any special assistance in relation to the rejection of the development application could you?---Specialist assistance in relation to what?

Assistance that any other ordinary member of the public wouldn't be able to obtain?---Correct.

10

Was it ever the case that the sale of these refrigeration units went through busy times and less busy times?---100 percent, yes.

Mr Kabite never sold any did he?---Well he's telling the inquiry he did but I've received nothing.

20

I'm going to take you to a transcript from call 4-7-2-1 which forms part of Exhibit 30. And there's two parts I want to draw to your attention. The first is on page 1 and down the bottom of that page it says, "Mate, I read that thing and we just have to find out what the regulation is. It says it's been knocked back in relation to the regulation such and such, so the zoning, the zoning area mightn't allow that business to operate. You know what I mean?" And over the page at page 2, "We just have to find out what the zoning is for and then see if it can be scoped under another plan, under a different." So that's the kind of advice you give in relation to development applications. That's the assistance you give. An example of it?---Well that was in relation to this one, yes.

30

So you might have a look at regulation and have a look on the internet to see what laws apply. Is that correct?---I don't know if I'd go to that extent, but I just hopefully would rest on knowledge that I have for it and find it that way. And I think in relation to this, the knock back for this one, it some zoning in relation to a regulatory compliance or something like that.

And you're doing this work for Nosir without getting paid. That's correct isn't it?---Yes.

40

You're advising on this development application without receiving any money from Mr Kabite. That's correct?---That's correct.

And you're not receiving any money from Beydoun?---Correct.

And you're just doing this because Mr Kabite is your friend?---Well, Mr Kabite thinks I'm his contact at council, yes.

But Mr Kabite also terrorised you though didn't he?---Mr - when I say terrorised, 100 per cent. He terrorised a number of people. I know Anna, Frank, Serge - - -

But he terrorised you – your evidence was that he terrorised you.---Well, when I say terrorised that means that he would contact me whenever.

Were you terrified?---No.

Did you ever push back and say Mr Kabite, stop terrorising me?---I told him plenty of times to stop ringing me and even turned me phone off on occasions.

10

But nevertheless you still proceeded to assist him with his development application for 30 Bellfield, Rossmore.---Well, I assisted him with it, yeah.

At the end of this conversation on 25 January, 2016, page 5. This comes after four pages of you discussing zoning laws and regulation. You ask the question, “Any drinks happening? Nothing. Very quiet.” And then Mr Kabite says, “We’re supposed, we’re supposed to get it on Friday and one day he called me and said this and that he received a letter.” Do you know what that’s in reference to, the letter?---No, I wouldn’t – I don’t know what he’s talking about there.

20

Not the letter from – it’s not the rejection letter from Liverpool City Council is it?---It could have been but I don’t know.

Your evidence is that that reference to any drinks happening is have you got any money for my refrigeration unit?---100 per cent.

So if you – before when I asked you whether or not you’d looked on the Internet to try and assist Mr Kabite you said oh look, I’m not sure if I go that far but you’d use your own knowledge in relation to the application. Is that a fair summary of how you’d assist Mr Kabite?---That would be a fair summary, yes.

30

You didn’t have anybody in council you could talk to about the zoning for example did you?---No one in particular, no. I could – probably would have contacted council (not transcribable) would have advised me.

So have you rung up council before and asked them what the zoning for a particular property is?---No.

40

Can you recall calling anybody at council in relation to 30 Bellfield Avenue?---Like I indicated before, I can't recall, no.

All right. I’ll play you a further call. This is 28 January, 2016, call 4-7-9-5.

AUDIO RECORDING PLAYED

[11.30am]

MR MACK: So the reference is to you ringing the guy from council to try and find out what the zoning is. Did that ever happen?---No.

You're lying again. Did you have any intention at that time to ring a guy from council?---No, I wouldn't. I don't have anyone in there at council.

So these are just more lies to Mr Kabite in relation - - -?---To Mr Kabite, yeah.

10

So you're meant to be assisting with this development application and you're telling him that you're going to assist with the development application by speaking to somebody at council when in fact you're not going to be speaking to anybody at council when in fact you're not going to be speaking to anybody at council?---I was just going to try and work the zoning out from whatever, but I was never going to speak to anyone at council.

20

So you told Mr Kabite that so he'd stop terrorising you. Is that correct?---Correct.

To get him off your back?---To try to stop ringing me, yeah. Now the clause has been put under the microscope it would appear that I should have shut it down earlier than what I did.

You should have just said, Mr Kabite I don't want anything to do with this development application. Is that how you would have done it?---With a lot of things, yes.

30

All right. Commissioner, I note the time.

ASSISTANT COMMISSIONER: Yes, we'll take an adjournment for 20 minutes.

SHORT ADJOURNMENT

[11.33am]

40

ASSISTANT COMMISSIONER: Just take a seat, Mr Izzard. Yes, Mr Mack.

MR MACK: Mr Izzard, I'm going to continue with some questions in relation to the 30 Bellfield application. Do you recall a conversation being played where you were in the background giving instructions to Mr Beydoun about what to put on the application?---I think so, yeah.

I'll take you to that call now. It's call 1-3-8-5-1. And it's been tendered – I think it's been tendered as Exhibit 28.?---The transcript is fine if you want.

Sorry?---The transcript is fine if you want.

And you'll see that you've been identified as the start of the conversation on the screen there. It's been Mr Beydoun, yourself and Mr Kabite?---Correct.

And then you give some advice, just scrolling down just so you get a flavour for the conversation. You're telling Mr Beydoun and Mr Kabite something in relation to the regulation and the development application.---That's right.

10

And then the conversation continues over to page 2 and you mention resource facility and there's talk about the zoning and the conversation continues. Where I want to take you is to page 8 and Mr Kabite asks you "Craig, how long will it take to get, to get it approved?" And you say, "Oh, it could only – a week or so now." You had no idea how long that would take to get approved did you?---Correct.

Do you have any idea what the normal time is for getting a development application approved?---I think I've heard that it's about four weeks.

20

About four weeks.---That's – but, you know.

But then it – do you understand anything about the process in relation to getting the development application approved?---Not really, no.

So you don't know if it has to go to a committee or if it has to go through layers of bureaucracy or anything like that do you?---No, I just think it's got to go upstairs and the, the searches have got to be (not transcribable) and business related things.

30

When you say upstairs, do you mean physically upstairs?---No, just like a reference term.

That's in relation to Liverpool Council. Was that your understanding at Bankstown Council when you worked there as well that it would take around about four weeks to get a development application approved?---I think Bankstown was a little bit different. It didn't have too much rural in there so there was none at Bankstown but certainly Liverpool and Blacktown in the later days, yes.

40

To the best of your knowledge that application in relation to 30 Bellfield never got approved did it?---I think so, yes.

You think it didn't get approved?---Yeah, it didn't get approved, yeah.

Do you know if it got re-lodged after it got rejected?---No, I don't think so.

I'm going to take you to a call from 10 February, 2016. So you recall the conversation I just took you to was on 4 February. This is on 10 February and it's call 5-7-3-5.---Transcript or call?

It's a call.---Okay.

AUDIO RECODING PLAYED

[12.03pm]

10

MR MACK: I'll play you another call two days later. This is from 12 February, 2016. It's call 6-0-2-8.

AUDIO RECORDING PLAYED

[12.04pm]

20

MR MACK: And there's a third call I'll play you before I ask you some questions. It's call 6-3-8-3 from 16 February, 2016.

AUDIO RECORDING PLAYED

[12.06pm]

30

MR MACK: So I'll ask you again does that refresh your memory about whether or not the application got re-lodged?---Well if that's the case, that's the case.

I'm not saying it did, I'm just saying – I'm just trying to figure out where this all - - - ?---Yeah, for sure.

- - - where this all ended up?---Yeah, for sure.

Because it seems that it ends up at Mr – further attempts and further attempts and then it keeps getting knocked back. Is that - - -?---Correct.

And the resting place is that Liverpool City Council knocked back the development application?---If that's what you're telling me, I believe so, yep.

40

At page 1 of that final call on 16 February, Mr Kabite, you might call this, says, "That guy called me from Liverpool Council now our friend the one, the one with the application", the reference to your friend in Liverpool City Council, is that figment of Kabite's imagination?---I think so. I think he's just making reference to the chap that's making the application for DA.

But he's not your friend?---No. I don't know what he's made a reference to and no I don't know, no.

Because you certainly didn't know who was in charge of the application at Liverpool City Council?---Correct.

And the advice you give there at page 3, "If the council says no What can you tell me about this? you do?" That's your understanding about how development applications at council work isn't it?---Without the language yes.

10 Sorry, I left the language out but people would be able to follow it. So if the council doesn't give you approval you can't undertake the activity that you want one to take?---That would be expectation, yes.

And this is February 20165. But that would have been your expectation your who career. That's correct isn't with the Western Sydney RID quad? ---Yeah, for sure.

20 Because if you don't have the application approved and somebody like Frank and Serge front up you'll get breached won't you or there's a possibility that you'll get breached?---There's a possibility for sure, yes.

So you weren't being very much assistance to Mr Kabite at all in relation to the Liverpool City Council were you?---Only trying to help him out with the, with the terminology of the DA application. Very limited, yes.

And you lied to him about your involvement?---In relation to?

30 In relation to knowing people in council and speaking to people in council about the - - -?---Me making a phone call here and there, yeah, for sure.

I'm going to move on now to some questions in relation to Bandon Road. I'm going to take you to the transcript to the phone call from 11 September, 2015, part of Exhibit 30. It's call 1-3-8. Now at page 3 at the top Mr Kabite tells you that the parcel of land he's looking at is around 8,000 square metres, so it's going to be like four grand a week or something. Can you see that?---Yes, I do.

40 So if that could just be taken down. You knew before the lease was signed that Mr Kabite was going to enter into a contract where he'd be paying upwards \$200,000 a year through leasing a site?---When I'm drawn to that that reminds me, but I never, I never remembered that.

Okay?---No, not at all.

Did you ever see the lease?---I think he might have showed me, sent me a copy of it on, on the text message or something.

Do you know what the lease was - - - ?---No, no, I seen it in, in these proceedings. That's where I've seen it.

You know that the lease stipulated that a transfer station was to be undertaken at Bandon Road?---I think that's what I can remember reading, yes.

I'll take you to the lease.---Yeah.

10 It appears in various places but I'll take you to the copy at volume 9, page 20 and it says that, at item 2 permitted use, the premises must only be used for a transfer station. Do you see that?---I do, yes.

Do you remember if you saw that before the lease was signed?---No.

Was it your understanding back in September, 2015 that Mr Kabite was leasing a block of land for the purposes of a transfer station?---I don't know if he said transfer station to me but I think it was more around the skip bin business but that's similar, that's similar.

20

But you thought that he'd be bringing in skip bins of material and sorting through them and transferring them off-site. Is that correct?---Ultimately at the end, yes.

And how many skip bins did you think Mr Kabite was going to bring on-site?---I wouldn't be able to answer that.

Did you know if the place had before the lease was signed approval from council for a transfer station?---That partial of land or the entire - - -

30

The parcel.--- - - - 81 Bandon, Bandon Road?

The parcel of land.---No, I didn't, no.

But Blacktown Council would have been in charge of approving the land he was leasing, that's Bandon Road, for a transfer station. Is that correct? ---Ultimately, yes.

And you had no influence over that process did you?---The lease or the DA?

40

The DA.---No.

Did you speak to anybody at Blacktown Council about the development application for Bandon Road?---I don't know if I made contact with Aleks Radovic because he was my contact at Blacktown Council when there was a number of issues with other locations within that, I think they call it Riverstone Pride or - that's 81 Bandon Road.

But you had no visibility on what activities Blacktown Council had approved for the Bandon Road yard did you?---That's correct.

So he only knowledge you would have been able to gain was through Aleks. Is that correct?---Yeah, through Aleks, yes.

10 In the same way that when you were at Liverpool, when you were assigned the Liverpool City Council area you spoke to Ms Kypriotis about what activities were approved for particular parcels of land. When you came to Blacktown your contact was Aleks. Is that correct?---That's correct.

And Mr Kabite's interest in Bandon Road – when I say interest I don't mean a legal interest in the land, I mean an economic interest, his economic interest – sorry, I'll start that all again. You're looking confused. Mr Kabite had an economic interest in Bandon Road yard didn't he, being that he would operate a business and hope to make a profit. Is that correct? ---That's what I thought, yes.

20 And he'd make that profit by operating a skip bin business. Is that correct? ---Yes.

And by skip bin business you understood that he'd be bringing skip bins onto site?---Sorting and transferring.

Sorting and transferring. On a relatively small scale. Is that a correct characterisation of - - -?---Well I would only base it on the, the partial of land that he was leasing.

30 At this stage you knew that he'd been, pleaded guilty to transferring in excess of 200 metric tonne of fill on to Reuben's place weren't you? ---Correct.

You didn't think that he was going to bring fill on to Bandon Road did you?---I, I, I knew that he was going to bring fill on initially to set the, the parcel of land up originally.

40 Did you know if there was development approval for bringing that soil on or that material on?---Not through council, no. Following contact with Alex Radovic I believe that they indicated that Bandon Road, the parcel of land fell under, and I just can't think of his exact terminology at the moment, some Bandon Road project group or something and whether there was a DA through that way.

But you didn't know for example that there was a DA in place to bring in fill did you?---Correct.

And in the same way you knew in relation to Reuben's place that there was no development application in relation to bringing in fill didn't you?---I knew that he was attempting to obtain one, yes.

So you helped him fill out a development application in relation to bringing in fill didn't you?---I pointed his daughter to the direction of what she needs to do, yes.

10 But you didn't assist Mr Kabite in filling out a development application for bringing in fill did you?---No.

Or you didn't seek to assist the owner of Bandon Road to fill in an application in relation to the bringing in of fill did you?---No.

But the owner would have had to consent to bringing in a fill wouldn't they?---I would say yes, yes, in relation it'd have to be in compliance with his lease agreement.

20 But to your knowledge there was no application – there was no approval to bring in fill into the Bandon Road yard was there?---I don't know whether there was any approval but I've been informed that there was an agreement between Mr Katie and the project manager of that site to bring in fill to level that in reparation for his skip bin business.

But you never saw a document to that effect did you?---Correct.

And you're aware that the project manager didn't know the site?---That may be the case, yeah, probably. I didn't really think about that.

30 But Mr Kabite would have needed to not only lodge his development application in relation to the transfer station before could operating but he also needed to have that approved wouldn't he?---I would say so, yes.

And you assisted with the development application in relation to the transfer station?---Not that can remember whether I assisted. I believe him and his son done it.

40 You didn't have them any advice in relation to the development application for - - -?---Not that I can recall.

You didn't discuss it with him at all?---I'm certainly not going to say no, but - - -

But your, your interest in the Bandon Road yard was the same as the interest for any area in the Blacktown City Council area wasn't it?---I had no interest in Bandon Road, but what are you - - -

You had an interest in enforcing an and investigating instances – you had an interest in illegal dumping didn't you?---I was responsible for the Blacktown Council, yes.

And within that council area you were responsible for investigating illegal dumping weren't you?---That's correct.

10 So that was your interest to put it that way, in relation to the Bandon Road years. Is that correct?---That fell within the council area, yes.

So you had an obligation to investigate illegal dumping at Bandon Road yard. Is that correct?---If it fell within that council, yes.

Did it fall within Blacktown City Council?---It certainly did.

So it was your duty to enforce illegal dumping laws in relation to Mr Kabite's yard at Bandon Road. Is that correct?---If identified, yes.

20 Did you ever see the development application in relation to the transfer station before it got submitted?---Not that I can remember.

Did you ever advise Mr Kabite that he needed development approval to bring in fill in relation to the Bandon Road yard?---I think I did and he then had a conversation with the property owner.

30 The property owner or Mr McVay?---Mr McVay. And it was then my understanding that he gave him the okay to bring fill in to level the site to ensure that his business was operational. But again that was never confirmed.

So did you see fill going into that site?---I did, yes.

Did you ever check to see if there was a development application in relation to bringing the fill in?---No, because I was of the understanding that they'd lodged it and they were waiting for it and there was an agreement between Mr Kabite and Mr – Angus.

40 You keep talking about an agreement between Mr McVay and Mr Kabite but that – you never saw that agreement written down did you?---Correct.

But in any event whatever they might say doesn't really matter because what matters is what the council has approved in relation to that site. That's correct isn't it?---In relation to the DA, yes.

Yes. But you never went and checked to see if Blacktown City Council had approved the Bandon Road yard for fill did you?---The only check I done was in relation to contact with Aleks Radovic when he told me that that

property there fell under the work program or something like that as mentioned in his statement. That's the only check I did, yes.

In relation to – when you say his statement, you mean his statement that's in evidence in these proceedings?---Correct.

10 So for the purpose of the transcript this is Mr Aleksandar Radovic's statement. It appears at volume 15 and it commences at page 193. When was the last time you looked at this statement, Mr Izzard?---Oh, I think at the beginning of these proceedings.

Okay. I'm just trying to identify the particular part of the statement - - ----
Yeah, just, just - - -

- - - that you're referring to.---Just scroll down. Keep going. Just scroll down if you could thanks. I'm referring to paragraph 8.

20 Ah hmm.---“On the same day” – probably just one, two, three, four lines down – “On the same day I emailed Glenn Apps, team leader regulatory, to inquire about the activity and told me Bandon Road was a part of an approved works.”

So that's a conversation or a communication between Mr Apps and Mr Radovic?---Yeah. And I, when I - - -

It's not a conversation between you and Mr Radovic though, is it?---Correct. No, that was, that's what I'm saying that Mr Radovic told me that that's what he was told that that property was, part of approved works.

30 So when you say Mr Radovic told you it was part of approved work and it's in volume, well it's in evidence in his statement that's incorrect?---It's what, sorry?

That's incorrect. He didn't tell you that, did he? Sorry. He didn't put that in his statement that's in evidence in these proceedings, did he?---I don't understand the question, sorry?

40 Okay. Before you said that Mr Radovic told you that there was activity on Bandon Road as part of approved works. And then you said that there's evidence of that in his statement?---That's right. And we had a conversation about the approved works - - -

But there's no evidence about a conversation between you and Mr Radovic in his statement is there?---Well that something that Mr Radovic will have to address. Because I recall speaking to him about it, um - - -

But you accept it's not in this statement of his?---A 100 per cent. Because at the time Bandon Road there was three other sites that were operational.

Okay. And the date there of 24 November, 2015, was that the date you had in mind in relation to when you had a conversation with Mr Radovic?---No, it was before that.

Well that doesn't make any sense because Mr Radovic himself didn't know that it was part of – Mr Radovic himself didn't email Glen Apps until 24 November, 2015. Do you understand what I'm saying?---I do understand what you're saying but I, I remember having a phone conversation with Mr
10 Radovic in relation to this because he was my contact at Blacktown.

And in that conversation did Mr Radovic say that the filling at Bandon Road is part of approved works?---Well, I don't know whether it was that terminology but he did tell me it was in relation to work that was being done there on that site 81 Riverstone Parade.

I'll take you to volume 15, page 205. This is the email exchange between Mr Radovic and Mr Apps. And you'll see down the bottom, you weren't
20 cc'd on this email. It says "Hi Glenn and Jason, I received a call today from Hawkesbury Council reports of thousands of tonne of fill going on a property daily near the sewerage plant at Bandon Road Vineyard. Has this crossed your desk or is it part of any approved works"? And then Mr Apps writes back on 24 November, 2015, "All good. There is an approval for filling as part of the Riverstone West precinct works". And then on 25 November at 8.20am, Mr Radovic writes back and says, "Thanks Glenn". So what I'm saying is that on 25 November, 2015, Mr Radovic himself didn't know or have that knowledge that there was an approval for filling as part of the Riverstone West precincts?---Mr Radovic knew on this date that I had spoken to him about the property 100 per cent.

30 That wasn't my question. You accept that Mr Radovic only knew that there was an approval for filling as part of the Riverstone West precinct works on 25 November, 2015?---This is what your email is saying, yes.

Yes?---But he knew about it.

Well if he knew about it he wouldn't have had to email Mr Apps on 24 November, 2015 to ask him about it, would it?---Something you may have to clarify with Mr Radovic.

40 So is it your evidence that you had a discussion with Mr Radovic about bringing in, about there being thousands of tonne of fill being brought into Bandon Road before 24 November, 2015?---About me knowing whether he had any history Road?

Sorry?---Whether he had any history in relation to Bandon Road.

Who is he?---Aleks Radovic.

Sorry I don't follow. Is it your evidence that you had a conversation with Mr Radovic before 24 November, 2015 where you discussed thousands of tonne of fill going into Bandon Road?---I did not discuss with Mr Radovic thousands of tonnes of fill going in there. I asked Mr Radovic if they had any history in relation to notifications up at Bandon Road.

Did you keep files in relation to Bandon Road generally?---Yes.

10 Did you keep a file in relation to the Bandon Road yard that Mr Kabite operated?---I believe so, yes.

Did you ever take soil samples from the Bandon Road yard?---No.

Are you sure about that?---Yes.

Why?---Because I never seen any contaminated fill on-site and I was of the opinion that the fill that was being brought in there was in preparation for his business.

20

Did you ever tell Mr Radovic or somebody else in Penrith City Council that Mr Kabite had been recently convicted of transporting over 200 metric tonne of waste to an illegal waste facility?---No.

Do you think that would be something that they might want to know?---In hindsight, yes, yes.

Did you ever issue an infringement notice in relation to illegal dumping to Mr Kabite in relation to Bandon Road yard?---No.

30

But you were concerned about illegal dumping in the Blacktown City Council area weren't you?---Yes.

And you would have been concerned if there – if you knew there was illegal dumping happening at the Bandon Road yard that Mr Kabite operated? ---Correct.

40

So it was important to you to make sure that Mr Kabite wasn't illegally dumping at the Bandon Road yard?---Well, it was important that all the sites at Blacktown were managed the same way, yes.

The only thing that was important to Mr Kabite was that he made money in relation to the Bandon Road yard. Do you accept that?---As a result of this hearing, yes.

But even at the time his – he wanted to make money from the Bandon Road yard site didn't he?---Well, he wanted to set a business up. I suppose ultimately at the end of the day, yes.

Wanted to set up a skip bin business. That's right isn't it?---Correct.

Were you sceptical when Mr Kabite told you that Mr McVay said he could bring on – bring fill onto the property?---Not really, no.

Had no reason to doubt what Mr Kabite said to you?---Oh, sometimes during my dealings with Mr Kabite I would question his conversation plenty of times but, you know, I think he was just trying to get his business set up.

10

How many times did you visit the Bandon Road yard?---Oh, Bandon Road is on entry into my LAC and on exit on the way out so I wouldn't be able to put a number on it.

All right. I'll show you – I want to show you a picture that I've shown to other witnesses - - .---Yeah.

- - - in relation to Bandon Road just so we're clear about what I'm referring to when I say Bandon Road yard.

20

ASSISTANT COMMISSIONER: I take it from your last answer that the answer is quite a lot of times?---There was a few times there, yes, Commissioner.

Quite a lot?---Yeah, quite a few.

Quite a few? A lot? Are you talking about a hundred? Two hundred?---No wouldn't be a hundred or two hundred. No. You know, I don't know if I could put a number on it. You know, I suppose I'm mindful that once a phone number is isolated, on how many occasions that we did actually speak, you know?

30

Mmm.---It's not until that is isolated that you think, so, you know, it seemed quite a lot that we did communicate.

Yes.

MR MACK: I'll take you to volume 16, page 37. And you see the hatching, the red hatching?---I do.

40

Was that the area that you understood that Mr Kabite leased from Sakkara? ---Yes, I believe so. But I don't think it went right down to the fence line, to where it says the rubbish fence line there. I don't think it went all the way to that.

All right. So when I refer to the Bandon Road yard from previously in my questions to you, that's what I've been referring to. And is that how you've understood my questions?---I have, yes.

Were there any other sites where you would visit as frequently as the Bandon Road yard when you were assigned to the Blacktown City Council?---Yeah, there was a number of sites that I would either go and sit and have lunch or, you know, do things like that. But - - -

Is it fair to say that the most frequently visited site in the Blacktown City Council area was the Bandon Road yard, by yourself?---On sites that I managed?

10

Yes.---Yeah, probably.

What would be the second most?---A property in Phillips Street, Riverstone. Um, and it's just a vacant block type thing.

Was there problems in relation to the Phillips Street property?---No, it was a chap that just owned it, a residential one. I had cameras set up there.

Would you call him very often?---No, no.

20

So you accept that you were managing the Bandon Road yard. Is that a fair way to put it?---It fell under my control with my role within Blacktown Council, yes. I don't know if I'd say managing it.

Can you recall – I'll withdraw that. How long after Mr Kabite moved into Bandon Road yard did he tell you that Mr McVay said it was okay for him to bring in fill?---I don't know if I'd be able to put a timeline on it, but I think it was more towards the back end, when he had some issues over Christmas due to flooding.

30

Okay. So it was the flooding that led to Mr Kabite wanting to bring in fill, is that correct? Is that your understanding?---From what he says, yes.

I'll take you to phone call 1-3-8. It's part of Exhibit 30. I'm not going to play it. I don't need to play it. I'm just going to take you to the transcript. And at page 3, Mr Kabite says, "Yeah, we told the guy we're going to do, like, a transfer station, blah, blah." And then you say, "Well, well, you just want to make sure, you know, there's a problem, because there's no DA for it." And Mr Kabite says, "Yeah but the area there is it's an industrial area".

40

And you quite correctly I say, you say that it doesn't matter. Your telling Mr Kabite that he better get his paperwork in order before he commences. Is that fair summary of this exchange?---From what I'm reading, yes, it would be in relation to his DA from his operations there, yes.

And the reference you make to you'll be right, you'll be right, I look after that area now, so you'll be right. That can't be a reference to you being able to assist with the development application can it?---No it's just me, you know, saying that I look after that area.

And he'll be right because you look after it, so it's a reference to your role as an investigator isn't it?---Once could read that yes, but that's not the case. I just ranted I'm looking after the area. But I know what he'll say.

What am I saying?---That' you'll be right, you'll be right 'cause I'm an investigator and I look after that area. Isn't that what you're inferring?

10 Yes. I'm inferring that you're telling Mr Kabite that he'll be right because you look after the area which means you'll look after him?---That's not the case.

Do you accept that Mr Kabite would not have entered into that least agreement without your involvement?----I didn't have any involvement in relation to his lease agreement.

Do you accept that he wouldn't have taken the lease without speaking to you first?---Mr Kabite used to speak to me about a lot of things, so - - -

20 That's not my question - - -?--- - - - it may be something you might have to ask him.

I did ask him and he said, I can take you to the transcript, but – he said, I, I put to him a question similar to what I'm putting to you now, that he wouldn't have entered into that least agreement without your involvement? ---And his answer was?

And he agreed with me?---I would disagree on that.

30 All right. I'll take you to phone call 1-7-9. It's also part of Exhibit 30. Mr Kabite says, this is in relation to the lease, "We have to sign tomorrow. You know what I mean? I'm not going to go for it unless I talk to you." This is at the bottom of page 2, I'm sorry. It's being brought up now. And then you say, "Okay, yeah, no I think it's going to be okay. I'll speak to you just after lunchtime when I get it sort out." Do you see that?---Yep.

40 So he wanted to speak to you before he signed the agreement and he wasn't going to sign unless he talked to you. Do you accept that?---That's what he's saying, yes.

And your response to that statement of Mr Kabite is, is, "Okay, yeah, I think it's going to be okay anyway but I'll speak to you later." You didn't say to him it's got nothing to do with me, you should sign it anyway, irrespective of me did you?---I didn't tell him to sign it either.

So you're agreeing with me, your reaction wasn't go ahead and sign it without speaking to me?---I agree with you that I didn't tell him that he had to sign it.

Do you agree that he wouldn't have signed it without speaking to you?---I don't know. You'd have to ask Mr Kabite that.

Did you ever lie to Mr Kabite about his application at Blacktown Council?
---I wouldn't be able to tell you unless you draw me to something.

10 All right. I'll take you to phone call 523. It's part of Exhibit 32. Direct you to page 2. And just read that dialogue that's on the screen now, that first half of the page. Do you agree that that's a reference to you spinning past Blacktown Council?---Me spinning past where, sorry?

Well, you say, "I'm going to, I'm going to spin past there later on this afternoon." Are you telling Mr Kabite that you're going to spin past council later that afternoon?---No.

What's that a reference to?---I indicated that I was going to spin past Roadmaster there, who I knew the boss was, Denis Robertson.

20 Right.---That was my reference. Not to go past council, no.

Does Denis Robertson owe you any money?---A long, long time ago, yes.

Does he still owe it to you?---He certainly does.

How much?---\$25,000.

30 Did you ask him for the money back when you went and saw him?---No, he wasn't there.

Did he still own the site?---No. It's been bought out by the Riverstone Pride.

Page 3 of that phone call. Again you reaffirm, down the bottom, "Yeah, but, listen, as I said, I look after that area there, so should be all right. We're all right, you know." That's in relation to the development application, isn't it? And if you need to read the context, you can take your time to read it, but - - ?---No, that's not the case. I don't have any control over the DA application once it's - - -

40

But what do you mean by "Yeah, but, listen, as I said, I look after the area, so should be right"?---Meaning that I look after the area at Blacktown.

So what should be right?---I don't know what I'm making a reference to but that's just an off-the-cuff statement.

Just like the other one was - - ?---There's no - - -

- - - an off-the-cuff statement?---Beg your pardon?

Just like the other reference that I took you to before, about you being in control of the area, was an off-the-cuff reference?---Correct, yes.

So they're both off-the-cuff references?---Correct.

10 It's not a reference to you not breaching Mr Izzard if he was involved – sorry, I'll withdraw that. It's not a reference to you not breaching Mr Kabite if he was involved in illegal dumping, is it?---That's not the case, no.

ASSISTANT COMMISSIONER: What do you mean by "we're all right" in that sentence?---Like I said, Commissioner, I think it's just an off-the-cuff, the way I speak. And, you know, making reference to what is happening or where I'm working at or what I'm doing. It's no reference to a party of.

20 That's what it says.---Yeah, but there's no reference. It's just the way I speak, I think.

MR MACK: So if that's the way you speak but it's not what you meant in the sense that you didn't have a common destiny, how should we read that? ---That his business will be O.K. Meaning that if he's going to go and put an application in to DA, then he should be right to get his business operational. I can assure you, Mr Mack, I have no interest in Bandon Road.

Just beyond investigating if there's illegal dumping occurring there?---I've had no issues there.

30 I'll take you to phone call 7-9-7. It's also part of Exhibit 32. Page 2 of this application – sorry, page 2 of this transcript Mr Kabite again refers to you and him as being together somehow to ask, you know, we're going to lodge the application for the Blacktown Council. You see that?---I do, yes.

Is that a reference to a common destiny that you and Mr Kabite share?---No.

So that's Mr Kabite's language?---That's Mr Kabite's language.

40 And you say, "Well, you've just got to get a DA so you can just ring them, they'll email you a DA or send it out in the mail. Just say listen, I need to get a development application." Is that the extent of your assistance with the development application?---I think so. I – as I said I can't recall. It's quite - - -

But just generally. You refer him onto where he needed to go and - - -?
---Yeah, yeah. As I said I don't have any control of the DAs so he'd just be going to council – you've got to go to council like everyone else has.

And then down at two point eight there's reference to a transfer station and then you say, "Transfer station. Just say, you know, you've got clean fill coming in." Clean fill has got nothing to do with a transfer station does it? ---Well the transfer station is in relation to the clean fill that he's getting in there, in the bins.

The transfer station - - -?---That's what - - -

10 - - - is in relation to the clean fill he's getting in there?---Yeah, to the fill that he's - the waste that he's getting in there in the bins. That's what I've been making reference to clean fill coming in.

Clean fill coming in in the bins?---Yeah, in the bin, yeah.

And then the clean fill gets sorted and then transferred - - -?---Transferred.

- - - elsewhere?---Yeah.

20 So what do you need to sort through clean fill for?---Well, when I say clean fill it might be construction, it might be concrete. I'm not - - -

That's dirty fill, Mr Izzard. That's not clean fill.---Well, I'm, I'm just referring to that as, as clean fill in relation to the operations of the transfer station.

So when you say clean fill you mean a skip bin coming in full of bricks and construction waste and then - - -?---Sorting it.

30 Sorting out, keeping - - -?---Separation.

Separating it and then taking it back out?---Yeah.

That's, that's not fill though is it, Mr Izzard?---Well, in this content it's not, no.

40 So when you say clean fill what you want us to understand that as a reference to is dirty waste temporarily coming in, being sorted and being taken out. Is that what you want us to understand?---No. This says clean fill and there's no mention of any dirty waste so - - -

Well, you just told the Commission that clean fill is a reference to construction waste.---Well, clean fill can be a mixture of, of a lot of things depending on the terminology on there, how you apply it and how I apply it but - - -

Clean fill implies that it's clean though, doesn't it, Mr Izzard?---Yeah, 100 per cent.

So if something is clean there's very little to separate from it, isn't there?---
Well the fill that could be in relation to what's their filling to fill the surface.
There's not much sorting in that, no.

But the transfer station, Mr Izzard, you've got skip bins coming - - -?---Yes.

10 - - - and you're understanding is that those skip bins might have construction
waste in it and then you unload the skip bin, you take away the bricks from
the soil perhaps and you get rid of – and then it all goes back out, is that
correct?---Correct.

So why did you advise Mr Kabite to put clean fill on the development
application?---Because I think he needed to fill the place to get it
operational. He needed to fill the site, to bring fill in to get it level. That's
my reference there. From what I can remember anyway, just said – can we
scroll back up and see what date this is?

This is 6 October, 2015?---Yeah.

20 Well before Christmas. What did you mean by "Ah, just see what they
say"?---Put his application in and see what they say, exactly that.

Do you know if the application said anything in relation to clean fill?---No,
I don't know.

Commissioner, I note the time.

ASSISTANT COMMISSIONER: Yes, we'll adjourn until 2 o'clock.

30

LUNCHEON ADJOURNMENT

[1.01pm]