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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 27 JUNE 2011

AT 2.08PM

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

MR ALEXIS: Commissioner, I've concluded my examination of Mr O'Reilly. Before I sit down if there is then any cross-examination could I try and deal efficiently with the pagination in the bundle Exhibit 1 and I'm told, Commissioner, that if I announce the following that should resolve all pagination issues. And could I ask everyone, including you, Commissioner, to go to tab 9 of the bundle and firstly, to the Premier's letter of 25 February which is the third document behind that tab and could I ask you, Commissioner, and my learned friends to annotate that page 47 as 47A. The next document behind tab 10 which is Minister Kelly's letter to Mr Watkins of 28 February, 2011 could I ask you, Commissioner, and my learned friends to annotate that 47B. And finally, behind tab 11 we have an email which is the email from Mr Watkins to Mr Linz of 10 March, 2008, if that could be annotated by you, Commissioner, and by my learned friends as page 47C. I'm told, Commissioner, that then resolves the pagination problems.

THE COMMISSIONER: Thank you, Mr Alexis. Mr Branson.

MR BRANSON: Mr Curtin was, by arrangement, going to go first.

THE COMMISSIONER: Very well. Mr Curtin.

MR CURTIN: Mr O'Reilly, do you have - - -

THE COMMISSIONER: Mr Curtin, could you just explain to Mr O'Reilly who you are?

10 MR CURTIN: Mr O'Reilly, my name is Curtin, I appear with leave for Mr  
Watkins. Can I ask you whether you have with you Exhibits 4A and 4B.  
And could I ask you, firstly, to go to paragraph 8 of Exhibit 4A. In the  
second sentence you say there was strong community expectation that the  
site should be available for public use as a park and two sentences later refer  
to significant community outrage. Do I understand that your perception of  
the feelings of the community were to the effect that there was a significant  
amount of outrage or ill feeling should this property be developed?---Yes.

20 The overwhelming community feeling on your perception was that this  
property should find its way into public hands?---Yes.

And if you turn please to paragraph 13 of Exhibit 4A. You'd known Mr  
Watkins for about 15 to 20 years prior to 2011, is that right?---Yes.

In professional context?---Yes.

And had you had many dealings with him professionally in that period of  
time?---A number of them, yes.

30 And is it from your professional dealings with him over some 15 to 20 years  
that you came to the opinion that he was very outcome focused?---Yes.

And by outcome focused do you mean something to the effect that if he was  
given a task to do he would move diligently and energetically to achieve the  
outcome of that task?---Yes, that's fair.

And over that 15 to 20 years you had spoken to other people about Mr  
Watkins' performance of his duties? That is, from time to time would you  
come across other people - - -?---Yes.

40 - - - in your sphere of government?---Yes, that's right.

And your opinion that he had a good reputation was based not only on your  
own dealings with him but what other people in government reported to  
you?---Yes.

And are you aware that the former Premier has described Mr Watkins as  
somebody who she had found had always been thorough and had followed  
proper procedures?---Yes.

And was that your perception of Mr Watkins from your dealings with him, that is, he was thorough and had, prior, prior to Currawong, followed proper procedures?---Look, I think so, yes.

Can I take you to paragraph 14 of Exhibit 4A and for your assistance and the assistance of the Commission can I tell you that I anticipate Mr Watkins will agree to his recollection what you have set out on page 5 of Exhibit 4B, the conversation at the bottom of the page is accurate, that is, his  
10 recollection is that you said to him words to the effect of, What's going on with the Currawong site. I understand you have approval to negotiate but I've been told you bought it, and over the page he said to you that he had, that is that he had bought Currawong and you said to him, Hang on, Warwick, how did you buy it? What is your expenditure delegation? There's no records of it going up to cabinet. I have no record of any of this. If I just tell you that Mr Watkins I anticipate will have a similar recollection. Now, I think your evidence this morning you told the Commissioner that when you put your view, that is that he only had approval to negotiate but not to purchase, he indicated surprise?---Yes.

20

And so far as you were aware you were the first person to put to Mr Watkins a view that the Premier's letter of 25 February only provided authority to negotiate?---That was my understanding, yes.

And from the tone of his voice and the content of your communication with him on this occasion when he indicated surprise was that so far as you perceive surprise that somebody would take the view that you have, to hold that view?---Yes.

30 And you then said to him, I'll withdraw that. You then said, I'll withdraw that. He said to you as set out in your statement, Exhibit 4A, "Oh, look, I might have blown the expenditure delegation part but I believe I had the authority to do it from the Premier's letter." Can I just suggest to you that what Mr Watkins said to you rather than that sentence in your statement was something to the effect, I had the authority from the Premier's letter?

THE COMMISSIONER: So you're saying, I think to be clear, Mr Curtin, and fair, you're saying that you anticipate that Mr Watkins will deny saying, I might have blown the expenditure delegation part.

40

MR CURTIN: Correct.

THE COMMISSIONER: Do you understand, Mr O'Reilly?---Yes, yeah. He expressed surprise about not having the authority under his interpretation of the Premier's letter but my recollection is he did comment about the expenditure delegation bit.

MR CURTIN: But I want to, or can you assume, Mr O'Reilly, that where you set out on page 6 of Exhibit 4A that you said to him, "No, Warwick, it says negotiate. It doesn't say purchase and the issue I've got is the expenditure delegation. Where did the money come from to buy it and where is the cabinet process?" I want you to assume that Mr Watkins will give evidence that words to that effect were said, but he answered that question to you, I'm sorry, he answered that question by you in words to this effect, I had the expenditure delegations, the money was coming from the SRDF and the sale of land gifted from council. Do you recall him saying words to that effect in answer to your question?---Not about the expenditure delegation, I don't recall that. I do recall him saying something about land gift from the council and the SRDF he, he may have mentioned the SRDF but I knew nothing of it, that's, that was - - -

All right.

THE COMMISSIONER: We are not sure of your answer, Mr O'Reilly. It's just that I'm not sure if I understand it correctly. Are you saying that you now recall an answer that Mr Watkins gave to the question that's recorded in the last part of paragraph 15?---No. I believe Mr Watkins said that - - -

Sorry, I beg your pardon. When, in what context did Mr Watkins mention the council, council's land?---When I raised the issue about, I don't know where the money came from. I don't understand the transaction at all. He said, "It's a good deal for, for the people of Pittwater. It's a good deal for government. The expenditure part aside there is a, an arrangement with Pittwater Council who is giving land that is worth X million dollars that makes this a better deal.

And I think you said to Mr Curtin that he may have mentioned the SRDF? ---He, look he have. I honestly cannot recollect but I'm not saying he didn't say that.

So it's possible he may have said it?---It's possible, yes.

You don't, am I correctly understand your evidence to be that you don't remember him saying it but it's possible that he may have?---That's right.

MR CURTIN: Mr O'Reilly, are you aware that the most significant source of funding for the SRDF are contributions by local councils?---No.

Are you aware that for the 2011 financial year, the budget for expenditure by the SRDF on property purchases in New South Wales was \$40 million, four zero million dollars?---No.

Are you aware that as at 15 March 2011, the SRDF had spent about \$10 million of that fund?---No. That's why I was asking the questions.

All right.

THE COMMISSIONER: At the point of that conversation did you know anything about the SRDF?---No.

Had you heard of it before?---No.

10 MR CURTIN: Can I ask you Mr O'Reilly, are you aware today of any fact as opposed to speculation for example, but are you aware of any fact which suggests Mr Watkins had something personal to gain by exchanging contracts for the sale of Currawong?---No.

If you assume for the moment that at the time of the Premier's letter of 25 February, 2011 Mr Watkins read it to have the meeting that you suggested to him his subsequent entry, I withdraw that. His subsequent exchange of contract would necessarily be in direct disobedience, as it were, of the Premier's authority?---Yes.

20 Which if it had been done in that way, that is, directly disobeying or going beyond the Premier's authority that fact would assuredly have been subsequently discovered. Correct?---Yes.

So that if Mr Watkins had read the Premier's letter and embarked on a course to deliberately go beyond the authority he was sure to have been found out?---Yes. Yes.

30 And when he – I withdraw that. When you put to him the view you had taken about the Premier's letter and the authority it gave and he indicated surprise to you from his tone of voice and the nature of your conversation did that come across to you as the surprise of an honest but perhaps mistaken man?---Yes.

If you assume for a moment that the Premier's letter did authorise the exchange of contracts in addition to negotiations on 25 February, 2011 that would represent in your view the making of a significant policy decision by the Premier. Correct?---Yes.

40 And insofar as the caretaker conventions are concerned on the assumption the Premier's letter gave the authority to purchase the land Mr Watkins' duty was to follow the Premier's instructions and the Premier or the relevant minister would need to concern themselves (not transcribable) with the caretaker conventions, would you agree with that?---If Mr Watkins interpreted the Premier's letter to say that he can complete the transaction fully he would've been acting under authorisation to do that, it would then become an issue for the minister and the Premier and possibly Cabinet as to how they would handle that matter with regards to announcement and the caretaker convention.

That's fine. And in terms of decisions being made by Cabinet there were, as it were, a number of considerations for ministers as to when matters would go to Cabinet or not broadly speaking?---Mmm.

10 And whether something – I withdraw that. Somebody in Mr Watkins' position might advise a minister that something should go to Cabinet, but ultimately it was the minister's decision. Correct?---True, unless the minister concerned had been informed by the Premier or Treasurer that they needed a Cabinet minute.

Right?---Yes.

On the assumption, I withdraw that. Mr Watkins had a number of financial delegations under different instruments. Is that right?---Yes.

20 Meaning he was putting aside perhaps political considerations, entitled to exercise those financial delegations in accordance with the relevant instruments but as decided by him. Is that right?---Yep.

And if he was, I withdraw that. If a particular matter arose which was within any of that, within the restraints of those financial delegations, those were matters, putting political considerations aside, which would ordinarily not go to the budget committee of cabinet. Is that correct?---If it was above his financial delegation.

Underneath?---Under his financial delegation ordinarily that's right.

30 THE COMMISSIONER: But in this case, was this, would this, is this an ordinary case or not?---Well I would have thought there was some sort of cabinet process behind this. It was a significant purchase, \$10 million, other land dealings had already been before budget committee or cabinet and I would have assumed this would be one of them.

And were there political considerations involved as well?---In this?

Yes?---Oh well I only, only, I only heard about it after the deal was done, but so many considerations that go before cabinet are political I guess.

40 MR CURTIN: In terms of political considerations for this particular property, the, from your perception the overwhelming view of the public was that the government should buy this land. Would you agree?

MR ALEXIS: I object to the question and I'd ask my friend to specify the point in time at which we're speaking. And I raise the objection only because of Mr O'Reilly's evidence that was given very early in his examination that it wasn't until after purchase that he actually became aware that Currawong, of the Currawong matter. And so perhaps the question put

in the form that it has been put is a little unfair unless it draws attention to the matter of timing which is important in my submission.

THE COMMISSIONER: I'm sure, you have no difficulty in doing that, Mr Curtin.

MR CURTIN: Yes, your Honour. Mr O'Reilly, did you in your position as the Director General of the Department of Premier and Cabinet keep abreast by reading newspapers or watching the News or other sources of public discussion of various issues which may need the attention of the Premier, for example?---Yes.

Was that part of your job to keep abreast of publicly aired concern?---Yes. At 5.30 every morning we have the media roundup.

And in the period up until 25 February, 2011 was your perception of public feeling as expressed through the media and your other sources overwhelmingly in favour of state government purchase of Currawong? ---No. It wasn't a major issue media wise, but I am aware that there had been strong community action wanting government to purchase this property.

All right. However much appeared in the media, I'll withdraw that. In addition to whatever had appeared in the media, at least one interest group, I think they call themselves the Friends of Currawong, had made representations to various members of the government. Is that right?---I wasn't aware of that, but - - -

Whatever information you were aware of concerning Currawong which involved public or expression of public feeling - - -?---Mmm.

- - - that public feeling so far as you perceived it was overwhelmingly in favour of the state government purchase of Currawong?---Yes, and I think that evidenced by the media that occurred after the purchase was known.

All right.

THE COMMISSIONER: I just think that if one, if this issue's raised it better be raised in full. That doesn't mean that there wasn't, it's not a matter involving political considerations, does it?---No.

And there were political considerations involved because there'd been a lot of, I mean, one, one example, one factor everyone has to bear in mind is that Currawong had been around for many years, hadn't it?---That's right.

And the government hadn't bought it?---That's right.

And the unions had owned it?---Yes.

And that was, that gave rise to well-known political issues?---Yes.

Sensitive ones?---Very sensitive.

10 MR CURTIN: Sensitive or insofar as they concerned New South, Unions  
New South Wales up until, would you agree, the completion of the sale  
from Unions New South Wales to Eco Villages on 28 January, 2011?---Yes,  
I mean, I, I wasn't aware of what was outlined in this morning's opening  
statement with regards to the history relating to the purchase but certainly it  
was extremely sensitive when Unions New South Wales was going to sell it  
and initially when the government was interested at that time I know it was  
very sensitive then and then, of course, it has been for government a  
festering sore for the community wanting action about it, I'm aware of that  
part, amongst a whole range of other matters, of course, but I was only  
aware that the purchase was even being considered once I got the advice  
from Tony Kelly.

20 Now, on the assumption, taking up the Commissioner's question about  
political considerations and referrals to cabinet, on the assumption that  
Mr Watkins had erroneously read the Premier's letter as giving him  
authority to negotiate and to purchase the Currawong property, it was for the  
relevant minister or minister or other members of government to take the  
matter to cabinet if they saw fit and not Mr Watkins, would you agree?  
---Not, not exactly. If I was in Mr Watkins' shoes and I genuinely believed  
I'd been instructed or advised by government to go ahead and purchase the  
property I'd still be aware of my financial limitation under a ministerial  
delegation and I'd prepare a briefing up to my minister for approval to  
30 proceed. That's the process and then the minister would determine whether  
or not it went to cabinet, unless there were other instructions.

THE COMMISSIONER: What do you mean that's the process?---Well - - -

40 Is that, you mean that's the ordinary process or the process you follow or, or  
- - -?---No, I, I think, Commissioner, that CEOs or director generals are  
aware of their financial delegation. They often get instructions by  
government to, it could be do the background work to get a reform ready or  
whatever, that would cost more than that financial delegation, they do the  
work but they submit for the final approval to their minister because they  
don't have that delegation themselves. They may be instructed by  
government to do it but the actual paperwork side is signed off by the  
minister if it's above the delegation of the director general.

And when does Treasury get asked to consider a purchase?---Treasury are  
not always asked, Treasury often times will step in and advise anyway  
whether they're asked or not. However, that, the, if there was a process for  
ten, \$12 million or, or a major reform normally Treasury would be aware of  
it. They may want to be involved in it, they may want to do, you know, sit

in on the financials, the arrangements, the business planning, not always but sometimes, and from that would come the, the approval for it to, to proceed either through a cabinet committee process or through the minister.

10 So what approach would ordinarily be followed by a director-general involved in the purchase involving, say, \$12 million in relation to Treasury? Would Treasury just go through, assuming that he believed he had been authorised by the Premier to effect the purchase would he consult Treasury or not?---If the Premier had given complete approval for the whole transaction the Director-General may not consult with Treasury at all unless there's a call on the budget. If there's a call on the budget you would have to consult with Treasury.

The particular letter that we're dealing with doesn't mention a purchase price?---No.

20 And also refers to a comment made by the minister that no additional funds would be sought from the budget. Now, assuming that Mr Watkins generally believed that this letter gave him authority to purchase what does the absence of any purchase price and the requirement – I withdraw that. Not the requirement, the comment that there are no additional funds being sought from the budget tell him, but what would be expected in relation to Treasury?---That's what I couldn't understand. I could not understand that there's no call on the budget because I didn't know about this SRDF fund or whatever it was, I didn't understand that and that's why I asked the questions of Mr Watkins, where does the money come from, how does this work

30 I'm sorry, Mr O'Reilly, that's not the question that I'm asking you. I'm just trying to understand what would be expected – I mean, you've been in the public service for many years in very senior positions and I'm really just trying to get your opinion as it were - - -?---Yes.

40 - - - on what would be expected of a director-general who had assumed notionally been given authority to enter into a contract involving \$12 million, sorry, had notionally been given the task of purchasing some land without being told how much money was involved and believing that whatever purchases affected will not affect the budget. Assume that a director-general is told these things. What should the Director-General, what would you expect the Director-General in relation to referring this to Treasury for advice, if anything, he may decide that he doesn't have to or he may decide that he should. I'm asking you what a direction-general in the ordinary course given this notional set of instructions would act improperly do?---If I was instructed along the lines you're saying, Commissioner, I would carry out the transaction to a point where I would then gain ministerial signoff because it exceeded what my delegation was. If my delegation is five million, I don't believe, it doesn't matter what fund it comes out of, it's \$5 million, you can't split it. So five out of this five out of

that five out of that, that's certainly not the way a director-general would normally operate. It's five million, it would go to the minister for signoff.

THE COMMISSIONER: All right. Yes, Mr Curtin.

MR CURTIN: And your last answer I think was based upon one assumption being if the amount of money exceeded a relevant delegation, is that right?---Yes.

- 10 So sticking with that assumption for the moment you would expect somebody in Mr Watkins' position to then inform his minister it's going to cost X number of dollars which is above my delegation?---Absolutely.

And then either the minister would approve or the minister would take it to cabinet?---Yes.

And perhaps the budget committee of cabinet if there was a call on the budget?---Certainly if there was a call on the budget, it would have to.

- 20 If somebody in Mr Watkins' position honestly believed that the purchase could occur within his financial delegations what would you then expect him to do vis-à-vis the minister or cabinet?

THE COMMISSIONER: And there would be no call on the budget or there would be a call on the budget?

THE WITNESS: And no call on the budget.

THE COMMISSIONER: He honestly believed that as well?

- 30 MR CURTIN: Yes, yes.

THE COMMISSIONER: So you've got to, he honestly believes a) within delegation, honestly believes b) no call on the budget.

THE WITNESS: And c) had been told to do it.

THE COMMISSIONER: And c) had been told to do it?--- yeah, to do it.

- 40 MR CURTIN: As in somebody in Mr Watkins' position would then carry out the instruction to negotiate the purchase?---Yeah.

Can I, can I ask you Mr O'Reilly whether you are now aware that the vendor, Eco Villages, after there being a refusal of a development application by the local council, had commenced the Land and Environment Court proceedings against the Pittwater Council?---I wasn't. I am aware now.

And are you aware of a view that had Eco Villages succeeded in that case the market price of this Currawong property would increase compared to a period of time before the outcome of that case?---Well that's logical, yep.

And are you aware that about 72 per cent of the Currawong property has a zoning under the Pittwater local environment plan, I think it's 9(b) - - -

10 THE COMMISSIONER: Are you putting this, Mr Curtin, I just want to ask a question here. A number of your questions have been prefaced by the phrase are you aware as if that is the truth. I don't, with respect, I don't think that that's appropriate.

MR CURTIN: (not transcribable)

THE COMMISSIONER: You first have to establish the witness' acceptance of the truth of the proposition.

20 MR CURTIN: Do you, and tell me if your knowledge does not enable you to answer Mr O'Reilly, do you know what the zoning of the Currawong property was in - - -?---No.

- - - (not transcribable)?---The reason why I wanted this investigated is because I didn't know anything. I had to find out what the facts are for the Premier who wanted to know exactly what was going on.

30 Can I ask you to turn to paragraph 18 of Exhibit 4(a). In that paragraph you inform the Commission that you conveyed to Mr Watkins the view set out in the early parts of paragraph 18 and he raised with you his concerns that removing him from his position at that point in time may have a serious impact on his career. You'll have to answer - - -?---Yes, yes.

40 Can I ask you as a general proposition would it be a potentially serious matter for the career of somebody of Mr Watkins' position if he had honestly but mistakenly acted on a letter such as the Premier's letter of 25 February, 2011? By that I mean if he had read it in the way he expressed to you but subsequently everybody else read it a different way, on the assumption it was an honest belief that he made a mistake involving a significant purchase, is that a matter for somebody in his position which may have adversely affected his career?---Yeah, it could.

Can I ask you, please, to turn to paragraph 21 of Exhibit 4A and for the assistance of the Commission I anticipate Mr Watkins will give evidence to the same effect as set out in paragraph 21 of your statement, and then can I take you to paragraph 23 and for the assistance of the Commission with one exception can I say that anticipate Mr Watkins will give evidence that the conversation set out in paragraph 23 occurred in words to that effect, but Mr O'Reilly, the one exception, if you go to about eight lines from the bottom of page 19, page 9 of 13, thank you, you'll see you've set out that he

said to you, that is Mr Watkins said to you, I've interpreted that as finalise, can I suggest to you that he didn't say those words but said something to the effect, The Premier's letter gave me the authority to purchase as there was no cost to the budget. Do you recall whether or not he said those words to you?

THE COMMISSIONER: Well, you might, just to, this is important, Mr Curtin, I just want to, do you mind repeating that so that, I wasn't, so that Mr O'Reilly can hear again exactly what you're putting?

10

MR CURTIN: Yes.

Mr O'Reilly, I want you to assume that Mr Watkins' recollection of his conversation that's set out in your paragraph 23 is the same as yours except in one respect and that one respect concerns where you've set out that he said to you, I've interpreted that as finalise.

THE COMMISSIONER: Do you see that, Mr O'Reilly?---Mmm, yes.

20 And you've read the context of that?---Yes. Look, I, I can't recall - - -

Well, before you answer do you mind putting the proposition again, please?

MR CURTIN: I want to suggest to you, Mr O'Reilly, that Mr Watkins did not say words to the effect of, I've interpreted that as finalised but said to you words to the effect the Premier's letter gave me the authority to purchase as there was no cost to the budget?---I can't recall that.

THE COMMISSIONER: Sorry, you can't recall?---I can't recall.

30

You can't recall - - -?---I can't recall that was what Warwick said, that it was because there was no cost to the budget.

You can't recall that he said the Premier gave me authority because there was no cost to the budget?---That's right.

May he have said it?---Look, I, I, I genuinely believe that in that context when we're discussing it it was about – Warwick said I honestly believed that said, that meant I could finalise it. It wasn't about the budget, it wasn't about anything else, it was about the letter and moving ahead, whether you can finalise it or not.

40

MR CURTIN: And in the context of that conversation the word "finalise" conveyed to you as being to purchase the land, exchange contracts?---Yes, yes, yes. I, I genuinely believe Warwick thought that he could go ahead and do the whole, the whole job.

And for the assistance of the Commission paragraph 25, Mr O'Reilly, of Exhibit 4A - can I just communicate that I anticipate Mr Watkins' evidence will be that his recollection of that conversation is the same as yours or in words to that effect. Yes, thank you, Commissioner.

THE COMMISSIONER: Thank you, Mr Curtin.

MR CURTIN: I'm sorry, I'm terribly sorry.

10 THE COMMISSIONER: Do you want to ask another question or a few more?

MR CURTIN: No, I have no questions, further questions, thank you.

THE COMMISSIONER: Thank you, Mr Curtin.

MR CURTIN: I wish to withdraw that last question.

20 THE COMMISSIONER: Your indication of where there is common ground is helpful, thank you. Now, Mr Branson, do you want to - - -

MR BRANSON: Yes, please. I'm appearing for Mr Kelly, Mr O'Reilly?  
---Thank you.

30 Can I just take you back, I think, it's the first reference to Mr Pooley contacting you at paragraph 5 of your statement, Exhibit 4A and again, it's just mentioned of him. And then it's actually paragraph 10, page 4 where you mention the telephone call from Mr Pooley to you on 15 March. And you say in the first sentence, do you have that please? Do you have that page?---Number 10, yes.

Yes, thank you. That the Currawong matter first came to your attention on or around 15 March. Are you able to recall whether you were told on the day that the contracts were exchanged, is that your recollection or not? Because we all know now that that's the day it exchanged?---Yes. No, the - I didn't link it to the exchange at all.

Right?---At all.

40 Thank you. Can you recall anything in direct speech as to what Mr Pooley actually said to you? You may not I appreciate but - please tell us in substance (not transcribable) of the conversation or was it in the course of something else - - -?---No, well, - - -

- - - you were discussing?---No, no, no, as you would appreciate where things are flat out because we're leading up to the election, phone calls, Tony gets on the phone and he just said, "Look, mate, do you know anything about Currawong?" I said, "No." He said, "Look, I've just heard

we bought this thing, can you find out what's going on with it, all the background?" And I said, "Okay."

You understood then, of course, Tony was the Deputy Chief of Staff for the Premier?---Yes.

10 Ordinarily – well, why don't we just look at this scenario. We know that there was a letter of 25 February that the Premier signed and we know now that the contracts were exchanged on 15 March, so there's about 18 days in there. During that period ordinarily which you've expected someone from the Premier's staff that had been in contact with someone on the staff of Mr Watkins if this transaction was to go ahead in any shape or form? If you can't answer that just please say so?---I'm sorry, I can't answer that.

Okay. And did Mr Pooley indicate to you then or at any time that someone on the Premier's staff had had any contact whatsoever with any member of Mr Watkins' staff prior to 15 March?

20 THE COMMISSIONER: About the press?

MR BRANSON: Sorry, sorry, about the transaction itself at Currawong? ---Not Mr Watkins staff.

Right?---Mr Kelly's staff.

Or Mr Kelly's staff?---Yeah, Mr Kelly's staff. He made some mention about, I've heard from Mr Kelly's, well the minister's staff that we might have bought this. And then - - -

30 And do you remember if it was Mr Finn or some other member?---I didn't know who, who he was referring to.

I appreciate that you're very busy and, all right, now.

THE COMMISSIONER: You're saying, you're referring to the conversation with Mr Pooley?---Yes.

40 MR BRANSON: Yes, whether there was any discussion about contact in that intervening 18 days between the Premier's letter and the exchange of contract?---The only one was when Tony rang me and then he did mention that he's heard from the minister's staff that we may have bought this thing, can I find out what's going on.

All right. Now in terms of, I think you'd agree that pursuant to section 159(A) that you have authority to conduct an inquiry into any matter relating to administration or management or the public sector or agency, so it didn't have to be significant, it could have been insignificant?---Mmm.

It's your call. Correct?---Yep. Yes.

So initially, do we correctly understand that you were on a fact finding mention, I think you've already told us?---Mmm.

Because you were ignorant - - -?---Yes.

- - - totally of anything to do with Currawong. Correct?---Yes, yes.

10 Other than what you might have seen in the media going back years ago or even more recently?---That's true.

Correct?---True.

Did you have any idea prior to getting this phone call from Mr Pooley that there was a proposal that the New South Wales government might purchase the Currawong site to be part of a state park?---No.

20 Okay. Now I won't be long, Commissioner. Just in terms of the caretaker convention, I mean it uses words like major and significant and it is a professional courtesy as it were for the, for the possible incoming government to be kept informed of relevant matters?---Yes.

And do I correctly understand that in terms of any breach of the caretaker provisions that your concern was, as you've explained to the Commissioner, the political sensitivity of the issue, well actually a potential or not. I'm sorry, I don't want to put words in your mouth?---No.

30 THE COMMISSIONER: Well that's - - -

MR BRANSON: Sorry?

THE COMMISSIONER: Are you saying that this was the only concern?

MR BRANSON: Well we'll take it a step at a time. Right. Okay. Was that your only concern?---No. No, and that's what I was going to enlarge on.

40 THE COMMISSIONER: One points out all (not transcribable)

MR BRANSON: (not transcribable) yes, the art of cross examination, your Honour from time to time, when you look at the transcript tonight. So the Commissioner has correctly reminded me, and I should have asked you a more open-ended question, what were your concerns with respect to any possible breach of the caretaker convention with respect to what you could find out about this transaction?---As the Director General of Premier's and Cabinet, is the head of the public service. And part of your job is to ensure that the standards and the fact that it is not politicised and the caretaker

conventions are designed in such a way that if there is going to be a change of government, any major contract you're locking in to a possible government, there's one issue. So four years in budgets.

10 Yes?---Second issue is it's to prevent quick fixes occurring without due diligence to make sure that things are above board and are part of a priority and it's good for the community. And it's also to make sure that the public servants, and we spent quite a bit of time from October to March explaining that you do not enter into any significant contracts or appointments of staff that locks in a possible change of government. Any new contract that you wanted to go into had to follow a process and you must advise the opposition that this is what the government is intending. Now if the opposition disagreed, I can't say whether a government would continue down that path or not, but there would be a lot of questions asked.

Now, did I hear you say going back into October you were in a sense educating or re-educating the - - -?---Oh, yes.

20 - - - the public sector?---We were, because the election, we were looking around but six months out we wanted to be able to make sure we get to all director generals, get to CEOs of organisations, we had to write to them, make sure that we adopted any changes that the Commonwealth may have brought in with their caretaking conventions as well and then we wanted to make sure that chiefs of staff of minister's offices were also aware and it was in a format you could put on a website where the public good like.

I just forget, the date was November wasn't it, that this - - -?---14 October I think.

30 But do I correctly understand it did not involve a substantial rewrite of the understanding that senior civil servants had prior to that or it was a matter of clarifying - - -?---It's, it's, it - - -

(not transcribable)?---It's probably updating and clarifying but the, there is a change in senior public servants so for some it was new.

I understand?---Yeah.

40 And someone like Mr Watkins, a very experienced and competent - - -? ---Yeah.

- - - senior civil servant he'd scarcely need reminding of, of the caretaking provisions, would he?---Certainly not in comparison to a lot of others.

I mean, you wouldn't have had to go and knock on his door - - -?---No.

- - - and remind him?---No.

Now, at any time whilst you were in fact-finding phase did you turn your mind to whether Mr Kelly may have specifically authorised Mr Watkins with respect to the exchange of contracts?---When I saw the letter of the - - -

You did later?---Yeah, of the 28<sup>th</sup> I thought, oh, well - - -

That's it?--- - - - this changes it completely.

But before that you had no idea?---None.

10

No idea but did it cross your mind that that was a possibility or not, prior to you becoming aware of this backdated letter?---No. I, look, I don't think so because - - -

Did this - - -?---No, it was more, more that because it was, it had come from left-field - - -

Yes?--- - - - that if, if there had been a process when I first raised it with Mr Watkins he would have just given me the brief - - -

20

Yes?--- - - - and here's it all signed off, sealed and delivered.

THE COMMISSIONER: Well, Mr O'Reilly, am I right in understanding that until you saw the letter no one had suggested to you that Mr Watkins had got any authority from the minister?---The, the letter from, sorry the 28<sup>th</sup> letter.

The backdated letter?---The backdated, no one had suggested to me that, that the minister had given Mr Watkins authority.

30

MR BRANSON: It was just before the election you found out?---Yeah, and it was in, in the briefing note I, I actually state that in the briefing note to the Premier, that as far as my knowledge is Mr Kelly had not - - -

Yes.

THE COMMISSIONER: Had not - - -?---Had not - - -

- - - authorised the - - -?--- - - - authorised, yes.

40

MR BRANSON: Do you remember or did you ascertain what response was received either from Mr O'Farrell or one of his staff when the information was relayed to him?---I - - -

THE COMMISSIONER: What information? The purchase?

MR BRANSON: Sorry, about the purchase, I beg your Honour's pardon?

---Yes. I attempted to get in touch with Mr O'Farrell but because the election was on I didn't want to ring him direct because he could have been in the middle of a press conference or whatever. I got onto his chief of staff, Peter McConnell, Peter McConnell asked me could I give him some idea about what, what the issue is and I said it's about a purchase of property during caretaker convention. I then sent Mr O'Farrell an SMS, a detailed SMS so that I didn't interrupt his call and then about a week, some time the following week Mr McConnell mentioned to me that the, the opposition had real concerns about this occurring during caretaker period.

10

Is that SMS retrievable? I suppose it is theoretically?---I, I would assume so I - - -

If counsel assisting thinks it's appropriate or necessary, I mean, I - - -

THE COMMISSIONER: I'm not sure what its relevance is now?

20

MR BRANSON: It's not, it's not brutally relevant I agree. I meant to say we'll move on, I didn't need that other aside. Lastly, Mr O'Reilly, if we were to assume that this purchase was authorised and that it was with proper funding arrangements, it would have been usual would it not for the government to have issued a media release or something (not transcribable)? ---Outside of caretaker definitely, within caretaker it would have been contacting the opposition - - -

Before you did it?--- - - - and, absolutely, yeah.

Thank you very much, Mr O'Reilly?---Thank you.

30

THE COMMISSIONER: There are so many counsel here I'm not going to go through each one. Can you please let me know who would like to question Mr O'Reilly if there is anybody.

MR DUNNE: Yes, your Honour, my name is Dunne and I - - -

THE COMMISSIONER: Mr Dunne, yes.

MR DUNNE: - - - have leave to represent Mr Costello.

40

THE COMMISSIONER: Can you just explain to Mr O'Reilly you act for Mr Costello?

MR DUNNE: Mr Costello. I have a note of a comment you made early on in your evidence when you were asked some questions from Mr Alexis, I'm not quite sure I've got the context correct but if I can put it in context and (not transcribable) the words that I've recorded that it refers to a situation, I presume, where there was a person who, and this is what I've got down, had authority but the paperwork hadn't caught up?---Mmm.

Do you recall (not transcribable) words to that context?---Yes. Yes, I do.

So does that mean that they're situations where authority can be provided, for example by a minister for a person in Mr Watkins' position, to embark upon a course, but the paperwork or the official writing hadn't caught up, hadn't been created at that time?---Yes.

Is that correct?---Yes, that can happen.

10 Leaving aside the issue of backdating - you've been in the New South Wales public service since 1972, is that correct?---Yes.

And is that a situation that would occur at all in your experience?

THE COMMISSIONER: What situation?

MR DUNNE: I'm about to come to that, your Honour. Where an authority has been given by a minister to a person in Mr Watkins' position and the - -

20

THE COMMISSIONER: Oral authority.

MR DUNNE: Oral authority, thank you, your Honour, I'm grateful for that. And the written authority comes some time later on. Are you aware of that situation occurring at all?---Yes.

THE COMMISSIONER: And you would have to explain authority to do that, Mr Dunne.

30 MR DUNNE: Yes, your Honour, I'm working on the comments made earlier on and I'll narrow that, if your Honour pleases.

THE COMMISSIONER: I mean, if it's authority to visit Brisbane one can well understand it.

40 THE WITNESS: Two, two spring to mind straightaway. Industrial relations. You're in the middle of negotiations, you're trying to get a deal to prevent a strike or whatever, you talk to your minister, you need the deal done there and then in the room, you get approval from the minister and then you follow it up with the paperwork. The second one is counter-terrorism where a minister will give subsequent approval for the handing over of powers to the Commonwealth or whatever. Those things happen.

MR DUNNE: I understand. But they're matters of urgency - - -?---That's right.

- - - where the paperwork doesn't catch up?---And it's (not transcribable) within 24 hours or a weekend if the paperwork is in there it's - - -

Yes?---Yes.

Are you aware of it happening in circumstances such as the circumstances of the Currawong purchase - - -

THE COMMISSIONER: That's too vague.

10 MR DUNNE: Yes, your Honour, I was just taking a breath if your Honour would allow me.

THE COMMISSIONER: Take another one.

MR DUNNE: Thank you, your Honour. In circumstances where a minister is authorising a person in Mr Watkins' case to seek to purchase as in the Currawong situation and it's later discovered that that wasn't by way of oversight - - -

20 THE COMMISSIONER: Sorry, Mr Dunne, that is – the Currawong situation describes so many things, it's not a fair question. The Currawong situation concerns land, it concerns approval, Treasury approval potentially, it concerns political sensitivity, it concerns a multitude of things, so please define the question precisely.

MR DUNNE: Okay.

THE COMMISSIONER: If you want to ask about simply the purchase of land at a particular price why don't you do that?

30 MR DUNNE: Yes, thank you. Do you have a copy of the exhibits before you?---My statement?

No, not your statement, the exhibits. Might the exhibits be shown. Thank you. I'll take you to page 47(b).

THE COMMISSIONER: I beg your pardon 7(b)?

MR DUNNE: Sorry, your Honour, 47(b). It's under tab 10?---Yes.

40 That deals with approval to enter in direct negotiations for the acquisition of the Currawong site for a price of up to \$13 million including the execution of relevant papers. Are you familiar with any occasion during your time in the public service where an approval of that nature as set out in that letter - - -

THE COMMISSIONER: Of that nature for land.

MR DUNNE: For land - - -

THE COMMISSIONER: At a price of up to \$13 million.

MR DUNNE: As set out in that letter.

THE COMMISSIONER: Land which we understand has surrounding it a number of issues of which you are aware, Mr O'Reilly?---Yeah, no I haven't seen a letter like that before.

10 MR DUNNE: Never seen a letter like that before?---No.

Have you seen in relation to the purchase of land with a purchase price and requiring the execution, sorry, yes, to form part of a file note that is subsequently added to the file?

THE COMMISSIONER: Just repeat the question, please.

MR DUNNE: Sorry. Before you you have a letter specific to these proceedings before the Commission. The question I'm asking you is  
20 whether in your time with the public service you are aware of circumstances where verbal approval may be given by a minister to a CEO or a Director General to proceed to purchase for a price or and or including the execution of papers verbally and subsequently a file note at some time later confirming those verbal instructions was prepared and put on the file?

THE COMMISSIONER: Without there being written authority?

MR DUNNE: Confirming the verbal authority, your Honour.

30 THE COMMISSIONER: A file note is not authority. Who makes the file note?

MR DUNNE: Well I'm just asking in general, your Honour.

THE COMMISSIONER: Well it's not helpful. Who makes the file note, the minister or the CEO?

MR DUNNE: Well at this stage, your Honour, I'm simply asking is  
40 whether there is a file note of that procedure not necessarily as to who the author is. The witness may be well say - - -

THE COMMISSIONER: Who makes the file note in what file?

THE WITNESS: I can't recall.

MR DUNNE: You're not aware. Is that, is that the - - -?---I can't recall.

Thank you.

THE COMMISSIONER: Mr O'Reilly, I think questions are designed to elicit whether there, whether from time to time in the civil service a minister authorises a senior public officer to negotiate into a contract for the purchase of land involving several millions of dollars whether that authority is given orally alone?---No.

10 No?---No, it wouldn't be, no. I have not been involved in the purchase of million dollar blocks of land in my career with the public service, but if the scenario was that because of some pressing necessity to get the deal done and I have verbal authority from my minister, I would be writing to my minister that night saying, I refer to your verbal authority given to me on, today, in which you allowed me to purchase X million dollars worth of property. Please confirm by signing this as approved. I mean it would happen within 24 hours.

And when you?---If it ever happened.

20 Right. And when you referred to the, to the paperwork catching up as it were?---That's what I meant.

30 That's what you meant?---That's the approvals. That, it was, there are times when, you know, if you're working in human services and you have an abandoned child where you have to make decisions to be able to get accommodation and sort it that night or there's a, it could be a criminal matter or a police matter, people have to think, they can't just stop because they have to wait until the minister's available to sign something. They will do things but it, it is on an understanding and trust with your minister and that it would be a telephone, I need to do this. The minister would say yay or nay.

Where you have an important issue, where a, where a, where a senior civil servant is instructed by the minister to do something of significance involving a purchase of land would the authority for that be, the written authority for that be forthcoming three weeks after the contract for the purchase is entered into?---No, no. I mean, once, once - - -

You smile when you say it?---Well - - -

40 Is that because it's just a ridiculous proposition?---Well, it, well, it is because everyone knows to purchase any sort of real estate takes negotiation, contracts and time so there's plenty of time to get all the ducks lined up to be able to get the approvals. Its just, I can't see an emergency arising where it had to be done backwards.

Yes, Mr Dunne.

MR DUNNE: But I think you told your Honour that you hadn't been involved in purchasing the property?---Major purchase.

A major purchase?---Not, not that I can recall.

Thank you. If I could just take you to paragraph of Exhibit 4A, your first statement, the bundle underneath that folder?---Oh, sorry.

10 If I could take you to the last part of paragraph 18, one, two, three, four, five, six, seven lines from the bottom?---Yes.

That's page 7 of 13 and it reads, "As the normal business of the LPMA had to continue I delegated some of the functions to the CEO, Mr Bob Costello," and it continues on?---Yes.

20 Do you know roughly when that took place?---It, it, roughly it would have been at the same time I removed there were, there were two phases to it. One when I removed Warwick whilst we did the investigations, I spoke to Bob and said Bob, day to day stuff, keep the place running, you're the next in line and he said Not a problem there and, secondly, there was a more formal approach later on where it related to exercising a delegation for, from memory the, it could have been the justice precinct in the Hunter or something, it could have been then but that was more formalised.

And so you had, you had some discussions with Mr Costello?---Yeah, yes.

And in any of those discussions did you discuss the IAB investigation in, in general terms?---Yes.

30 Did you have a discussion with Mr Costello about who might likely be called to give statements to the IAB?

THE COMMISSIONER: About, sorry I didn't hear, about?

MR DUNNE: I'm sorry, your Honour. What I said was did he have any discussions with Mr Costello - - -

THE COMMISSIONER: Yes.

40 MR DUNNE: - - - as to who might likely be called to give statements to the IAB?---Yeah, look, recollection, I said certainly Warwick and Bob would as the chief financial officer.

Did you suggest to Mr Costello that he would be required to give a statement?---To IAB, yes, I said that he'd, it's more likely that he'll be asked to be interviewed.

And he was under the impression that he was going to be interviewed by IAB?---I think so, yes.

And are you aware whether he was eventually?---No, I'm not. I've never seen the final report.

Okay?---That's - - -

Yes, thank you, your Honour.

10

THE COMMISSIONER: Yes, thank you, Mr Dunne. Are there, does any other counsel wish to question Mr O'Reilly? No. Mr Alexis.

MR ALEXIS: Mr O'Reilly, should we understand that the in short reason why you haven't seen the final report was because of the change of government back in - - -?---Well, well, I wouldn't put it that way. It was, I decided to leave and so I was no longer there when the final reports and this material was coming in.

20

Thank you?---Okay.

Now, there's just one matter I want to raise and it arises out of some questions that Mr Curtin for Mr Watkins asked you earlier and you'll recall Mr O'Reilly, that he was asking you some questions about a conversation which is set out in and is largely accepted by Mr Watkins at paragraph 14 of your statement which is Exhibit 4A and just so that we are clear, this is the first telephone conversation you have with Mr Watkins where you asked him what was going on with the Currawong site. Now, it was, in the course of questions that were put to you by Mr Curtin about that subject matter, that he suggested and I think you accepted that there was some reference to the SRDF and the sale of gifted land from - - -

30

THE COMMISSIONER: Accepted is not right, he accepted the possibility (not transcribable).

MR ALEXIS: Yes, that's what I meant, Mr O'Reilly?---Yes, yeah, thank you.

40

That you accepted that it was possible that the SRDF was raised but also the question of the sale of gifted land from the council, can you recall that? ---Yes.

And in giving an answer to questions on that subject matter you told the Commissioner I think that Mr Watkins told you that the land from the council would be worth X and then you went on to deal with other parts of that conversation. The question I want to come to, Mr O'Reilly is this: in the conversation with Mr Watkins did he convey what X was or was X a range or what should we understand the position to be?---It was, my

recollection is that it was along the lines that it's a good deal for the public because we'd been able to secure land that's probably worth about \$3 million that will be able to go towards the park so, or we, no, all, that could be developed later or something like that but it was, the three million stays in my mind, that's all.

10 THE COMMISSIONER: It's not clear to me whether you're saying that, that, that according to Mr Watkins this land was going to become the state's land or, or what was happening to land or can you remember?---No, it was just, Commissioner, that he, he said when he was talking about it is a good deal to government and to the community at Pittwater because we also have secured land from the council that adds to the value of the proposition, that's where he was coming from and I, I thought three million was there but that's my recollection.

Yes.

20 MR ALEXIS: Thank you, Commissioner, that's all I wish to ask Mr O'Reilly.

THE COMMISSIONER: Yes. Thank you, Mr O'Reilly, you're excused from the summons?---Thank you, Commissioner, thank you.

**THE WITNESS EXCUSED**

**[3.28pm]**

MR ALEXIS: Commissioner, could I next call Ms Linda Pettersson.

30 MR HALSTEAD: Commissioner, if I could indicate Ms Pettersson will request a section 38 declaration and she will make an affirmation.

40 THE COMMISSIONER: Yes, very well. Won't you be seated, Ms Pettersson. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Ms Pettersson and all documents produced by her during the course of her evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for her to make objection in respect of any particular answer given or document produced.

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MS PETERSSON AND ALL DOCUMENTS PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR**

**HER TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT PRODUCED.**

THE COMMISSIONER: Could you please swear, Ms Pettersson in.

THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Thank you, Commissioner. Madam, is your full name Linda Pettersson?---Yes.

10 And you are a senior consultant retained by the Internal Audit Bureau known as IAB Services?---That's correct.

Thank you. And in this particular matter, madam, is it the case that you've provided the Commission with two statements of evidence?---That's right.

Might I provide them to you and identify them by date. Firstly, a statement dated 26 May, 2001 [as said] and secondly, a statement which largely, I think, seeks to correct some errors in the first statement given on 8 June, 2011?---That sounds right.

20 If I could provide you with that statement, with a copy for you, Commissioner.

THE COMMISSIONER: Thank you.

MR ALEXIS: Now, Ms Pettersson, your second statement as I say seeks to deal with some corrections, but could I perhaps, for the benefit of those who may not have caught up with the second statement, just identify each of the corrections to be made in your first statement. And can I ask you please to come through to paragraph 31 of your 26 May 2011 statement and should we understand that you wish to correct the reference to Kelly in paragraph 31, second line to Watkins?---That's correct.

And secondly, could I ask you to look at paragraph 34 of your first statement and do you see there you refer to the only copy of the letter of 28 February, 2011 being provided and contained in tab 9 of the folder of documents that was given to you by Mr Costello I think you wish to correct that to include also the copy that was in the folder of documents that came with Mr Watkins' statement which was referred to in that bundle of documents as tab K?---That's correct.

40 Thank you. Now, with those corrections is it the case, Ms Pettersson, that your statement is otherwise true and correct?---That's right.

Thank you. And, yes, Commissioner, can I tender please Ms Pettersson's first statement of 26 May and her correcting statement of 8 June, 2011.

THE COMMISSIONER: Yes. Ms Pettersson's statement of 26 May, 2011 will be Exhibit 5A.

**#EXHIBIT 6A - STATEMENT OF MS PETTERSSON DATED 26  
MAY 2011**

THE COMMISSIONER: And her statement of 8 June, 2011 will be Exhibit 5B. I'm sorry, I beg your pardon, it's 6A and 6B.

10

**#EXHIBIT 6B - SUPPLEMENTARY STATEMENT OF MS  
PETTERSSON DATED 8 JUNE 2011**

THE COMMISSIONER: Yes, thank you, Mr Alexis.

MR ALEXIS: Mr Pettersson, what I seek to do is to step you through the timing of your investigation and ultimately come to the report that you prepared, I think, on or by 7 April, 2011. Do you follow?---Mmm.

20

And firstly, should we understand that you were first contacted about this matter, that is to say, the commencement and undertaking of an investigation into the acquisition of the Currawong site on Friday, 18 March, 2011?---That's right?

And we see that, I think, in paragraph 7 which tells us about the telephone communication that occurred in that respect, is that right?---That's right.

30

And if we then go to the first annexure to your statement, and if I can ask you to look at the second page of annexure 1, and I'll just pause while that comes up on the screen so that we can all ensure that we're looking at the same page. And what I'm going to, Ms Pettersson, is the email from Mr O'Reilly to Mr Horne of 18 March, 2011. Do you have that?---Yes, I do.

Thank you. And should we understand that this email was the email that attached the terms of reference for the investigation which followed this email in annexure 1 to your statement which then was forwarded to you as we see on the first page of annexure 1 at about 5.26 on 18 March?---That's right.

40

Now, after you received that should we understand that you made communication with Mr Costello at the Land and Property Management Authority?---Yes, that communication first happened on the following Monday, 21 March.

Yes. So you received the terms of reference on the Friday, had the opportunity, no doubt, to look at them and then there was communication with Mr Costello on the Monday?---That's right.

Thank you. And if we look at paragraph 12 of your statement, Exhibit 6A on page 4 we see that you're communicating with Mr Costello, you told him that you wanted to inspect records associated with the purchase and arrangements were made for you to attend the offices of the LPMA at Queens Square on 23 March?---That's right.

Now, at paragraph 14 you refer to the sending of an email to Mr Watkins, again, on Monday, the 21<sup>st</sup>, do you see that?---Mmm.

10

Now, can I ask you to look at Exhibit 1 which is a bundle of documents that has been seized by the Commission and can I ask you please to open that at page 17. I know you refer to this in your statement, in the annexures, Ms Pettersson, but it's more convenient if we work from the bundle if we could?---Yes.

And should we understand that at page 81 of Exhibit 1 that's your email to Mr Watkins sent just after 2.30 on Monday, 21 March which attached the letter that we see at page 82?---That's right.

20

And attaches the terms of reference that we see on pages 84 and 85? ---That's right.

May we understand, Ms Pettersson, that prior to sending this email to Mr Watkins you haven't actually spoken to him?---Yes, that's correct.

And if you just go back to the email at page 81 we see that it was sent to a Lexie. L-E-X-I-E, Hopkins, do you see that?---Yes, that's right.

30

And were you given to understand that she worked with Mr Watkins in some (not transcribable) capacity?---That's right. I had been given to understand that and I'm now just trying to remember whether I was asked by Mr Costello to send things via Lexie Hopkins or by Mr Watkins, whether I had spoken to her, I'm just not sure how it was that I was given the name Lexie Hopkins as the contact person.

Now, can I also ask you to turn through to tab 18, Exhibit 1 and should we understand that, again, on 21 March that later that day, indeed, in the early evening about 7.50 you emailed Mr Watkins with what you describe as the final terms of reference?---That's right.

40

And I ask you to confirm that what we have behind your further email to Mr Watkins are the final terms of the amended terms of reference?---That's right.

You see that paragraphs a to b have been extended to paragraph a to j inclusive?---Yes, that's right.

And should we understand that you also sought the information that we see set out in the email at page 86?---That's right.

Yes, pardon me, Commissioner, I've been asked a question from the back and I'm just checking before I answer it. Now Ms Pettersson, if I can ask you to come to paragraph 16 of your statement. We see there that on Tuesday, 22 March you received some contact from Mr O'Reilly which reiterated as you would understand it, the urgency of the matter. Is that right?---That's right. Yes.

10

And it was following that contact that you made your way to the office of the LPMA, Queens Square, that afternoon, as we see in paragraph 18 between about 3.00 and 4 o'clock. Is that so?---Ah hmm.

And it was then that you met with and spoke with Mr Costello?---Yes.

Now when you met Mr Costello, should we understand that he provided you with some documents together with an index to those documents?---That's right.

20

And if you could turn please to tab 19 of Exhibit 1, should we understand that we have there reproduced a copy of the index that Mr Costello provided to you on that occasion?---That's right.

And the bundle of documents that he provided were under cover of that index were they?---That's right.

And how were the documents presented to you? Were they loose, were they in a folder?---They were in a folder.

30

And were they separately tabbed as the references down the right hand column would indicate?---That's right. They were tabbed much as the documents in this folder have been tabbed, you know, with dividers that are numbered.

So whereas the index down the right hand column is headed with the word Page - - -?---Ah hmm.

- - - in fact the numbers indicated are tab references?---That's right.

40

Now did you check the content of the folder of documents against the index then or did you come to do that some time later?---Both. I did a very rough check as I was talking to Mr Costello. But that was only a very cursory look. And then it was later that I examined them in more detail.

Now on this occasion when you collected the folder of documents, do you recall there being some discussion with him about the providing of a statement by Mr Watkins?---Yes.

And can you tell us what was said in that respect as best you recall?---Well as best I recall there was, there was an offer by Mr Watkins through Mr Costello that Mr Watkins was providing a statement or had prepared a statement. I hadn't asked for one. But that this statement was forthcoming. And of course, you know, I was happy to accept that if he was already on the job so to speak, then if he was to prepare a statement then I would be happy to receive that.

10 Now I noticed in paragraph 20 of your statement on page 7 you tell us of an estimate that the meeting with Mr Costello lasted between 20 to 30 minutes. Do you see that?---That's about right, yep.

Now apart from the giving of a statement by Mr Watkins and the handing over of the folder of the documents and the cursory look at the content of the bundle against the index - - -?---Ah hmm.

- - - what else was discussed with Mr Costello over that period?---Only the arrangements for conducting the interviews with Mr Kelly and Mr Watkins  
20 for the following Thursday, the 24<sup>th</sup>.

Now do you recall any particular discussion about any particular documents in the folder?---No, I don't.

Can I ask you just to look at the index on page 89 behind tab 19 of Exhibit 1 and can I draw particular attention to the document which is said to be at page 9, but I think in fact was behind tab 9 - - -?---Ah hmm.

- - - of the folder that he gave you, which as you'll see in the index is  
30 described as approval from minister to proceed with acquisition, 28/2/11?  
---Ah hmm.

Now do you recall opening the folder and looking at that document at the time and discussing that with Mr Costello?---No, I don't. But that is not to say that it didn't happen. I just don't remember any particular conversation about that letter. So it wasn't noteworthy for me at that time. It just was included as part of the bundle of documents.

40 Do you recall any conversation with Mr Costello at all, and I'd ask you to consider this and answer this question carefully?---Ah hmm.

But do you recall any discussion with Mr Costello at all which drew attention to the date 28 February, 2011 not being the date upon which the document was actually created?---No, I don't.

Was attention drawn at all by him to the circumstances of when and where that document described as an approval from the minister to proceed had actually been prepared?---I recall a general discussion about the fact that Mr

Watkins did have the authority in his view, in Mr Costello's view and obviously Mr Watkins' view to proceed with the purchase and that all of these documents, if you like, were in support of that claim. I don't recall a particular conversation about any particular document. My recollection is that it was a more general discussion about the totality of the documentation.

And of course at this stage you obviously haven't had a chance to peruse - -  
-?---No, I hadn't.

10

- - - the documents to understand their purport?---I just remember the emphasis on being that yes, there was authority to proceed and that certainly that he and Mr Watkins wanted this investigation completed as quickly as possible.

Thank you. And should we understand that arrangements were then made for you to conduct interviews with Mr Watkins and Minister Kelly on 24 March?---That's right.

20 Now can I bring you through please to paragraph 22 of your statement?  
---Ah hmm.

And in doing so can I ask you to go please to tab 20 of Exhibit 1 and behind tab 20 do we find the email that you received which attached the statement by Mr Watkins in relation to what was described as the salient facts?---Ah  
hmm.

Is that right?---(NO AUDIBLE REPLY)

30 Now I'll come to some detail about this in a moment, but if you look at the statement behind that email in tab 20, you'll see that on the last page there is no signature by Mr Watkins?---That's right.

Did you subsequently receive an executed and dated copy of Mr Watkins' statement?---I believe I received one on the Thursday when I interviewed him.

40 I'll come to that. But the copy attached to the email was unexecuted as you purport?---That's right. I regarded it at that time as information, but because I hadn't actually sought that statement and it's not in the format of a statement as I would draft for somebody, it was information only from my point of view.

And ultimately when you completed your report you reproduced the signed copy of that statement I think in tab 5 to that report?---Ah hmm.

Is that right?---Yes.

Thank you. Now should we understand that the next day, that is to say 23 May, in the morning before you went to the LPMA offices that afternoon you took time to peruse the documents that Mr Costello had provided to you and took time to peruse the statement that Mr Watkins had emailed to you the afternoon before?---That's right.

And when you perused the statement you noticed no doubt that throughout it he referred to various documents as attachments?---Yes.

10 And in particular there was a reference, I think, to attachment K being the minister's letter of 28 February, 2011?---That's right. Yes.

When was it in connection with that statement did you receive the attachments that were tabulated or in some way identified in the way referred to in the statement?---I received them on the Thursday, the 24<sup>th</sup> at the time that I interviewed him.

Now, when you read the statement did you seek to try and reconcile the documents he referred to in the statement with the bundle that Mr Costello had provided to you?---I didn't at that time, no. I was really focused on the 23<sup>rd</sup> and the morning of the 24<sup>th</sup>, I'm preparing for the interviews for the afternoon of the 24<sup>th</sup>.

And I think on the afternoon of the 23<sup>rd</sup> as you say in paragraph 24 of your statement you went to the LPMA offices, you were met by Mr Costello, he showed you to a meeting room and you there were able to review documents that were left for you to look at in a room?---That's right.

Now, I want to come to the interviews in a moment, but can I just ask you to look at the statement behind tab 20. And can I ask you particularly to come to page 94, just following the pagination in the bottom right-hand corner? ---Mmm.

The statement is not marked with paragraph numbers, but rather bullet points?---Mmm.

But if you look on page 94 you see at the top of that page there is reference to the settlement of the sale on 28 January, 2011, that the Minister for Land then wrote to the Premier on 9 February, do you see that?---That's right.

40 And then if you come down you'll see in the third bullet point down on the page a reference to the Premier's reply to the minister on 25 February? ---That's right.

And that's referred to as attachment J, do you see that?---Ah hmm.

And then just passing over the next paragraph where Mr Watkins referred to pertinent matters do you see that he then said, "It is clear that this approval

from the Premier was in direct reply to the minister's request." Do you see that?---Ah hmm.

And then do you see in the next bullet point he says, "On receipt of this letter the minister wrote to the Chief Executive of the LPMA, see attachment K."?---Ah hmm.

And referring to his specific approval accepted, do you see that?---Yes.

10 And then you see in the last bullet point he said in the statement that, "On receipt of the letter from the Premier the minister, his chief of staff and I discussed the issue and specifically agreed that I had authorised approval to negotiate and complete the purchase." Do you see that?---Yes.

Now, by this stage, of course, you well understood that one of the issues before you was the question of approval?---That's right.

20 And should we understand, Ms Pettersson, that when you read this statement it was plain to you that on the subject of authority Mr Watkins was drawing together the threads that we see set out on page 94 including, of course, the letter from the minister to him dated 28 February, 2011?  
---Yes, that's right.

And should we understand, Ms Pettersson, that the reference to that letter had some influence on the way in which you conducted the investigation and ultimately reported your findings?---Yes, it did.

30 Could I ask you to just refer also please to paragraph – I'm sorry, let me withdraw that. Yes, page 98 of the statement behind tab 20. And do you see the heading Summary about a quarter of the way or so down that page and there's reference then to the issues raised in the terms of reference which are given the subheading TOR, do you see that?---Ah hmm.

And do you see in reference to terms of reference A and B that I think raised the question of authority, you'll see that Mr Watkins in this statement set out his position in a summary way?---Yes.

40 And if you look specifically at paragraph number 3 do you see there that he referred to the Minister for Lands giving authorisation and then we see that, we seem to have what's quoted from a letter of 28 February, 2011, do you see that?---Yes.

And so when you read this statement, Ms Pettersson, was there any doubt in your mind at all that Mr Watkins was contending that he had authority at least from the Minister for Lands via that letter?---I read that as Mr Watkins making clear to me that he believed he had that authority to execute the purchase and that that was fully supported, you know, within all the terms of the way the public sector works.

But part of that written authority was the minister's letter of 28 February - -  
-?---That's right.

- - - 2011?---Yes. I read that as his contention but as an investigator I had to regard that as his contention only. The fact that I had been engaged by Brendan O'Reilly to investigate the matter meant that there was probably more to it than what he was putting forward.

10 THE COMMISSIONER: But you understood his contention to be based on a number of matters including the letter of 28 February?---Absolutely, yeah.

MR ALEXIS: All right. Now, in paragraph 27, Ms Pettersson, you tell us about the record of interview that you conducted with Minister Kelly, is that so?---Yes.

And we find I think a copy of that record of interview reproduced in your report?---Yes.

20 And in paragraphs 28 through to paragraph 31 of your statement we find reference to the record of interview that you conducted with Mr Watkins. Is that so?---Ah hmm, yes.

And similarly we find the typed record of interview from Mr Watkins in your final report?---Yes, that's right.

Now just going back to something I mentioned earlier, in relation to the signed statement, the unsigned version of which I've just taken through behind tab 20, was it before the formal part of the record of interview with  
30 Mr Watkins that he handed to you a signed copy of that statement?---Yes.

And was there also provided on that occasion the bundle of documents which contained the attachments as referred to in that signed statement?  
---That's right.

Thank you. Now, in paragraph 33 of your statement, Ms Pettersson, if I could bring you through to that?---Ah hmm.

40 You tell us of an occasion where you discussed the investigation with one of your superiors, Ms Colby?---Yes, that's right.

And should we understand that during that discussion you made reference to her about the letter of 28 February from Minister Kelly to Mr Watkins?  
---That's right.

And she responded with some surprise as to the existence of that letter. Is that so?---Yes, that's right.

THE COMMISSIONER: Mr Alexis, at a time when convenient to you, we should adjourn.

MR ALEXIS: Yes. Well, now's a convenient time.

THE COMMISSIONER: Yes, very well. The Commission will adjourn until 10.00am tomorrow morning.

10 **AT 3.59 PM THE MATTER WAS ADJOURNED ACCORDINGLY**  
**[3.59pm]**