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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION NAPIER

Reference: Operation E11/0475

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 28 JUNE 2011

AT 2.05PM

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

THE COMMISSIONER: Yes. I just wanted to say something to Mr Branson.

MR BRANSON: Yes.

THE COMMISSIONER: Mr Branson - - -

MR BRANSON: I've been recorded.

10 THE COMMISSIONER: I'm afraid so.

MR BRANSON: I, I, I apologise.

THE COMMISSIONER: This is, this is the, this is Independent Commission Against Corruption, you know, you have to be careful.

MR BRANSON: (not transcribable)

20 THE COMMISSIONER: In the light, in the light of the, in the light of the remarks which have been reported to me - - -

MR BRANSON: And recorded.

THE COMMISSIONER: - - - I will, I will have a break at 11 o'clock each morning.

MR BRANSON: Thank you very much, Commissioner. I won't say any more, thank you. I do apologise.

30 THE COMMISSIONER: Yes, Mr Alexis.

MR ALEXIS: Perhaps we ought to note my learned friend's very kind offer to - - -

MR BRANSON: I'll shout coffee.

MR ALEXIS: - - - not only, not only organise but pay for coffee and muffins.

40 MR BRANSON: The offer stands.

THE COMMISSIONER: Right.

MR ALEXIS: May I proceed, Commissioner?

THE COMMISSIONER: Mmm.

MR ALEXIS: Thank you.

MR ALEXIS: Mr Welsh, before the luncheon adjournment I drew your attention to the draft cabinet submission behind tab of Exhibit 1 commencing from page 14 and following. Do you recall that?---Yes.

10 And I invited you during the adjournment to look at that document and to read it to see whether or not that enabled you to recall to mind any conversation with Mr Fenn or indeed anyone else within Minister Kelly's office about the subject of the need for a cabinet minute or a minute for the budget committee?---Yes.

And has it been successful in triggering a recollection about that or not?
---No, it's, it increases the likelihood that I asked for the budget committee budget but I, I still don't recall the conversation.

All right. Yes. Thank you, Mr Welsh.

20 THE COMMISSIONER: Yes, Mr Branson?

MR BRANSON: I have no questions, thank you.

THE COMMISSIONER: Yes, Mr Curtin?

MR CURTIN: No, thank you, Commissioner.

THE COMMISSIONER: Any questions? No. Yes, Mr McIlwaine.

30 MR McILWAINE: Yes. No questions, Commissioner.

THE COMMISSIONER: No questions, sorry, Mr Harris.

MR HARRIS: Thank you, just one question.

40 In this period that we're talking about and I'm referring specifically to the issue of cabinet minutes and budget committees, was cabinet actually convening during this period of the lead up to the election and the time this contract appears to be have been executed?---Yes, cabinet was meeting every week.

Was it? And what time did that cease or what date? Do you recall?---It, I was there until 7 January and it met up until that point.

This year?---Yes.

Yeah. But thereafter?---I, I don't know, I wasn't there.

All right. Thank you.

THE COMMISSIONER: Mr Alexis I take it there's no further questions?

MR ALEXIS: No.

THE COMMISSIONER: No. Thank, thank you, Mr Welsh. You're excused.

10 MR McILWAINE: My client's excused, Commissioner?

THE COMMISSIONER: Yes.

THE WITNESS EXCUSED

[2.08pm]

MR ALEXIS: Commissioner, could I now call Ms Lexie Hopkins.

20 THE COMMISSIONER: I take it you're representing Ms Hopkins?

MR TOSEVIC: Yes.

THE COMMISSIONER: Won't you be seated please.

MR TOSEVIC: Ms Hopkins wasn't previously announced.

THE COMMISSIONER: No, I understand that.

30 MR TOSEVIC: I seek leave to appear for Ms Hopkins, your Honour - Commissioner. My name is Tosevic.

THE COMMISSIONER: Yes, Mr Tosevic, you have leave. And does Ms Hopkins want a section 38?

MR TOSEVIC: I'll be asking the Commission to make that declaration.

40 THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Ms Hopkins and all documents and things 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 HOPKINS AND ALL DOCUMENTS AND THINGS 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.

- 10 THE COMMISSIONER: Ms Hopkins, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MS HOPKINS: Under oath.

THE COMMISSIONER: Mr Alexis?

MR ALEXIS: Thank you, Commissioner. Madam, is your full name Lexie, that's L-E-X-I-E, Hopkins?---Lexie Ann Hopkins.

10 Thank you. And is your present occupation that of executive assistant to the CEO of the LPMA as it was then called, Mr Watkins?---Yes, that's correct.

And for how long have you held that position?---With LPMA or with Mr Watkins?

With Mr Watkins?---Possibly going on 12, 13 years.

20 And just so that the Commissioner and everyone appearing in this inquiry understands, you haven't provided the Commission with a written statement of evidence?---No.

Now, Ms Hopkins, before working within the LPMA during the period you've just referred to, should we understand that you have worked with Mr Watkins when he was working in other capacities within various government departments?---Yes, that's correct.

30 And so over what sort of period of time should we understand that you've worked as a personal assistant for Mr Watkins, leaving aside the particular positions that he was holding at the time?---Do you mean in his, in his capacity as CEO in other government agencies?

Yes?---Is that what you're asking me?

Yes?---Could you ask me that question again. I'm sorry, I've lost the train.

40 How long have you worked for Mr Watkins? Leave aside his respective positions in various departments over many years, but for how long have you worked for him?---I would have, I started in nineteen, working for him, 1984/85 I started working at the Soil Conservation Service in Sydney where he was working and then working as his PA I would be looking at probably say 1991. 20 years, would that be?

So 20 years as Mr Watkins' personal assistant?---Yes.

Right. Now, in more recent times, in your role, should we understand that you would attend to any secretarial duties that Mr Watkins required, for example the typing of letters and other documents?---Yes, that's correct.

And did you also provide those types of secretarial services to Mr Bob Costello, the chief financial officer of the LPMA?---When he was, I, I assisted him on occasions in his, in his role as financial if there was no one around, and then when he was appointed as the acting CEO.

10 Right. Now, could you identify for us, please, the location of the chief executive's office and the geography associated with the location of that office, the area which you worked at or from, and the office or areas from which Mr Costello and Mr Matchett worked from?---I'm ah, the CEO's office is in a corner with an, is this, with an interconnecting door to my office, which then has an interconnecting door to Mark Matchett's office. So it's a suite. And Bob Costello's office is one, two offices down the hall.

Mmm. So for Mr Watkins to move from his office to Mr Matchett's office, he would pass through your office and vice versa. Is that how we should understand it?---Yes, you could, but you could also go out through the hall and in.

20 So you and Mr Watkins and his chief of staff, Mr Matchett, work in reasonably close quarters. Is that so?---Yes, that's correct.

Now, can I ask you to look at a couple of documents for us, please, and you'll be shown a folder which has been marked as Exhibit 1 and the documents are arranged behind a series of tabs. And could I ask you firstly to look at the document behind tab 2. And do you see this is a three-page document on the Land and Property Management Authority Crown Lands letterhead in the top right-hand corner on page 4?---(NO AUDIBLE REPLY)

30 Do you see that, Ms Hopkins?---I'm sorry, you're on tab 2?

I am?---Yes, Land and Property, yes.

Thank you. And just take a moment to familiarise yourself with the document if you would, and in particular come through to page 6. I'm referring to the pagination in the bottom right-hand corner?---I have only three, oh, page 6, yes, sorry.

40 Right. Do you see the page number in the bottom right-hand corner?---Yes.

I'll be referring to those pages?---Oh, right.

Okay. Now, is this a document that in the ordinary course you would prepare in terms of its typing and presentation?---No, not a ministerial.

So your role did not include the preparation of ministerial briefing minutes? ---Not, not this one.

So should we understand that your role did include the preparation of ministerial briefing minutes but not the one behind tab 2?---No.

And- - -

THE COMMISSIONER: Does that mean the typing, the typing of the minute?---No, I, I haven't done that.

10 No, I understand that, but normally you do?---No, no. Normally I don't do ministerial briefing notes.

You don't type them?---No.

MR ALEXIS: Who does?---The, either the ministerial unit or the chief of staff or who is concerned with the issue.

20 All right. Now, you'll see that if you look at paragraph 1 of that document on page 4 there's reference to the creation of a new state park. And if you look further through the document, for example in paragraph 2.2, you'll see in the second line a reference to the property known as Currawong. Do you see that?---Yes, I do.

Now, do you, are you able to tell us who prepared this briefing minute to the minister, having regard to- - -

THE COMMISSIONER: What do you mean by, I think you should just make clear what you mean by prepared, Mr Alexis.

30 MR ALEXIS: Yes. Thank you, Commissioner, I will. Ms Hopkins, are you able to tell us from your knowledge of the goings on in the office of the chief executive at the time, who prepared this briefing minute in terms of the content that we see set out on the three pages and the presentation in the form that we see also?---No, I can't tell you.

Before me showing you this document this afternoon, when did you first see this?---I don't recall seeing it other than, other than now.

40 THE COMMISSIONER: So this is the first time you've seen it?---That I can recall seeing it as looking at it directly like that, yes.

MR ALEXIS: But, Ms Hopkins, a moment ago when I asked you about this document you were able to tell me and tell me very promptly I'd suggest that in relation to the preparation of briefing minutes, you didn't prepare this one. Do you recall giving me that evidence?---Yes, I do.

And you were able to recognise when I asked you to open this folder of documents at tab 2 that this was the October briefing minute in respect of Currawong, weren't you?---Yes.

And you were able to recognise it because you have in relatively recent times seen this document, and may I suggest particularly when you were asked to prepare some documents in relation to the Internal Audit Bureau investigation, that's so, isn't it?---Yes, I, I did prepare some, put those together.

10 So when you told me a moment ago that you hadn't seen this document until I've just shown it to you now that wasn't correct, was it?---Well, I, I think I'm getting it confused with the one that I know I did do.

I don't wish to confuse and we have a very clear interest, Ms Hopkins, in getting as clear as we possibly can. Now, is it correct for the Commissioner to understand that when you were involved in the preparation of documents for the IAB investigation, and I will come to some detail about that, this was one of the documents that you had occasion to see?---I would've seen it in, in assisting to put the documentation together, yes.

20 Now, if you could turn over please to the documents behind tab 8. And do you see the briefing minute of page 41 and 42 firstly?---Yes, I do.

Now, were you involved at all in the preparation of that briefing minute?---No, I wasn't.

When was the first time you saw this document?---I can't recall seeing it unless I saw it when putting it together for the IAB report.

30 All right. And if you look at the letter at page 43 ending on page 44 were you involved at all in the preparation of this letter either as part of the briefing minute or separately to that which you'll see is a letter which was sent by Minister Kelly to the then Premier?---I wasn't concerned with that.

And when did you see, if at all, this letter for the first time?---That would've been in the IAB report.

Right. Now, could I ask you to turn please to the material behind tab 9. And firstly, if you could look at the letter reproduced at page 47A, do you have that?---Yes, I do.

40 And can you tell me when was the first time you came to see this letter, or a copy of this letter from the Premier?---Would've been with the IAB report.

If you just turn back to page 46. You'll see that we have a copy of a form which seems to be a form from Minister Kelly's office, do you see that?---Yes.

Are you familiar with this form?---Yes, I am.

Can you tell us what its purpose is?---That's a cover sheet that comes down from the minister's office.

Comes down where?---Into the ministerial unit.

And that's within the LPMA?---Yes, that's right.

And is this a form which travels with a letter such as the Premier's letter that we see at page 47A?---Yes, it would be.

10

And do you see on page 46 there's a stamp in approximately the top right-hand corner?---Correct.

Do you see it says Office of Chief Executive?---That's right.

And is that referring to Mr Watkins' office?---That would be referring into the ministerial unit.

Within the LPMA?---Yes.

20

And so does that stamp or the fact of that stamp on that document tell us that this form together with the Premier's letter was received into the ministerial office within the LPMA on the date indicated, 28 February? ---I would assume that to be right.

Now, just turn to page 45 please within tab 9. Can you explain what this form relates to if you can, it seems to be a Land and Property Management Authority form?---That's right.

30

And can you tell us if you can the relationship between that form and the one that I've just taken you to which came with the Premier's letter?---My understanding, sorry, what was that one again?

The question is can you explain to us the relationship between the form at page 45 together with the form at page 46 and the underlying letter from the Premier?---46 my understanding is the one that goes on from the minister's office and 45 is the one that's put on when its received in the ministerial unit.

40

And is the form at page 45 prepared in the ministerial office upon receipt of the document from the minister's office?

THE COMMISSIONER: The ministerial unit I think.

MR ALEXIS: Let me withdraw that question and put it again, Ms Hopkins. Is the document at 45 prepared within the ministerial unit of the LPMA - - - ?---Yes.

- - - after the document from the minister's office at page 46 is received in that unit?---That's my understanding, yes.

Thank you. Now, are you able to assist us with the handwriting on page 45 on this form in terms of who has written the description that we see concerning the correspondence and who has written on the form for the attention of Mr Matchett?---Charlie Micali.

10 And in February 2011 what was the position that he occupied within the ministerial unit of the LPMA?---Ministerial liaison officer, I, I think that's his title.

And is it usual for him to try and capture the purpose or content of the letter in a description, for example, as we see on page 45, you see the words "letter of approval for CEO to negotiate directly with Eco Villages", you see that?---Yes, I can see that.

20 And is that typical of how in a summary way correspondence is referred to - - -?---Yes.

- - - to try and capture the essence of the - - -?---Yes.

- - - communication and then mark it for the attention of the appropriate person?---Correct, yes.

And is it with this form that the letter then gets taken to or delivered to the person for whom attention is marked, in this case Mr Matchett?---Yes.

30 And so does Mr Matchett receive as a matter of procedure the underlying two documents at page 46 and 47A with the covering form at page 45? ---Yes.

That's how we should understand the procedure?---That's my understanding.

40 All right. Thank you. Now, can I ask you to look at the document please behind tab 10 and can I ask you to tell us please whether you saw this letter which is addressed to Mr Watkins under the hand of Minister Kelly and you'll see the date 28 February, 2011. When did you first see this document?---I first saw that as a, in a draft to type or asked to be typed.

I see. And when you tell us that you saw this as a draft to be typed were you involved in the typing part of the drafting, if that makes sense?---Yes.

And who did the drafting so as to enable you to do the typing?---I was asked to do the draft by Bob Costello.

And what did he say?---That I, he needed a letter, do this letter.

And how, how was it dictated?---Verbally.

And by that do you mean that Mr Costello spoke the words that you then typed as he spoke?---Yes, correct.

In other words it wasn't put onto a tape or a disc or something - - -?---No, no.

10 - - - and transcribed later?---No.

And was Mr Costello standing next to you at your computer screen or sitting next to you or in some close proximity while this was occurring?---Correct.

Well, can you just explain what happened?---He was standing with me and I typed it onto screen.

And was Mr Watkins about when this was occurring?---No.

20 Do you know where he was?---He was out at the UTS, uni up in - I forget where that was now, but he wasn't in the office, no.

All right. Now, can you tell us please when this occurred, namely, the process of Mr Costello dictating, as you've told us, the letter and you typing it up as he spoke?---It was on Friday. The week before. Friday, 18th, 17th.

Was that Friday, 18 March, 2011?---If that was Friday, yes.

30 Now, before Mr Costello dictated the letter to you in the way that you've told us can you recall to mind what Mr Costello said to you about what it was that he was seeking to do and have you prepare?---No, I don't recall, I was, I've got no memory of that.

Well, you seem to have a good memory of him dictating this letter to you and you typing it and you were able to recall to mind the day, namely, Friday, 18 March, surely you can tell us what occurred before the point in time when you started typing?---I recall that it was on, the Friday morning was when Mr, the issue of Currawong was of a concern and that more information was required on that day.

40

And you learnt this from who?---From Bob Costello.

And did he tell you - - -?---He advised me that he was, yes, acting as the CEO.

And when did he tell you that he was acting as CEO?---Some time in the morning when I got to work.

And did he explain to you why it was that he was acting as CEO?---Not in full detail, no.

Well, no doubt, Ms Hopkins, you appreciated that because Mr Costello was telling you that he was acting as the CEO that something must've therefore happened to the CEO?---I, yes, I would've been aware that it was, something had occurred, I wasn't party to any discussion.

10 What did you learn as to the something that had occurred with the CEO?
---That there was an issue with the sale of Currawong.

Right. And what was that issue that you had learnt about?---Whether it should've taken place.

And what did you understand that to have to do with Mr Costello telling you that he was acting as the CEO?---I don't know.

20 THE COMMISSIONER: You must've known. Surely you, you've been working for Mr Watkins for so many years this must've come as a shock to you?---Well, it was a surprise, yes.

And didn't you want to know why he – what lay behind it?---Well, I think it was – I knew there was an issue with Currawong.

How did you know that?---Because we had to do the briefing the night before with an issue.

Well, what did Mr Costello tell you on that morning?---In the morning?

30 Yes. What did he say to you?---I don't recall what he said other than the fact that Warwick was being stood aside and he was to be the acting CEO because there was an issue with Currawong.

And then did he take the letter to him?---He said we will need to do a letter.

Was that immediately after telling you?---No, no, there would've been interim things going on. I don't recall when I did that letter, but it was during the day.

40 MR ALEXIS: Ms Hopkins, please look at the document behind tab 5 of Exhibit 1. And is that a copy of the briefing note to which you just referred in answering on of the Commissioner's questions?---Yes. That, I, yes.

And can you tell us, please, what your involvement in the preparation of that document was?---I did the typing of it.

And where, where did the information that is set out in this document come from?---It would have come from other information that was being put together.

Well, that's helpful, but are the words that we see on pages 68 and 69 your words or are they someone else's words that you just transcribed?---They're someone else's words that I typed.

Whose words were they?---Bob Costello's.

10

So did he dictate this to you?---Yes.

And did, did he dictate this to you in a similar way to the way the letter that I'll come back to was dictated, namely he spoke and you typed?--- Yes, correct.

And did you understand or did he give you to understand what the point was of the preparation of this briefing minute on 16 March?---My understanding was it was to clarify concerns that were, that had been raised in the minister's office.

20

What sort of concerns?---That they needed background information on Currawong.

And did you understand that the question had been raised as to whether or not Mr Watkins had authority to enter into the contract and commit the government to the purchase of that site?---I would have been aware that there was an issue with the purchase, but not details as to why.

30

Did you learn through over the next 24 hours or so of typing this document that Mr Watkins had been spoken to by Mr O'Reilly from the Department of Premier and Cabinet?---Only on Friday morning.

What I want to suggest to you, Madam, is that you and Mr Watkins had a very open and very regular line of communication and he spoke to you about the fact that he had been spoken to by the director general of the Premier's department?---I don't recall him telling me.

40

See, what I want to suggest is that you learned well before Mr Costello told you that he was acting as CEO that there were steps afoot to have Mr Watkins stood down as chief executive pending the outcome of an internal investigation. What do you say to that?---I don't, that's, no.

Well, when you shake your head and say no, are you telling me that you have no recollection or are you denying any knowledge of that?---I'm denying knowledge of him telling me anything.

Now, is it your evidence, Madam, that you first learned that Mr Watkins had been stood aside when Mr Costello informed you that he was acting chief executive on the morning of Friday, 18 March?---Yes.

And are you telling the Commission that you were not aware of that either from Mr Watkins directly or from any other source before Mr Costello conveyed that to you?---To my recollection, yes, that's correct.

10 All right. Now, could I just come back to the letter that you were telling us of earlier behind tab number 10. If we could go back to that, please. Now, what did Mr Costello say to you about why this letter was being prepared and why you were typing the letter on the morning of 18 March?---I was doing other things for him and so he just asked me to do that letter.

Mmm. But when he was dictating it to you, had he told you that he needed you to prepare a letter for signature by the minister to Mr Watkins?---Yes, he said that to me.

20 And did he tell you why the letter was being prepared?---No, he didn't.

Are you sure about that?---Positive.

You would have learnt soon enough no doubt that the letter related to the question of approval being given for the LPMA to enter into negotiations for the acquisition of the Currawong site including execution of papers, do you see that?---Yes, I do.

30 And as you were typing that no doubt you appreciated that that event had already occurred because of the briefing note that you'd prepared back on Wednesday the 16th?---Correct.

So what did you then do when you appreciated that this letter was being prepared and related to the giving of approval rather than confirming that approval had already been given?---Could you ask me that or rephrase it?

40 What did you say to Mr Costello when you appreciated that this was a letter that you were preparing that was giving approval for something that you knew had already occurred?---I don't recall what I said to him other than I just did as I was asked to do, type the letter.

Didn't you say to Mr Costello what's this letter for? It's, how can we have a letter prepared giving approval for something that's already occurred? ---I don't recall asking him why.

Are you sure about that?---Correct.

The question was obvious in your mind though wasn't it?---It may have been.

And you tell the Commission that you never raised any issue about that?
---I, I was doing as, as I was asked to do and I thought well, it may be a confirmation letter.

THE COMMISSIONER: But it wasn't a confirmation letter, you just have to read it to see that it's not a confirmation letter. It says approval is given. It's a letter setting out what is happening?---That was my understanding.

10 But that's, that's simple English. Are you really suggesting that you didn't know what was happening?---No, I'm not saying that.

And you knew that this letter was being prepared after the event to make it look as if Mr Watkins had authority when he exchanged contracts for the Currawong site?---No, I was under the impression that it was, that was needed to confirm it.

MR ALEXIS: Now, Ms Hopkins, after the letter was typed and printed out do you recall whether or not you were asked then to make any corrections or any amendments to the letter?---No.

When you typed the letter do you recall sending an electronic form of that letter by email to Mr Watkins?---No, I don't.

Are you sure about that?---I'm, yes.

You see, what I want to suggest is that you well appreciated, just leaving aside what Mr Costello may or may not have asked you to do that this was an important letter for your chief executive and you wanted him to be satisfied with its terms before arrangements were made for Minister Kelly to sign it, what do you say to that?---I didn't email it to anybody.

So your evidence to the Commission is that you didn't send this letter to Mr Watkins by email for his consideration?---Not that I can, no, I can't recall sending it and I'll say no.

Did you email it to someone else?---No, I didn't.

40 What about to Mr Costello's computer?---No, I didn't.

All right. Now, can I come, sorry, before I go to that other matter, Ms Hopkins, after the letter was prepared did you print it out on the letterhead that we see at page 47B?---Yes, I did.

And what then happened to the letter in its printed form before it was signed?---I gave it to Bob Costello.

And what did he do with it as best you recall?---He, he took it and was going to deal with it.

And what does that mean as you understood it?---Take it and get it signed.

By Minister Kelly?---Correct.

10 And were you aware that arrangements had been made for Minister Kelly to be available so that Mr Costello could get the letter signed?---No, I wasn't.

Were you involved in the making of any of those arrangements?---No, I wasn't.

After you gave the printed blank letter to Mr Costello when did you next see it?---I would've seen it in putting together for IAB.

20 So when you saw this letter when you were putting together the documents for the IAB you noticed no doubt that Minister Kelly had signed it and dated it 28 February, 2011?---I don't know that I would've seen, I didn't take a lot of notice of the letter so I can, don't recall seeing, taking any notice of it.

Ms Hopkins, out of all the documents that were put together for the IAB this was one that you knew had been dictated to you and one that you had yourself typed and provided to Mr Costello in a blank form, that's so, isn't it?---Yes.

30 And when you saw it later when you were putting together the documents for the IAB you would've noticed no doubt that Minister Kelly had signed it and dated it. Is that so or not?---Possibly.

THE COMMISSIONER: Well, you wouldn't have put it in the brief had you not seen that it had been signed would you?---I may have, I don't know.

You would've put in an unsigned letter in the brief you were giving to the IAB?---I was just putting the papers together.

How did you know what papers to put together?---I was told to, I only assisted in putting them together.

40 Who told you what papers to put in?---Mr, Bob Costello was the one that was doing the briefing.

Who told you to put this document in the brief?---It was given to, I was putting a folder together to put it in.

Who told you to put this document in?---Bob Costello.

MR ALEXIS: Now, - - -

THE COMMISSIONER: Before you typed this document, this letter, had you been told that the minister, Minister Kelly had approved the purchase of the Currawong site by LPMA?---Had I, I beg your pardon.

Had you been, had anybody told you before you typed this letter that Minister Kelly had given approval for Mr Watkins to purchase the Currawong site?---Nobody had told me.

10 So what made you think this was confirmation of an approval letter had already been given?---I don't know, just by the way it was written.

But it says approval is given?---That's what I was asked to type.

That doesn't mean confirmation. I'm just trying to understand why you thought it was simply a confirmation of approval?---It was, that was my understanding.

20 How did you arrive at that understanding?---I don't know. My, just the way I interpreted it.

Yes, Mr Alexis.

MR ALEXIS: Now, Ms Hopkins, I asked you when you saw the letter at page 47B in the form signed by the minister and dated by him after you'd typed it and you told me that it wasn't until you were preparing and assisting Mr Costello collating the documents for the IAB inquiry, do you remember telling me that?---Yes.

30 Now, may I suggest to you that in fact you saw the signed letter at 47B of Exhibit 1 on the day upon which it was signed by the minister, that is, on the 18th, that afternoon?---I don't recall seeing it on that afternoon.

Can I show you, I'll show you this document with a copy for you, Commissioner, and Mr Wong will I trust distribute copies. I'll just pause, Commissioner, while everyone gets copies.

40 THE COMMISSIONER: Well, perhaps, Mr Alexis, we should adjourn for five minutes?

MR ALEXIS: Yes, thank you, Commissioner.

SHORT ADJOURNMENT

[2.51pm]

MR ALEXIS: Commissioner, before we resume can I just indicate that during the break Mr Tosevic who has sought leave to appear for

Ms Hopkins spoke with Ms Hopkins while she was in the witness area. I asked him not to. He nonetheless continued to confer with her and it seemed to me from my observation confer with her in relation to documents. I asked him to cease conferring with her, he nonetheless continued to do so. I thought I ought to bring that to your attention.

THE COMMISSIONER: Yes, thank you. Mr Tosevic?

10 MR TOSEVIC: Yes, I concede that, Commissioner, and I concede that I acted, my submission is I acted properly. I'm entitled, I'm entitled to obtain instructions from my client, your Honour - Commissioner, as I understand it my client is not subject to cross-examination or in any case my understanding is that the normal rules don't apply. It's appropriate that I obtain instructions and give reassurance to my client.

20 THE COMMISSIONER: Mr Tosevic, I regard it as entirely inappropriate. You're entitled to get instructions when your client's examination has been completed. When she is in the middle of being questioned it is entirely inappropriate for you to discuss her evidence with her. If you need to get instructions the time for doing that is when she has completed her evidence. I regard it as improper for counsel to discuss the evidence of a witness who is under examination by counsel assisting as it would be inappropriate for counsel assisting to question the witness when she is under examination by some other counsel. That is common practice with which we have all been brought up, Mr Tosevic and I take it it won't happen again.

MR TOSEVIC: If that is the common practice, Commissioner, it's a practice that I - - -

30 THE COMMISSIONER: I'm just telling you that I take it it won't happen again and I expect an answer from you in the affirmative.

MR TOSEVIC: Yes.

THE COMMISSIONER: Do I get it?

MR TOSEVIC: Yes, Commissioner.

THE COMMISSIONER: Yes, thank you. Yes, Mr Alexis.

40 MR ALEXIS: Thank you, Commissioner.

Ms Hopkins, you should have before you in the witness-box the document that I provided to you before the short adjournment which is an email from you it seems sent on Friday, 18 March at 4.10pm. Do you see that?---Yes, I do.

Now, the body of the email appears to be addressed from Mr Costello. Do you see that?---I do.

Now, firstly, did you send this email on the date and time indicated?---I don't recall sending it but that's my name.

MR ALEXIS: Yes.

10 THE COMMISSIONER: Is anybody else authorised to use your email account?---No.

So you sent it?---I evidently sent it, yes.

MR ALEXIS: And, Ms Hopkins, is this a fair picture of the position that shortly before 4.10pm on Friday, the 18th Mr Costello dictated the email which you then typed on your computer for the purpose of then transmitting it by email to the address of the recipient that we see? And does that explain why from your email address it seems to be, or purports to be an email from Mr Costello?---Correct.

20

Thank you. Now, can you assist me with the email address of the recipient [ADDRESS GIVEN]?---As in - - -

THE COMMISSIONER: You understand very well?---Whose address is it? Yes?---It would be the minister's address.

MR ALEXIS: That's Minister Kelly?---Minister Kelly.

30 And so should we understand that this email that you sent was sent to Minister Kelly on the afternoon of Friday, the 18th attaching copies of the papers that appear to have been previously discussed between he and Mr Costello, is that how you understood it?---That's, yes, correct.

And then do you see there's a reference then the pages after attachment F (map) were not submitted, do you see that? Do you see that in the email? ---I (not transcribable) it's in the email, yes.

40 Thank you. And just turn through if you would. You'll see the numbers of the attachments in the top right-hand corner and you'll come through about halfway through to a map of Pittwater with F inscribed in the top right-hand corner, do you see that?---Yes, I've got it now.

And so just coming back to the email and I'd ask you to keep your other hand in attachment F if you don't mind. If you just come back to the email and you'll see that Mr Costello had asked you to type the pages after attachment F were not submitted in the original package to Mr Fenn and Brendan O'Reilly, do you see that?---Yes, I do.

And may we take it that you understood that what Mr Costello was informing Minister Kelly was that the documents after attachment F had not been sent in the original briefing note to which I took you to earlier, that's the one that you prepared on 16 March behind tab 15. Do you see that?

---Yes.

And if you just go to tab 15 and come to the end of the documents in tab 15 at page 78, do you have page 78?---I do.

10

Thank you. You'll see that page 78 behind tab 15 is the same attachment F that travelled with this email that was sent by you to Minister Kelly on the afternoon of 18 March, do you see that?---Yes, I do.

So is this the position that, as you understood it, when you typed and sent this email Mr Costello was drawing to the minister's attention that the documents after attachment F, namely, the letter that was signed earlier that day, if you see the next document after attachment F, had not been provided under cover of the earlier briefing minute to Mr Fenn or Mr O'Reilly?

20

---Yes.

And so we should understand because you sent the attachment by email at 4.10 on 18 March that at least by that time Mr Costello had organised for Minister Kelly to sign the letter and had brought it back to the LPMA's office?---Must have happened, yes.

And when you sent this email by at least, by at least that stage I'd suggest you'd seen the signed version of the 28 February letter?---Yes, I would have sighted it with putting this, these papers or Mr Costello giving me these papers.

30

Now, can I ask you to tell us if you can why it was that in this email you were drawing the minister's attention to what had been submitted to Mr Fenn and Mr O'Reilly and the additional documents that had not been? ---I've got no knowledge of that.

And do you see behind the letter of 28 February in the attachment to the email there's also attached the briefing minute that was signed back in October, do you see that three-page document I took you to earlier?---Yes, I do.

40

So can you recall to mind any reason why in sending this email you and Mr Costello were seeking to draw attention to those two documents, namely the 28 February letter and the October briefing minute, not forming part of the original briefing to Mr Fenn and Mr O'Reilly?

MR TOSEVIC: I object to the question. The objection is based on you and Mr Costello because the evidence is that typing was done by the witness at the dictation of Mr Costello. There's no - - -

MR ALEXIS: Let me withdraw the question. It's easier. Ms Hopkins, you knew when this email was sent, Mr Costello having just dictated it to you and you having just typed it, that attention was being drawn to what had previously been sent to his chief of staff and to Mr O'Reilly and what had not been. You understood that, didn't you?---I, yes, with what was written down there.

10 Mmm. And did Mr Costello explain to you why it was necessary to draw attention to that?---Not that I can recall.

Did you ask him?---No, I didn't.

Did you ask him why are you sending the minister a copy of the letter via an attachment to this email that he'd signed only a short time before?---No, I didn't ask him.

20 Did you ask why are we sending a copy of this letter to the minister at all? ---No, I didn't ask him.

Did Mr Costello ever say to you in connection with the signed letter of 28 February, what he was going to do with it?---No.

Did you ask him?---No.

I tender that email, Commissioner.

THE COMMISSIONER: The email and the attachment?

30 MR ALEXIS: And the attachment. Thank you, Commissioner.

THE COMMISSIONER: Exhibit 12 is the email of 18 March, 2011, sent at 4.10pm, and the attachment.

#EXHIBIT 12 - EMAIL AND ATTACHMENTS SENT AT 4:10PM ON 18 MARCH 2011

40 MR ALEXIS: Now, Ms Hopkins, I want to show you another email, with a copy for you, Commissioner, and copies for everyone. Can you distribute those. Now, as the copies are being distributed, Ms Hopkins, do you see, and we're still on Friday, 18 March, that at 5.52pm, the earlier email to the minister going just after 4 o'clock, that at 5.52pm your emailing Mr Watkins asking him to give you call tonight? Do you see that?---I do.

And do you see you've then said to him, "I would say the flag is really flapping or completely wrapped around the flagpole?"---I do.

Now, this is your email to Mr Watkins on the date and time indicated. Is that so?---Yes.

What did you mean by, “The flag is really flapping or completely wrapped around the pole?”---I don’t know.

THE COMMISSIONER: Ms Hopkins- - -?---I must have- - -

10 - - -the question is- - -?---I must- - -

- - -that you are being less than frank and you are not cooperating with the Commission. You’re not answering the questions directly.---I haven’t had enough- - -

I have to warn you that failure to answer questions of the Commission can result in gaol, imprisonment, in a criminal conviction and gaol imprisonment of five, up to five years. May I ask you to give careful consideration to the questions and to answer them as best as you can
20 honestly.

MR ALEXIS: Now, Ms Hopkins, can you tell the Commissioner please what you intended to convey by the comment contained in this email?---I would have been, said that there are issues evidently with that sale and I need to speak to you about them.

Now, to what issue or issues did you have in mind?---I would say it would have been the letter.

30 And that’s the letter of 28 February which was clearly enough backdated when it was actually signed on 18 March?---That must be what it is, yes.

Now, if you look at the email on the next page you’ll see that you have forwarded to Mr Watkins at about 6.50, so about an hour or so after your flagpole email, forwarding the earlier email that you’d conveyed to the minister with the papers that we’ve already discussed with the short message, “Here is what you want.” Do you see that?---I do.

40 So may we, may we take it that between the flagpole email of 5.52 and your further email of 6.50 you had a conversation with Mr Watkins?---Yes.

Because you responded by saying, “Here is what you want”?---Correct.

And during the conversation he asked you to send to him what it was that you then sent, correct?---Correct.

Thank you. Now, tell me what it was that you discussed during that telephone conversation?---I can tell you truthfully that I cannot recall what

he would have asked or what I would have discussed other than he would have asked me to send him the papers and I'm not lying.

Well, madam, you mentioned earlier that what you intended to convey by the flagpole reference was that there were some, there was an issue or some issues that you were concerned about. Do you recall that?---Yes.

And I asked you what that issue was and you said the backdated letter?
---Well, that's what I would have spoken to him about.

10

Well, what did you say?---That there is an issue with the letter - - -

And what was that?--- - - - that had been signed.

What was the issue?---The date.

And what was it about the date that caused you concern?---Well, the fact that it, it wasn't dated on the day that it was typed.

20 It was backdated?---Backdated, correct.

It was a letter which on its face gave a completely false impression about authority existing at the time your chief executive executed and exchanged the contract, that's so, isn't it?---Correct.

And you appreciated that, didn't you?---Yes.

Which is why you were concerned?---Yes.

30 Well, when you raised this with him, what did he say?---He must, I don't know what he said but he must have said send me the papers. I, I don't know.

Well, when - - -

THE COMMISSIONER: What I don't understand is this: at, I think it is at, at 10 past 4.00 on that Friday you send Minister Kelly copies of the papers as discussed?---Yes.

40 An hour and 40 minutes later you send Mr Watkins an email and you ask him to give you a call that evening and you say that the flag was really flapping or completely wrapped around the flagpole so the inference is that something happened between 10 past 4.00 and 8 minutes to 6.00 that evening which led you to send this email. What is it that happened that caused you to send in that, in that couple of hours - - -?---I don't - - -

It's less, it's less than, it's about three and a half months ago, not long ago. What happened which led you to send the email of 18 March at 5.52pm?

---I don't remember unless something came up or was said in the office, I don't remember.

But this is quite dramatic, I mean, this is not simply some routine request for Mr Watkins to phone you. Your email is couched in the most dramatic terms. And you are saying that you can't remember what it was that led you to send an email in those terms?---I can't recall. No.

10 MR ALEXIS: So, Ms Hopkins, can we at least understand this that during this telephone communication on the afternoon evening of 18 March you spoke with Mr Watkins about the fact that you had seen the backdated letter, is that so?---Yes.

And you told him, didn't you, that you were not comfortable about the fact that you'd seen this letter that had been backdated and backdated by the minister?---Correct.

20 And you expressed concern about what use that letter might be put given that as you then understood Mr Watkins had been put aside and Mr Costello was acting as CEO?---Yes.

THE COMMISSIONER: You were plainly worried?---I beg your pardon?

You were plainly worried?---I was worried, yes.

MR ALEXIS: What did Mr Watkins say to you when you expressed to him your worry about this very important subject?---I don't know, I don't know what he said.

30 Well, can we accept that he must've said something to you?---He must've, he probably would've said look, it will be right, I, I will deal with it.

Now, when you spoke to him about the letter that you'd prepared, that you knew Mr Costello had organised to have signed by the minister a copy of which you'd seen in the earlier email to the minister what was Mr Watkins' reaction to that when you told him about it and expressed concern?---I, could you ask me that - - -

40 Well, did he lead you to believe that he well understood that the letter existed because he'd spoken to the minister about getting such a letter - - -? ---Yes.

- - - and he's spoken to Mr Costello and arranged for Mr Costello to procure such a letter?---Yes, he was aware, yes, he was.

So when you raised this issue of why with him the response he gave you was that he knew already all about it?---He was, yes, correct.

Did you understand from what he said to you what he was going to do with the letter?---No.

Did you come to learn about that some time later?---Only through what's come up. I wasn't party to any decision-making.

Commissioner, I tender the two emails of 18 March, the first at 5.52, the second at 6.50pm.

10 THE COMMISSIONER: Email of 18 March at 5.52pm is Exhibit 13.

#EXHIBIT 13 - EMAIL FROM MS HOPKINS TO MR WARWICK WATKINS AT 5:52PM ON 18 MARCH 2011

THE COMMISSIONER: And the email of 6.50pm is Exhibit 14.

20 **#EXHIBIT 14 - EMAIL FROM MS HOPKINS TO MR WATKINS AT 6:50PM DATED 18 MARCH 2011**

MR ALEXIS: Can I show you another email, Ms Hopkins. With a copy for you, Commissioner and copies are being distributed. Now, Ms Hopkins, can I ask you to look at this further email, and firstly, can I ask you to look at the day and time, Sunday, 20 March at 11.16, do you see that?---Yes, I do.

30 And you see that it's an email from Mr Watkins sent to the various emails address that we see, the first one we now understand I think to be that of Minister Kelly, is that how you would understand it?---Correct.

His Chief of Staff Mr Fenn and Mr Costello and we see that it's been copied to you, do you see that?---I do.

And do you see that the email attached is a draft statement by Watkins which he indicates will be finalised in the morning? Do you see that?
---Yes.

40 Mmm. Now, were you involved at all in typing the draft statement that we see attached to this email?---No, I wasn't.

Were you involved in any way at all in the preparation of this statement either in terms of the way it's presented, the formatting I mean on a computer or anything to do with the content of it?---No, I wasn't.

Did Mr Watkins discuss the giving of this statement or the content of this statement with you either before or after the receipt of this email?---No, other than the CC, I would have known it by the CC.

Yeah. Well, it was subject matter that it appears at least from the face of the email was thought appropriate to have copied to you. Did its receipt come as a surprise on Sunday, 20 March, to you I mean?---It would have, but that's my work address so I would have got it on Monday morning.

10 Right. And did, may we understand that you got it when you arrived at work on the Monday morning?---Yes.

Did you read it?---I can't recall. I, I, I wouldn't have read it completely.

But did you read it sufficiently to understand what it was all about and what the salient facts were that Mr Watkins, at least in this draft form of statement, was seeking to convey?---Correct, yes.

20 And can I ask why it was that as you understood it, Mr Watkins was sending you a copy of this draft statement?---No, other than in a lot of his, when he does things he will CC me in.

Mmm. But is that just because you will attend to its filing somewhere or is it because he's expecting some input or both?---He would be expecting my knowledge, not input.

Right. Knowledge about what?---Just that he had done it.

30 Mmm. So- - -

THE COMMISSIONER: Had done what?---That he had- - -

Prepared the statement?---Prepared the statement.

MR ALEXIS: Now, if you look to the second page of this draft statement, and could I ask you to find for me the second-last bullet point on that page. It should be the bullet point commencing, "The Premier replied." Do you see that?---Correct, yes.

40 And you see there reference to the Premier's letter of 25 February to which we've already referred?---Yes.

And then do you see in the next bullet point the draft statement says, "On receipt of this letter the minister wrote to chief executive of the LPMA, referring to his specific approvals of October 2010." There's then reference to the expenditure up to 13 million as well as to his letter to the Premier and her reply. Do you see that?---Yes, I do.

And when you read that on the Monday morning, may we take it that you understood that that was a reference to the 28 February letter from Minister Kelly that you'd seen the previous Friday afternoon?---Yes.

And so may we take it that from the Monday morning when you came to read this draft statement you well understood that Mr Watkins was going to convey via this statement that the letter of 28 February that you knew had been signed and created, or created and signed, I should say more properly, on the 18th, as if that letter was available before contracts were exchanged?
10 ---Yes.

Now, having read the draft statement and having appreciated that that was what Mr Watkins was going to do with that letter that you'd seen on the Friday afternoon and sent to the minister, what did you say to Mr Watkins about that?

MR BRANSON: It's probably not specious but I'm not sure it was the afternoon. I thought the lady said that- - -

20 THE COMMISSIONER: Would you mind putting the question again?

MR ALEXIS: Yes, I will.

MR BRANSON: I'm sorry, I don't mean to- - -

MR ALEXIS: No, no, no.

MR BRANSON: I apologise.

30 MR ALEXIS: I think it was one of those late afternoon questions.

MR BRANSON: Well, you've got a lot, you've got a lot on.

MR ALEXIS: Ms Hopkins, you've told us I think that you read the statement on the Monday morning when you returned to work and you appreciated that Mr Watkins via this draft statement at least was intending to use the backdated letter and represent that letter as a letter that he had before contracts had been exchanged on the purchase of Currawong, you've told us that, haven't you?---Yes.

40 Now, when you appreciated that on the Monday morning did you say anything to Mr Watkins about that? The fact that that was the way he seemed to be intending to use the letter in this draft statement?---I wouldn't, no, not that I, I don't recall saying anything to him about it other than is that your statement.

Did you say to him based perhaps at least on what you'd discussed with him on the phone on the Friday afternoon that you weren't comfortable about this?---Not that I can recall.

Did you say to him, Look, you really shouldn't be representing this backdated letter as something that existed when you exchanged the contract when we all know it didn't?---No, I - - -

10 Is that what you thought, however?---I may have thought it but I didn't say anything.

Why not?---I didn't think it was my position to say anything.

But this is a man that you'd worked side by side with for 20 years. Didn't you consider you - - -?---And I respect his decision on what he has, what he does.

20 Well, it must have been obvious to you, Ms Hopkins, that if he had made this decision as he seems to have by this stage it was clearly a wrong decision. That must have been obvious to you wasn't it?---No.

I'm sorry, it wasn't obvious?---No.

Why not?---Well, if that was his decision and he thought that that's what it was it's his decision.

30 Well, didn't you think on the Monday morning when you read this that the flag on the pole would continue flapping if he was going to use this backdated letter this way?---I don't recall thinking that way, no.

Now, after receiving this draft statement did you speak to Mr Costello about the content of it?---(NO AUDIBLE REPLY)

You see that he was one of the recipients of the email?---Not that I can recall saying did you get it, no.

Did you discuss - - -?---I wouldn't have asked him.

40 Did you discuss with Mr Costello the way in which, according to this draft statement, Mr Watkins was intending to use this backdated letter?---No.

Did you have occasion to speak with anyone from Minister Kelly's office, particularly Mr Fenn, about that subject?---No.

So should we understand that you read the draft statement, had the thoughts and concerns that you've told us about but otherwise did nothing?---Correct.

Thank you. I tender that email, Commissioner.

THE COMMISSIONER: The email of 20 March, 2011 at 11.16pm is Exhibit 15.

#EXHIBIT 15 - EMAIL FROM MR WARWICK WATKINS SENT AT 11:16PM DATED 20 MARCH 2011

10 MR ALEXIS: Now, Ms Hopkins, I want to show you another email with a copy for you, Commissioner, and before I go to the detail could you go back to Exhibit 1, the folder in front of you and open it at tab 20 please. I'm sorry, Ms Hopkins, I've made a mistake, it's tab 18. Now, Ms Hopkins, the email behind tab 18 at page 86 of Exhibit 1 was an email that you received, is that the case, on the afternoon or evening I should say of 21 March?
---Correct, yes.

And that attached the final terms of reference in relation to the IAB inquiry?---Yes.

20

So should we understand that on the Monday morning, and this is the Monday morning, of course, where you've seen the draft statement that we were just speaking of which is contained within Exhibit 15, but later on that Monday you received what was described as the final terms of reference for the inquiry?---Yes.

Now, the email that I've just shown you, it should be before you in the witness box, should we understand from the communication about halfway down that you on-forwarded the email that you'd received from the
30 investigator to Mr Watkins later that night at 8.06pm? Do you see the - - -?
---Yes, I can see that.

- - - reference there?---Yes.

And then should we understand from the email at the top of the page that Mr Watkins later that night sent that on to his Chief of Staff Mr Matchett and had that copied to you?---Yes.

40 And can you explain to us if you're able why the email from Mr Watkins to his Chief of Staff was copied back to you later that night when it effectively was forwarding what you'd already sent?---No, I can't, I don't know why.

Well, can I suggest this for your consideration. If you look at Mr Watkins' message to Mr Matchett you'll see that he's asked him to see the attached TOR, that's the terms of reference - - -?---Yes.

- - - and in a following email, "I will send you my statement in reply. Can you please review those documents and look at what I have missed and could add." Do you see that?---I do.

And so should we understand that as you understood it when you were been copied with this email on the evening of Monday, 21 March Mr Watkins was asking for your review and input as well?---No.

10 Well, what I want to suggest is that you understood when you got a copy of this email to Mr Matchett that he was asking you to look at the terms of reference in their final form, review the statement and tell him whether there's anything that he's missed or could add?---He was asking Mr Matchett to do that.

But by it being copied to you he was asking you to do that as well, or at least that's how you understood it. Correct?---I didn't understand it as that.

20 But did you look at the terms of reference in their final form and did you look again at his statement or the further draft that came forward?---No.

And did you identify anything that had been missed or suggest something that could be added?---No, I didn't.

Did you look at Mr Watkins' statement again after these emails on 21 March in its amended form?---No, I didn't.

You sure about that?---Not that I can recall, no.

30 I tender that email, Commissioner.

THE COMMISSIONER: Yes. Email of 21 March, 2011 at 10.41pm is Exhibit 16.

#EXHIBIT 16 - EMAIL FROM MR WATKINS TO MR MATCHETT SENT AT 10:41PM DATED 21 MARCH 2011

40 MR ALEXIS: Now, Ms Hopkins, can I show you this email. Ms Hopkins, there's a further email, with a copy for you, Commissioner. Now, do you see that on 22 March at about 8.30 in the morning, just looking at the email references at the top of the first page, you've sent by email a forwarded valuation report to Mr Matchett?---Yes.

And if we look at the content of the below email it seems that Mr Ferguson from the Pittwater Council sent Mr Watkins an email on the morning of Tuesday, 22 March attaching a copy of the valuation for the Currawong site, do you see that?---I do.

And if you just turn over two pages and we haven't copied the full version of the valuation because it's reproduced in the IAB report but for the present purposes do you see that the document that was attached was a valuation report for Currawong dated 9 December, 2010 obtained under instruction from Pittwater Council?---Yes.

And you see the executive summary which we've reproduced in this document in the following pages?---Yes.

10

Now just come back to the email, should we understand that Mr Watkins had sent this email from Mr Ferguson to you for the purpose perhaps of filing but also to on-forward to Mr Matchett?---I don't recall this at all.

Well, do you see in reference to Mr Ferguson's email to Mr Watkins after referring to it he says, "The independent valuation of ten to 11.5 million is very close to what the government paid, do you see that?---Yes, I see, see it.

20

Now, do you know why Mr Ferguson was sending that to Mr Watkins after contracts had been exchanged and, on 22 March?---No, I don't.

Well, can you explain to us how this email from Ferguson to Mr Watkins is able to be forwarded by you to Mr Matchett if you don't know anything about it?---I don't recall doing that but I must have sent it if it's got my name in the email box.

Do you recall having any conversation either with Mr Watkins or Mr Costello about sending the valuation that he and Mr Watkins had obtained from Mr Ferguson onto Mr Matchett?---No, I don't.

30

Can you explain to us why it was that on the morning of 22 March you were sending this valuation to Mr Matchett?---No, I don't know why.

Yes, thank you, Commissioner, can I tender this email, please.

THE COMMISSIONER: I don't understand the times on the emails.

MR ALEXIS: It's just been raised with me, my learned friend forever being helpful with these sorts of details and it's, it's a, it's a an apparent mystery that we'll seek to resolve but I can't do it as I stand here, Commissioner.

40

THE COMMISSIONER: The document containing two emails of 22 March, 2011 is Exhibit 17.

#EXHIBIT 17 - DOCUMENT CONTAINING 2 EMAILS OF 22 MARCH 2011

MR ALEXIS: Now, Ms Hopkins, do you recall that arrangements were made for the investigator from the IAB to attend Mr Costello's office on 22 March to collect documents that had been requested in that email of 21 March which is behind tab 18 of Exhibit 1, if you just go back to that? ---yes.

10 And if I can ask you to turn through please to the document behind tab 19 and do you see that what we've reproduced there is an index which is recorded as relating to the inquiry under section 159A of the relevant legislation?---I do.

Did you know what an inquiry under section 159A was all about?---No.

Had you been involved in one of those before?---No.

20 You understood it was serious?---I assumed it would have, well, an inquiry, I just thought it was an inquiry. I, I have got no idea on seriousness of it. I don't know that that, that Section- - -

THE COMMISSIONER: It was an inquiry into what? What did you know that the inquiry was into?---Into the purchase of Currawong.

Into the question of authority?---No, just the purchase.

But I thought, am I wrong, I thought that you knew by this time that the issue of authority was being questioned?---Whether he was, whether, yes, sorry, yes, whether he had the authority to purchase it, yes.

30 That, that was the subject of the inquiry?---Inquiry, yes.

Yes.

MR ALEXIS: And of course you well understood that Mr Watkins had been asked to step aside and that that would be the position maintained until the inquiry had concluded?---Correct, yes.

40 So it was obviously a very serious matter, wasn't it, as you well understood? ---Yes.

And- - -

MR BRANSON: I suppose the only thing, 159A, I did take Mr O'Reilly to it and it does say any matter, but look, that's being specious. Your Honour (not transcribable)

THE COMMISSIONER: You took the words out of my mouth, Mr Branson. Proceed, Mr- - -

MR BRANSON: Sorry, I apologise. I apologise to my learned friend.

MR ALEXIS: Accepted. Now, Ms Hopkins, did you type the index that we see at page 89 of Exhibit 1?---Yes, I did.

And can you explain to us how you came to type the words that we see, particularly in the order of them as we see set out on this page?---I was, they were dictated to me by Bob Costello.

10

And did Mr Costello- -?---He was putting the papers together.

I beg your pardon?---He was putting the papers together.

All right. So when he was dictating this, did he have papers in his hand that he was referring to or reading or how should we understand it occurred?---I can't recall what he had. No, he, I know I was typing it as he was reading them to me. I don't recall whether he had papers in his hand or not.

20 But had the documents been organised in a folder with tabs with the relevant document behind each tab?---Yeah, he had, he, yeah, he had them. He had them.

And did you understand that whereas the right-hand column is headed Page, it in fact was a reference to the tab number behind which the document would sit in the folder?---Yes.

And is it the case that he dictated to you the description of each document and as he spoke you typed?---Correct.

30

And we see the result of that exercise in the index on page 89?---Correct.

Now, did you faithfully type everything that he said to you with respect to the description of each document?---Yes, as he told me, I typed.

And when you came to the ninth document, or I should more accurately say the document that would sit behind tab 9 in the folder, is it your evidence that he dictated the words, "Approval from minister to proceed with acquisition – 28 February, 2011?"---That's what I've typed, yes.

40

Is there any doubt in your mind about the fact that he dictated that to you and that's what you typed as we see there?---No.

And when you typed that I gather you knew instantly that what he was referring to was the letter that you'd seen the afternoon of the previous Friday that the minister had signed and backdated and had been sent under cover of that email later that afternoon to the minister with the earlier briefing note?---Correct, yes. I - -

You'd put all that together, hadn't you?---Yeah.

Yeah. And didn't you think when Mr Costello was telling you this that what he was doing was using this letter as part of a folder of documents to be given to the investigator in relation to this serious inquiry?---That's what he was doing, yes.

Well, that's what you understood he was doing?---Yes.

10

And you knew that you were participating in that by preparing this index, didn't you?---Yes.

Well, did you say anything to Mr Costello about including that letter which you knew to be a backdated letter in this index of documents?---I don't recall saying anything to him.

Are you sure about that?---Positive.

20

Were you still worried and concerned about this subject having spoken to Mr Watkins about it on the Friday night?---I would've been concerned, yes.

Well, did you do anything about that concern?---No, I didn't.

Did you say anything to Mr Costello?---No.

Did you say anything to Mr Watkins?---No.

30

Did you say to Mr Watkins, look, Bob's proposing to use this letter in the bundle of documents to be given to the investigator, I'm not happy about it?---No, I wouldn't have said that.

Why not?---I was just doing as I had to do.

But, Ms Hopkins, you've known Mr Watkins and you'd worked side by side with him for 20 years?---I respected his decision on putting together the documents.

40

Did you pause and think at all that including this document in the index which you understood was being given to the investigator for the inquiry was capable of misleading the investigator in that inquiry?---No.

Why not?---Because it was, it was part of the documents.

But you knew the document as part of the documents was a false document, didn't you?---I don't consider it false.

But it falsely represented that authority had been given to enter into the transaction when you knew that that document had been prepared after the event?---That's right.

And it falsely represented that it existed prior to that event?---Well, I didn't, I didn't appreciate that.

10 Now, can I take you to a further document and it's the one that sits behind tab 22 of Exhibit 1. And if I could ask you to pass over the email at page 104 and come to the document at page 105 and 106?---Yes.

And do you remember preparing this document for Mr Costello?---I didn't prepare this one.

Do you know who did?---No, I don't.

And prior to me showing this document to you this afternoon have you seen it before?---No, I haven't.

20 So this is the first time you've seen it, is that what you're saying?---The first time I've seen that one.

Thank you, Ms Hopkins.

THE COMMISSIONER: Mr Branson.

MR BRANSON: I'm sorry, I was distracted.

30 THE COMMISSIONER: All right. Mr Curtin.

MR BRANSON: Can I just say this that, I suppose we're all keen to get away today.

THE COMMISSIONER: Speak for yourself, Mr Branson.

MR BRANSON: I'll come back in the next run through. It will be very short.

40 THE COMMISSIONER: All right.

MR BRANSON: I promise. Or nil.

THE COMMISSIONER: Mr Curtin.

MR CURTIN: No questions, thank you, Commissioner.

THE COMMISSIONER: Mr Dunne.

MR DUNNE: Can your Honour just excuse me just for one moment, I need to speak to - - -

THE COMMISSIONER: Yes. While you do that I'll, is there anyone else who wishes to question. No.

10

MR DUNNE: Nothing, thank you. Sorry about that. Yes, Ms Hopkins, do you have in front of you, do you – my name is Dunne and I'm representing Mr Costello. Do you have before you Exhibit 1, a folder with the purple cover on it? Can I ask you to go to tab 15, pages 68 to 69. Do you remember being asked some questions by my friend about how that document was prepared?---Your friend?

I'm sorry. Mr Alexis?---Sorry. Yes, yes, I do.

20 And you told Mr Alexis that this was dictated to you by Mr Costello?---
Correct, yes.

Is that correct?---Yes.

I'm about to put a question to you although it may not sound like one. It's, it's the type of question that you would either agree with or disagree with but if I suggest to you that in fact that letter was dictated to you - - -

THE COMMISSIONER: Letter, letter?

30

MR DUNNE: I'm sorry, I'm sorry, the, the document that you're looking at at pages 68 to 69 was dictated to you by a combination of Mr Costello and Mr Watkins in that Mr Watkins was dictating by telephone to you, would you agree with that or disagree with that?---I, yes, I'd agree.

And would you agree that the majority - - -

THE COMMISSIONER: You need to clarify that. I'm sorry, I'm not sure if I understand what you're agreeing to. I understand that you, what I don't
40 understand is the combination part.

MR DUNNE: The situation, if I might assist, wasn't it the situation that Mr Costello was standing next to you in the office?---Correct, yes.

And that Mr Watkins was also talking to you by, by phone, it was, it was a combination that occurred all at the one time, Mr Hopkins on, Mr Watkins on the phone, Mr Costello beside you and you doing the typing, is that correct?---I know yes, there was a phone call with Mr Watkins.

THE COMMISSIONER: And was that on loudspeaker?---Correct, yes, but I was, yeah, getting it dictated to me.

MR DUNNE: That's right. So when I suggested to you it was a combination - - -?---Yes.

10 - - - what I'm suggesting to you is this document was not solely dictated to you by Mr Costello, that there was input in this document by Mr Watkins?
---Yes, yes.

And can I suggest to you that the majority of the dictation was provided to you by Mr Watkins, would you agree with that or would you disagree with that?---I can't, I can't recall who was doing it all.

THE COMMISSIONER: But each, each played a significant part (not transcribable)?---Each was, each was talking, yes.

20 MR DUNNE: You were also asked some questions about the preparation of a, what's been described as a brief to IAB and in particular reference was made to an index which is on page, sorry, which is in that bundle in front of you under tab 19, page 89?---Yes, got it.

And there was a bundle of documents that Mr Costello had in his hand when he dictated that index to you. Is that correct?---I can't recall the documents in his hand, no.

No, you might not recall the - - -?---Oh.

30 - - - exact documents but do you recall he was holding a bundle of documents in his - - -?---I don't recall him holding documents, I just recall typing.

Do you recall anything about the bundle of documents (not transcribable) more specifically, isn't it the case that Mr Matchett collated those documents?---I don't recall that, no.

THE COMMISSIONER: Sorry, you said no?---I said I don't recall that, no.

40 That's your answer?---Yes.

MR DUNNE: Finally, Ms Hopkins, I wonder if you could assist with a, with a, an issue in relation to, I think it's Exhibit 13, which is an email dated 18 March?---Oh, sorry, I was looking under here.

Do you have that document?

THE COMMISSIONER: You're talking about which exhibit?

THE WITNESS: Which exhibit are you talking about?

MR DUNNE: Exhibit 13.

THE COMMISSIONER: Exhibit 13.

THE WITNESS: An email or - - -

10 MR DUNNE: That's an email which attaches a bundle of documents and was sent to the minister's private email address. Exhibit 12, thank you. I did lose track there and I apologise for that. Can I ask for some assistance in relation to the exhibit number? I've got it down Exhibit 14. It's a further email of 18 March.

THE COMMISSIONER: Exhibit 13 is the flagpole email.

MR DUNNE: The flagpole, yes, thank you.---Is that the one? Have I got that one?

20

That's where I've lost track. I see. Thank you. 13. Yes. It's Exhibit 14 I want to take your attention to. Do you have a copy of that?---I- - -

Do you have both those documents in front of you, Ms Hopkins?---(NO AUDIBLE REPLY)

Do you have both documents?---I've got one document.

30 THE COMMISSIONER: Have you got Exhibit 14?---Yes, that's the single email.

MR DUNNE: And Exhibit 12? I'm sorry, Your Honour.

THE COMMISSIONER: Exhibit 13 is the, is the email of Friday, 18 March at 6.50pm and also the one at 5.11pm. They were both on the same page.

MR DUNNE: That's right.

40 THE COMMISSIONER: You've got them there?---Have I got them now?
I understand so.

MR DUNNE: Do you recall, do you recall whether you had sent two emails to Mr Kelly's home email address, attaching the documents and bearing the dictation from Mr Costello, "Dear Minister, attached are copies of papers as discussed with Bob", and following?

THE COMMISSIONER: The question's not clear to me, Mr Dunne?

MR DUNNE: I'm sorry, Your Honour?

THE COMMISSIONER: The question, your question is not clear to me.

MR DUNNE: I see.

10 THE COMMISSIONER: Will you please rephrase it? I'm not sure what you're referring, you're asking about the possibility of Ms Hopkins sending two emails.

MR DUNNE: Well, in fact the same email twice, Your Honour.

THE COMMISSIONER: Oh, the same email twice?

MR DUNNE: Yes, Your Honour.

THE COMMISSIONER: The same email being the email sent at 5.11pm?

20 MR DUNNE: Well, the, well- - -

THE COMMISSIONER: The email sent at 5.11pm is saying- - -

MR DUNNE: At 4.10, Your Honour, in fact.

THE COMMISSIONER: I beg your pardon?

MR DUNNE: At 4.10, Your Honour. Exhibit 13 is an email dated 18
30 March and is dated 4.10pm.

THE COMMISSIONER: That's Exhibit 12.

MR DUNNE: That's Exhibit 12.

THE COMMISSIONER: So Exhibit 12 is sent at 4.10pm and you're pointing out that it's in the same terms as the email which is part of Exhibit 14 which was sent at 5.11pm.

40 MR DUNNE: 5.11pm, yes, Commissioner?---These are the same emails.

THE COMMISSIONER: They are not necessarily the same emails?
---The wording's the same.

They are emails in the same terms, do you follow that?---No, I'm sorry. What's, what's his question?

All right. Well, let me try and explain to you. Have you got Exhibit 12 in front of you?---That's that one.

Yes, well, I don't know but - - -?---Oh, sorry.

- - - is it Exhibit 12?---Yes, yes.

All right. Now just read the email to yourself?---Right, yes.

And you've seen that it was sent at 10 past 4.00 on 18 March?---Yes.

10 Now, can you go to Exhibit 14 and the second, the email at the bottom of the page, if you just read that to yourself?---Yes.

You see that the words are the same as the first email that you read to yourself?---Yes, yes, I can see that.

Now, the question has been asked and I think, I think the question is is it possible that you sent the same email twice to the minister? Is that right, Mr Dunne?

20 MR DUNNE: Yes, your Honour.

THE COMMISSIONER: Is it, is it possible that you sent the same email twice to the minister, once at 10 past 4.00 and then the second time at 11 minutes past 5.00, that's the question?---I don't recall sending them twice.

MR DUNNE: You don't recall?---I don't recall why, I don't recall unless it didn't go through or I was asked to send it again, I don't, I, I don't know. I can't answer that one.

30 THE COMMISSIONER: That is all, Mr Dunne? Mr Alexis, do you have anything?

MR ALEXIS: Nothing to ask, Commissioner.

THE COMMISSIONER: Yes, thank you, you're free to go and the Commission will now adjourn.

40 **THE WITNESS EXCUSED** **[4.01pm]**

AT 4.01 PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.01pm]