

CHURCHILLPUB00153  
08/03/2011

CHURCHILL  
pp 00153-00200

PUBLIC  
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION CHURCHILL

Reference: Operation E10/0486

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 8 MARCH 2011

AT 2.00PM

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

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

THE COMMISSIONER: Ms Williams.

<EDWARD KARKOWSKI, on former oath

[2.03pm]

MS WILLIAMS: Thank you, Commissioner.

10 Mr Karkowski, I'm going to have played an extract of a recording of a telephone conversation between you and Mr Melchiovsen on 24 June, 2010 at 8.37am, Mr Melchiovsen being Mr Jee's architect for the Izakaya Arigato Restaurant.

Commissioner, the telephone conversation is rather long, it is an extract that will be played and I'm arranging to have transcripts of the relevant extract available for tender at a later time.

THE COMMISSIONER: Yes, thank you.

20

**TELEPHONE INTERCEPT PLAYED**

[2.03pm]

MS WILLIAMS: Mr Karkowski, the project you're discussing with Mr Melchiovsen in that telephone call is the Izakaya Arigato Restaurant, that's correct, isn't it?---Yes, yes, it was.

30 And Mr Melchiovsen told you in that conversation that he had a quote at over \$200,000, correct?---Yes, that was for the whole thing.

And you told him without having seen that quote or understanding any detail as to what was included in that quote, you immediately said to him no, just do one, do \$100,000 didn't you?---Yes, I did.

And your advice to put the building costs at \$100,000 compared to a quote of \$200,000 wasn't based on any understanding of what was included in that quote at the time you made that statement in the telephone call, was it? ---No, it was assumption.

40 It was assumption in favour of Mr Jee because it was going to save Mr Jee quite a bit of money on the council fees, correct?---It was an assumption I made based on previous applications for similar type of fit outs.

THE COMMISSIONER: But you had no idea what they were doing?---I, I had seen pre, we had pre-lodgement meetings for this, Commissioner.

Pre-lodgement?---Pre-lodgement meetings, yes. I had - - -

You had not seen anything?---No, I, I had seen a concept drawing, I knew, I knew the tenancy, I dealt with the, the base building where the tenancy was going. I was aware of the size of square meterage rate of the actual space because it was allocated to that tenant.

But you had no idea of the finishing?---The finishes wasn't something that, you know, if somebody used, to give you an example, if someone was to use terrazzo flooring, it would be a lot more expensive than a tile flooring for example but that's not something that we gave consideration to.

10

Why not?---Because it just wasn't something we, we based our figures on. We just looked at it based on, you know, like if you look at Rawlinson - - -

Who's we?---Well, the council when we - - -

How do you know?---Well, I'm only basing - - -

How do you know that the council didn't base its figures on finishes?  
---Because that's what normally happened at the council.

20

Do you mean happened by you?---Well, I think it was what happened with most surveyors, I, I don't know - - -

How do you know it happened with most surveyors?---Because it was never discussed that people questioned other quotes that had been given.

By you?---By anyone in my department.

Assessments by you?---(NO AUDIBLE REPLY)

30

Isn't that right?---Yes.

You established a practice didn't you?---Yes.

Which had nothing to do with any, did it have anything to do with the legislation?---No, it wasn't a legislative thing.

Did it have anything to do with the regulations relating to the determination of the costs on which council fees were paid?---No.

40

You've just developed something that would enable people to put in lower costs?---It was, it was typical of what would normally happen.

Typical of what you determined, no one else. Isn't that right?---Yes.

This was just a scam wasn't it? A scam you were running wasn't it?---I don't know whether you'd call it a scam.

A scam, what I call a scam is fixing upon figures which developers have to pay which bear no reality with what the legal requirements are but which enable them to come in at a lower price so they save money. That's what I mean. Do you understand that?---Yes, Commissioner.

And that's what it was wasn't it?---Yes.

And it was developed by you?---Yes.

10 To the knowledge of the developers?---I don't know whether it was the known thing.

Well the developers knew that what was going in wasn't the reality in relation to the amount of the costs didn't they?---I think with all due respect, Commissioner, a lot of developers would try to underestimate councils - - -

Yes, I know?--- - - - because they know that, you know, the fees at any council reflect on a sliding scale.

20 And you went along with that?---Yes, I obviously did.

You helped them?---Yes.

And you helped them, and in return for helping them you got all these things we've been hearing about, all these wine, meals, restaurants, the sexual favours?---Yes.

And Mr Melchiovsen, he knew?---He knew what sorry?

30 He knew that \$100,000 was too low?---When that discussion was being held he wrote - - -

Yes?--- - - - 200,000 for the whole thing.

Yes?---And to me that, I took that as everything, including furniture.

But you had no idea what it involved did you? In truth you had no idea?  
---Not of the whole thing.

40 You had no idea what the cost of construction - - -?---No, I didn't.

- - - was in accordance with the regulations?---No, I didn't.

And he knew that too?---He probably did.

Yes.

MS WILLIAMS: Mr Karkowski, the day after the conversation you had with Mr Melchiovsen you had a further conversation with Mr Jee didn't you about the estimated construction cost to be submitted to council with his development application?---I think I might have, yes.

Do you recall laughing with Mr Jee about whether you could even make it less then \$100,000?---I vaguely remember.

10 THE COMMISSIONER: Now Mr Karkowski, I know you feel very unhappy about what's happening and I do get the impression that you are showing a good deal of contribution in your address. But you must understand that by putting in these lower estimates it means that the council ratepayers have to pay more don't they? And get less services?---I don't know what, what, what the ramifications are, but I imagine that would be part of it.

20 Well it's inevitable because the council gets less money then the amount to which it's entitled. You understand that that's really what, what you've been party to is this scheme to, to deprive the council of its lawful fees and that results in the individuals, the people who live in the area, the ratepayers don't get the services that they would have otherwise received. You understand that don't you?---Yes, I do.

I mean there is, all right. I'll withdraw that. And there is no checking by council of these amounts?---No.

30 How did the council think that you determined that?---I, I truly don't know, Commissioner. In, in my opinion I think it's a specialist area and I believe the only way to get a true representation of costs is to have a quantity survey submitted with the application as some other councils, I believe do.

40 Whenever it came to a restaurant your general practice was to put in a \$100,000 costs?---No, I didn't, I didn't get involved in discussions. Sometimes people nominated it. If the fee looked to me as though it was significantly understated, I would say something and give them the opportunity to change it or they, I, I suggested to them they revisit the figures or I will force them to give a builders quote or a quantity survey and they often were forthcoming to up the ante of their thing, but I didn't check it any further. I just took it on face value.

And what check did anyone at council make about this?---There was no check.

Did anyone look at the costs other then you?---No, I don't believe so.

And was the amount calculated on which the developer had to pay? So what proportion, how did the, how was it worked out?---It was split into two areas, one under development application costs and the other under

construction certificate costs. And with the construction certificate component it also had an inspection based on a sliding scale, Commissioner.

On \$100,000 how much would they pay?---\$100,000 from memory I think for a DA construction certificate, inspection, packaged with the occupation certificate fee it was about \$2,000 from memory.

10 And for 200,000?---I don't know what it multiplied by, but it went on a sliding scale. So if there was a difference of 20, 30,000 it wasn't a significant figure 'cause I think that's why we considered whether it was worthwhile asking for quantity surveys in discussions we'd had about - - -

So for 100,000 and 130,000 you'd pay almost the same?---It wasn't, I don't believe it's a great difference in fees.

Do you know?---Maybe a couple of hundred dollars.

20 Do you know?---Yeah, it was, it was done, we discussed it at work, it went around, there was some debate about it not long after the investigation started.

There was a debate about it at work, why was there - - -?---Well it was - - -  
- - - did somebody realise that this was an issue that, that ICAC would be interested in?---Well, I think that council may have pre-empted that the findings with this report may be that they would look at this would be area that they may be concerned about.

30 What may have been a concern?---Well it was obviously questions that may have been asked by individuals at the council.

Who?---I don't know which ones, but it was just discussed at a staff meeting.

What was discussed?---About the, the calculation of fees and the pros and cons of, of doing, doing such an exercise.

Did anybody know?---Did anybody know what, sorry?

40 How, how the fees were calculated and what the costs would be of verifying them?---I think myself and another officer did an example of say a \$50,000 job and did a comparison and we saw that it wasn't a significant difference for you know 10 to 20, 30,000. But for 100,000 it would have been more significant. I don't know the exact figures, but - - -

By how much?---I don't have the figures. I don't know. But at the lower end it was obvious, it was because it was a sliding scale it didn't, and the inspections were charged at a rate in a bracket. So it was between say

50,000 and 150,000, you would charge that inspection fee. So it didn't really change the figures.

But in the case of this restaurant which you were talking to Mr Melchiovsen about, the difference was between 200,000 and \$100,000?---That's correct.

\$200,000 was his figure and \$100,000 was the end figure?---The difference in that conversation was the inclusion of furniture and - - -

10 I know?--- - - - and design decoratives.

I know that's what you say but you don't know?---I made that assumption, Commissioner.

And I'm trying to find out is what is the amount involved that the council lost between 200,000 and 100,000?---I don't know (not transcribable).

20 You have no idea?---No, 'cause there wasn't many applications that came in. 100,000 was, 50,000 was a very common figure, figures that I received.

100,000 and 50,000?---If you look at the records it shows 50,000 and 100,000.

But you have no idea what the cost would be for 200,000?---Not off the top of my head.

And you don't know how the cost is determined?---(not transcribable)

30 Where do you find the sliding scale?---The sliding scale is a tool that, that we have at work that has a break down of the DA fee first based on a dollar amount. And so you go to the bracket between, so from 5,000 I think, from zero to 5,000 there's no difference in that fee. It's just stagnant. The same with the CC costs. But it goes through and it's just tabelised. There's no individual figures. There's no in between figures to get an exact figure. They put down for argument sake 49,500, you'd have to do it on the computer and I'd often just send them to the front counter to do so.

40 Are these figures laid down in a regulation or in the statute, do you know? ---I found out afterwards, after this investigation began to my knowledge that it is in legislation.

What legislation?---I can't recall the exact legislation and clause but it is regulated and there is a definition of what is included.

And you'd never seen this before?---No, I never, never, never even knew it existed.

And when you started this job no one explained this to you?---No.

How were you supposed to work it out?---I don't know, I just went off what I'd been doing for ten or eleven years.

But had anyone explained to you what, how constructions costs were going to be measured?---It wasn't something that was, it wasn't an item that was checked.

10 I understand that but before you can fix an amount for construction costs you've got to know what construction costs, what costs fall within the meaning of the phrase construction costs. That's obviously right isn't it?  
---That's correct.

Did anyone tell you where it was?---No, they didn't.

You were just asked to determine the cost, the construction costs without ever being told what construction costs were?---That's right.

20 All right.

MS WILLIAMS: Mr Karkowski, in addition to discussing the estimated construction costs with Mr Jee you've also told him didn't you that whilst you would specify a fee for the inspection and for the Occupation Certificate relating to his restaurant you wouldn't require him to pay those fees?---I, I think I told him that he wasn't required to pay it upfront at this point, it wasn't something that was required upfront.

30 Didn't you tell him that he just wouldn't have to worry about paying it, that you would stamp it paid?---Well, it's not something that I'd often check. I may have said that, I can't recall the conversation but it's quite possible I may have said that for him.

You don't recall a conversation in which you said those things and then said to him, And we can use that money at Romeo's instead?---Maybe I did.

If you recall the conversation please say so if not I'll have - - -?---I do recall the conversation.

40 You acknowledge that you said those things?---Yes, I did.

And Romeo's is a massage parlour or brothel at Petersham isn't it?---Yes.

So in return for both allowing a reduced construction cost estimate to be submitted with the development application and for waiving, in effect, the inspection and occupation fees you were going to be treated to a session at Romeo's, correct?---Yes.



You helped Mr Jee to complete the liquor licence application for his restaurant as well didn't you?---I did.

You told him what to put in each section of the licence?---I helped him with the application form, yes.

10 Okay. If you look at page 130 of volume 7 which you have in front of you. Are you able to identify that document continues through until about page 143 as being the document that you assisted him to complete?---Yes, it was.

And you accompanied him to the office of Casino, Liquor and Gaming Control to lodge the application didn't you?---I did.

And that was done on a working day, on a Monday?---I believe it was.

That was in fact on 2 August, 2010, does that sound about right?---It sounds about right.

20 And after you and Mr Jee had lodged the form at that office you went with him to lunch at a place called Zilver Restaurant, Z-I-L-V-E-R Restaurant? ---We did.

Together with Mr Geroulis, is that correct?---Yeah, I think he did, sorry, yeah.

And after lunch Mr Jee took you to Jasmine's, is that correct?---I can't recall, he may have, I can't recall whether that was on that day.

30 In any event your lunch with Mr Jee on 2 August was a lunch that he paid for?---That's correct.

You weren't required and didn't offer to pay?---No.

And that was in return for your assistance in relation to the fees and in relation to the liquor licence wasn't it?---I assume so.

40 And you were out of the office for about three, three and a half hours with Mr Jee attending to the liquor licence application and going to lunch. Does that sound about right?---It could be about right, I don't know the exact times but it sounds about right.

And do you recall claiming overtime on that day on 2 August?---I can't (not transcribable), sorry.

Do you still have volume 8 with you, Mr Karkowski?---Only 7.

Okay. I'll have volume 8 handed back to you. Can you have a look first please at page 101 of volume 8. You see there that's another access card record?---Yep.

And it relates to the date 2 August, 2010?---Yes.

Which I've suggested to you is the date on which you went with Mr Jee to lodge his liquor licence application and then to lunch?---Yes.

10 And do you see there that the entries recorded indicate no, or there's no movement for you recording within the building between 10.20 in the morning and 1.49 in the afternoon?---It appears that there's not, no.

And is it during that period of time that you were out to lunch with Mr Jee and at the liquor licence office?---It would appear so, yes.

And if you turn to page 81 of volume 8 please. You see there an overtime claim form completed by you for two and a half hours overtime on 2 August, 2010?---Yes, I do.

20

Now, again when you made this claim for overtime did you inform your supervisor when you submitted it that in fact you hadn't been engaged in legitimate council business for your core working hours or at least for all of those hours on 2 August?---No, I didn't.

And you know, don't you, that your supervisor would've signed off this claim for overtime on the assumption that you had been engaged in legitimate business during those hours?---Yes.

30 Mr Jee also took you, treated you to a dinner at Blue Angel Restaurant didn't he on 12 August?---Yes, he did.

And again that's a dinner that he paid for?---Yes.

And it wouldn't surprise you to know that that dinner cost a little over \$500?---No, I'm not surprised, no.

40 And you had other lunches and dinners with Mr Jee on a fairly regular basis didn't you, several times a month on average?---Yes, we would frequently have lunch with him, that's correct.

And in addition to that you had a practice of eating at his restaurant free of charge a couple of times a week didn't you during 2010?---No, I don't believe that to be true. I, I did, I don't agree with that, no.

Did you ever eat at his restaurant free of charge?---I, I, I did on the odd occasion but it wasn't a regular occurrence that I'd eat free.

So how frequently roughly, what do you call the odd occasion?---Just whenever he, like for example if during my lunchbreak I went down there to talk to him about his liquor licence he would've called me, he may have invited me to eat with him and have lunch while I was there and those times I offered to pay but he, he said don't worry about it. But that's the sort of example.

10 I take it you didn't declare to the council the benefits that Mr Jee was providing to you in the form of lunch in the city during working hours and the dinner at Blue Angel Restaurant?---No, I didn't.

Do you accept that by accepting this hospitality from Mr Jee you were breaching the council's Code of Conduct?---I was.

And it was a benefit that you were accepting in return for reducing his fees to the detriment of the council?---Yes.

Commissioner, I tender volume 7.

20 THE COMMISSIONER: Volume 7 is Exhibit 15.

**#EXHIBIT 15 - BUNDLE OF DOCUMENTS MARKED VOLUME 7**

MS WILLIAMS: Thank you, Commissioner.

30 Mr Karkowski, I will ask you to hand volume 7 back and I'm going to provide you with another volume which is marked volume 7A. I want to ask you some questions about the business known as Xstream Carwash, that's X-S-T-R-E-A-M Carwash in Chatswood Chase?---Yes.

The proprietor of that business is a man by the name of Il Soon Won or otherwise known as Paul Won, is that correct?---I know him as Paul, yes.

You know him as Paul. And the manager of that business you know as a Mr Tony Yun, Y-U-N?---I know him as Tony.

40 In late 2009 or early 2010 there was a proposal, wasn't there, by Mr Won to open another carwash within Chatswood Chase?---Yeah, he showed interest in engaging on a project.

And the difficulty with that was that he couldn't get extra car parking spaces within Chatswood Chase in order to open that other business, that's right, isn't it?---Yeah, there was issues in relation to getting a big enough space to, to accommodate that business.

If Chatswood wasn't the, did the issue involve the council in the sense that if Chatswood Chase wanted additional car parking spaces to be allocated to the business they were required to pay a developer contribution fee to the council for those spaces?---Yeah, it was, it was explained to them that in any circumstance if they were to create new space that they hadn't already, there was, there was a couple of options they were looking at, one involved their existing space and, and they were looking at surrendering some of that space and in that instance there was no contribution because that would have already been accounted for and then the other options they were  
10 looking at were to move it completely and maybe go over or above that and that would have been a contribution payable.

And the contribution payable was in the order of \$20,000 or a bit more per car parking space, is that right?---I believe it to be, I don't do those figures but I believe it to be around that sort of figure.

It was a fairly large amount per car parking space wasn't it?---Yes, that's correct, that's correct.

20 And you don't do those figures because that's more a planning issue rather than a building issue, isn't it?---That's correct.

And is it the case that you first became aware of this issue when Mr Lim, who was Mr Paul's, Mr Won's architect contacted you about it?---That's correct.

And Mr Lin wanted to understand the issue from the council's point of view, is that right?---That's correct.

30 And he contacted you because he had dealt with you on previous occasions in relation to other matters?---That's correct.

And you met with him together with Ms De Carvalho who was responsible for planning issues about the car parking space cost?---That's correct.

And Mr Lin made contact with you about it some time later, is that correct? ---That's right.

40 Following that meeting that you had with Mr Lin and Ms De Carvalho, was there some further work for the council to do about it or was it simply a case of if you want the extra spaces the additional contribution amount has to be paid?---They were, they were told that it was up to them how they managed it. I just got the advice from Noni as to how it, they needed, they, I think they were trying to ascertain how that would work out, what it was going to cost them depending on which option they chose to, to work out how the business was going to go, whether it was viable or not.

So the fee was payable and it was a question of whether or not they were going to go ahead - - -?---Yeah, that's right.

- - - on that basis?---That's correct.

And after that meeting Mr Lin contacted you and suggested that you have dinner to discuss the matter further didn't you?---Yes, we did.

10 And did he suggest to you that Ms De Carvalho should also attend the dinner?---I can't remember, he may have invited, extended the invite to Noni, I can't recall but it's quite possible that he did.

Do you remember whether you told her about the dinner?---No, I wouldn't have told her about the dinner.

You didn't indicate to her that there'd been an invitation extended to go to dinner?---No, I didn't.

20 Okay. Why would you not have told her about that given that she was involved in the matter?---Because Noni wouldn't attend dinners.

Okay. And you wouldn't have wanted her to know that you were attending either, would you?---No.

So you accepted the invitation and went to dinner?---I did.

30 And wasn't it the case though that you couldn't really offer Mr Won and Mr Lin any further assistance or information about this contribution fee, it was payable and that was really the end of the matter if they wanted the extra spaces?---That's correct, that's correct.

And you understood though that the purpose of the dinner was so that they could seek to obtain further information or assistance from you?---It appeared that they were after assistance in looking at their scenario, yes.

40 Did you tell them quite frankly that there wasn't much you could do though?---I never indicated to them that, that contributions would be waived or anything like that if that's what you're suggesting but, no, I didn't give them any promises or, it was just general advice about the proposal.

I'm actually asking the opposite, Mr Karkowski, I'm asking whether you were frank enough to indicate to them that really there was nothing you could do about it, that it was more Ms De Carvalho's area?---I think I indicated to them that the calculation and that part of it was out of my hands, I don't, I don't deal with that particular issue, it's a planning matter.

Do you remember whether you gave them that indication before or during or after the dinner?---I can't recall if I did or when I did. I think they might have realised it because it wasn't something that I could fluently discuss and it was something that I had to check with Noni on and I knew I wouldn't be doing it.

So just to be clear, did you tell them you couldn't do anything or you just thought that they realised that?---They never asked me to do anything. They just were asking for general advice.

10

What kind of general advice?---They were just asking about considerations for the application, if it went here what are some of the issues and, for example, I told them that things such as traffic flow or traffic movement in the car park is a consideration that we have to consider. I told them that if it's new space or space in addition to what they already had it would be contribution payable. I told them they have to consider things such as, you know, just general information about reuse of water from a sustainability point of view, a recycling system and tanks and arrestors that would go hand in hand with that type of operation, over spraying and those sort of issues, that was something they'd have to consider if they were to embark on it.

20

And these are all planning matters rather than building matters, correct? ---Some of them building and some of them were planning but the only planning issue I, I feel is the contribution and perhaps whether it's permissible use in that zone but given that there was already one in there I don't think a use was in issue, I think it was more about contribution payable if they exceeded space.

30

Okay. And you couldn't do anything about that contribution, could you, it was - - -?---No, I couldn't.

And that was their main stumbling block with this business proposal, wasn't it?---I think they were mindful of it because obviously they didn't want to pay more money than they needed to for us or waste space that wasn't necessary. I think they were trying to work out what best suited their business strategy.

40

Now, you went to dinner with Mr Won and Mr Yun and also Mr Lin on 18 June to Blue Angel Restaurant?---Yes, I did.

It's 18 June, 2010?---(NO AUDIBLE REPLY)

That was the restaurant nominated by you or chosen by them?---I think I was asked where, where we would like to go for dinner. They let me choose, so I chose.

And at the time of indicating your choice to them, did you tell them that it would be best to take your own wines?---I said to them that you could take your own wine, yeah, rather than buy it there.

And a couple of days before the dinner you accompanied Mr Won and Mr Yun to Dan Murphy's didn't you and picked out the wines yourself?---We did.

10 And you picked out expensive wines between about \$100 and \$250 a bottle. Correct?---Yes.

Four bottles of wine all together?---Yes.

And Mr Won paid for those?---That's correct.

THE COMMISSIONER: Mr Won, was he a recent immigrant?---I'm not sure about his history, Commissioner.

20 Speak English well?---His English was not as good as Paul's English.

Was Paul a recent immigrant?---Sorry, I'm getting confused. The, the business owner, his English wasn't as good. The manager was the main spokesperson. But he did talk, but his English was poor.

How long had he been in Australia for?---I'm not sure about his history and details.

30 (not transcribable) obviously very little about what was involved as regards the legal requirements for setting up their business. Is that right?---That's, that's probably right, yes.

And they weren't used to the way things were done in Australia?---That's correct.

40 And is this something that often happened to you that you had to have dealings with people like that?---It can happen. In this instance the contact was made through (not transcribable) Lim, who was a builder who I'd dealt with previously, being Korean background, he knew me and, and he knew that it fell in my area so he approached me about the whole issue.

Where a senior council officer suggested they buy wine of about \$800 for a dinner. They must think that that's the way that things are done in Australia?---I'm not sure what they think, Commissioner.

Don't you think, you're not sure?---Maybe they did, but they didn't raise any issue about it.

You were in a position of power there weren't you?---Yes, I was.

And they were in a position of no power?---That's correct.

Yes.

MS WILLIAMS: Mr Karkowski, the dinner at the Blue Angel restaurant was paid for by Mr Won, the business owner. Correct?---I didn't see who paid, but I'm assuming he did.

10 You made no offer to pay or contribute to the cost of that dinner?---No, I didn't.

You're familiar with the Blue Angel restaurant, it wouldn't surprise you would it to learn that the dinner cost \$480?---No, I'm not surprised.

And that was in addition to the wine that you'd already chosen and had been paid for separately?---Correct.

20 You made a suggestion at some stage during the course of the evening that you attend a massage parlour in Newtown after the dinner didn't you?  
---Yes.

And after dinner you and Mr Won and Mr Yun went to that message parlour that you'd suggested. Correct?---Yes.

And Mr Yun paid for your message. Correct?---Yes.

30 He and Mr Won however didn't partake in the services. Mr Won went home and Mr Yun simply waited for you. Is that correct?---I'm not sure what he did while I was gone, but it's quite possible that that happened.

Do you know what the cost of the services were that Mr Yun paid for you at that establishment?---No, I didn't take much notice of it.

If Mr Yun says that he paid \$300 would that surprise you or would that sound about right?---It sounds a little bit higher than I would have thought, but I'm not, I'm not too sure to be honest. I really don't know.

40 Mr Yun then paid for your taxi ride home. Is that correct?---Yes, he did.

Stipulating expensive wines, allowing your dinner to be paid for and then your massage and taxi ride home all to be paid for, it's not the way one behaves when you go out with friends is it?---I didn't really consider them friends, to be honest. I, I knew one of them. They were nice people, but I wouldn't have labelled them as my friends.

I'm not suggesting they were, Mr Karkowski, the point of the question was that the only reason that you were able to accept all of these benefits



including holding them up and waiting around for you to have a massage which they paid for was because you were in a position of power that the Commissioner alluded to earlier?---Yes, that's correct.

And you were abusing that power by stipulating what would be provided for you and requiring them to pay for it. That's so isn't it?---Yes, I was.

10 Despite the fact that you were in no position to do anything about the contribution payment for the extra car spaces they needed which was their big issue. That's right isn't it?---That's correct.

Some time after this dinner you took your wife's four wheel drive car down to Xstream Carwash for a full detail one Saturday morning didn't you?  
---That's correct.

And Mr Yun arranged for that to be done to your wife's car. Correct?  
---That's correct.

20 And you made no offer to pay for that did you?---I did make an offer did you?---I did make an offer but they made it very clear that they weren't going to charge me for it.

There was another occasion where you took a council vehicle down for detailing wasn't there?---That's correct.

30 Did you offer to pay on that occasion?---I can't remember. Maybe I didn't, I don't think I did. He offered, he just told me to come down and try it. The carwash he's referring to is their existing business, which was a steam carwash and he said, bring your car down and they cleaned it, steam washed it for me.

And the question of payment wasn't discussed. Is that your evidence?---I can't recall. I don't think it was. I don't think he would have taken it even if I had offered. That's the impression I got.

So you understood one way or another that you didn't have to pay or offer to pay?---That's correct.

40 And again that was because of the position of power you were in. Is that right?---That's right.

You asked Tony Yun to take you out for dinner on another occasion after this didn't you?---Yes, I did.

And Mr Yun took you out to a place called Steersons Steakhouse on 27 August?---That's correct.

And you had suggested Kinglseys, but Mr Yun had wanted something a bit more modest so you've gone to Steersons. Is that correct?---That's right.

Now nothing had changed had it since the first dinner at Blue Angel in the sense that you still weren't in any better position to help Mr Won or Mr Yun in relation to the contribution charge were you?---No. They, I think they were still deliberating, deliberating on their layout or design or options.

10 And you suggested a further dinner and attended that dinner at their expense simply because you knew they weren't really in a position to refuse you didn't you?---I don't know whether I suggested or he asked me whether I would like to go. I can't really recall that, clarify that. But again, I don't believe I requested (not transcribable) to take me to dinners. I think it might have been discussed in passing in the street or something of that nature where he said, oh, we'll catch up for dinner again or something like that nature.

20 I want to suggest to you that Mr, I'll withdraw that. I want to suggest to you that it was you who rang Mr Yun and suggested that you go out for dinner again?---It's quite possible that that happened, but again, like I said, often people would ask me to go for lunch or dinner and, and when they ask me I'm not always available because of work or other commitments, so I may have rang him to suggest that time was suitable.

I see. And Mr Yun paid for your dinner at Steersons Steakhouse at the cost of about \$483. Does that sound about right?---I can't recall, but it sounds about right.

30 There were just the two of you but it was a nice meal and nice expensive wines?---Yes. Yes, it was.

And again you indicated you wanted to go somewhere for a massage afterwards?---Yes, it was discussed. Yes.

Initiated by you I'm suggesting?---I can't recall whether I suggested it or he inclined it. But yes, we did do that.

40 And so Mr Yun took you to a place in Harris Street in Ultimo where he paid for you to have a massage. Correct?---Yes, that's correct.

Paid about \$200, does that sound about right?---Probably about right, yes.

And none of these benefits that you received from Mr Won and Mr Yun were declared and disclosed to the council were they?---No, they weren't.

And in fact they were something that you knew were improper therefore you knew you needed to conceal them didn't you?---That's correct.

Mr Karkowski, you've given some evidence, if I understand what you said correctly, to the effect that it is your practice to help people where you can, is that correct?---Yes.

In the course of carrying out your functions?---Yes.

The way you dealt with the two gentleman at Xstream Carwash wasn't about helping them was it was about getting something for yourself?  
---That, that wasn't my objective, no.

10

What was your objective?---They came to me, I didn't come to them and they asked for assistance in their proposal and I gave them what I could without crossing any boundaries in relation to my work or position.

You knew, though, from the outset, didn't you, that there was very little real assistance you could provide them because the issues were primarily planning issues?---Again, they asked for my help to come and talk about it, I didn't, I didn't lobby or approach them, they came to me.

20

But wouldn't the honest thing to do have been to say to them look, I've had a meeting with you and Ms De Carvalho and we've explained the position, there's nothing I can do about the contribution charge and I'm not responsible for planning issues. Wouldn't that have been the honest thing to do?---Yes, but they kept coming back. They were negotiating between the centre and themselves and so their plans kept changing so they, they constantly asked slightly different questions about the angle of attack that they were planning.

30

But any help that you could provide them certainly didn't need to be provided over dinner with wines worth between 100 and \$250 a bottle did it?---No, but, no, they didn't.

And so I'm suggesting to you again that the help that you gave them, I withdraw that. I'm suggesting that the way you dealt with them was not about helping them but about getting things for yourself?---Yes.

And that attitude affected not only your dealings with Mr Won and Mr Yun but with other Korean business people from time to time didn't it?---Sorry, what, can you explain what you mean by that?

40

You had an understanding didn't you that business people from a Korean cultural background would be prepared to offer you gifts and benefits by way of a thank you if they perceived that you had helped them in some way. You knew that didn't you?---They were known for doing that, yes.

And you knew that if you helped or were seen to be in a position to help a business person of a Korean background that in all likelihood they would offer you a thank you or some kind didn't you?---Yeah.

And that was something of which you took advantage from time to time in carrying out your role with the council, that's correct isn't it?---Yes.

And if the appropriate thank you wasn't offered that was something that you regarded as most unsatisfactory, correct?---I didn't look at it that way, no. Excuse me, if you don't mind. I didn't treat people differently if they didn't express their gratitude or thanks, it wasn't something I sought after in that fashion.

10

Pardon me one moment, Commissioner. Commissioner, I have no further questions for Mr Karkowski. Sorry, I should tender volume 7A, Commissioner.

THE COMMISSIONER: Yes. A bundle of documents marked volume 7A will be Exhibit 23.

**#EXHIBIT 23 - BUNDLE OF DOCUMENTS VOLUME MARKED 7A**

20

THE COMMISSIONER: Mr Baltinos, I was going to suggest to you that you question, if you wish, Mr Karkowski after other counsel than before and Ms Williams has the opportunity of asking the final questions. I take it that that would suit you?

MR BALTINOS: At this stage, Commissioner, I have no questions, that may change after.

30 THE COMMISSIONER: I understand. Mr Griffin, do you wish to ask any questions?

MR GRIFFIN: I have no questions, Commissioner.

THE COMMISSIONER: Ms Berglund.

MS BERGLUND: Commissioner, I have no questions.

THE COMMISSIONER: No questions.

40

MS HUGHES: No questions.

THE COMMISSIONER: No questions. Well, does anybody want to ask any questions? No questions. Well, Mr Karkowski - Ms Williams, is Mr Karkowski to be excused?

MS WILLIAMS: Yes, he should be excused on the basis that it's possible depending on the evidence of other witnesses that I may need to recall him at the end but I don't foresee that at the moment, Commissioner.

THE COMMISSIONER: Yes. Mr Karkowski, you're free to go but the summons still stands. You may be recalled back, at the moment we're uncertain?---Thank you, Commissioner.

Yes, thank you for your evidence. You may leave the witness box.

10

**THE WITNESS WITHDREW**

**[2.55pm]**

MS WILLIAMS: Commissioner, I call David Tasker.

THE COMMISSIONER: Ms Berglund.

MS BERGLUND: Yes.

20

THE COMMISSIONER: Do you wish me to make a section 38 order?

MS BERGLUND: Yes please, Commissioner.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Mr Tasker and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for him to make objection in respect of any particular answer given or document or thing produced.

30

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I DECLARE THAT ALL ANSWERS GIVEN BY MR TASKER AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

40

Mr Tasker, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MR TASKER: Affirm the truth.

<DAVID MICHAEL TASKER, affirmed

[2.56pm]

MS WILLIAMS: Mr Tasker, could you state your full name please for the record?---David Michael Tasker.

Your business address is..... .., ....., is that correct?

---Correct.

10 And you are the General Manager, Projects for Bennelong Funds Management?---Correct.

You've made a statement to the Commission in connection with this matter. It's a statement dated 7 February, 2011?---Correct.

Commissioner, that statement is found commencing pages 1 to 38 including the exhibits of volume 4 which has been marked Exhibit 10.

20 THE COMMISSIONER: Yes, thank you. Do you mind just repeating those pages numbers.

MS WILLIAMS: Pages 1 to 38, Commissioner.

THE COMMISSIONER: Thank you.

MS WILLIAMS: Mr Tasker, do you have a copy of your statement or shall I provide one?---I think I've got a copy.

30 All right. I'll just give you a moment to check it. I take it you have that in front of you now?---(NO AUDIBLE REPLY)

Thank you, Mr Tasker. Bennelong Funds Management is developing land known as Chatswood Central at 1 to 5 Railway Street in Chatswood, is that correct?---We actually own the land.

You own the land?---We actually own, well, we own the buildings and we actually rent the land from RailCorp.

40 I see. And does the firm Jones Lang LaSalle have some role in relation to that development?---They're our property managers. They're actually situated on site with us which cohabitate an office for a fairly active owner so we sit with our sort of property management team.

All right. And Jones Lang LaSalle is the property manager so they're responsible for leasing the shops to tenants as and when they're completed and ready for letting?---Not in, not in this instance. Jones Lang are in the first instance property managers for the two office towers and on the retail aspect we used a different retail leasing agent.

I see. Would Jones Lang LaSalle be responsible for communications with the council on behalf of Bennelong Funds Management?---Yes, on a day-to-day basis, because they're sitting there they would sort of do all that tic-tac with council and authorities and tenants, contractors, et cetera.

I see. And Mr Greg Christofis he is a Building Operations Manager with John Lang LaSalle?---Yes.

10 And he's one of the people there who would be responsible for these communications with the council, is that right?---Yes.

It's fair to say isn't it that Chatswood Central occupied a significant proportion of Mr Karkowski's time during 2009 and 2010, that's correct isn't it?---I couldn't, I couldn't answer that. I mean - - -

Mr Karkowski was the officer at the council responsible for processing applications for fit outs for shops, that's correct, isn't it?---In fact there's seven fit outs, maybe eight.

20

So you would, it wasn't your perception then that it occupied a significant part of his time?---I can't answer what happened with his time, I can't answer what we were aware of but I don't know what, how he conducted himself and hours that he spent at work.

Are you aware that Bennelong Funds Management indicated to Mr Karkowski that it would be prepared to pay the council for his time spent on Chatswood Central?---Absolutely. I was the person that offered it.

30 And Mr Karkowski told you, didn't he, that he'd spoken to his supervisor about that offer and that that payment would be inappropriate because council may be seen to be favouring Bennelong Funds Management if they accepted that payment?---Yeah, that's, that's how I understood it, yes.

So you knew then didn't you that it was important that that perception not arise in any way?---Correct.

40 Important to the council at least. Is it fair to say that you had fairly frequent contact with Mr Karkowski and developed a fairly cooperative relationship with him in relation to the matters that he was dealing with concerning Chatswood Central?---Yes.

And you treated Mr Karkowski to meals on a number of occasions in the course of your contact with him?---Yes.

And you would also contact each other by telephone as and when necessary?---And email as well.

Did Mr Karkowski ever indicate to you that as an officer of the council he really shouldn't accept meals and like even if it was a meal in the course of discussing business?---Not that I recall.

On 11 May, 2010 there was an application submitted by Bennelong Funds Management or on its behalf for a number of changes to the building works at Chatswood Central, do you have a recollection of, of that?---Yeah, I do.

10 I'm going to have provided to you a copy of Exhibit 10 which is volume 4. If you could turn to page 92 of that volume please, Mr Tasker. That's the development application I mentioned as having been lodged on 11 May, 2010, do you agree?---Correct.

And it was in effect for a number of (not transcribable) changes rolled up into the one application?---Yes.

You needed a fairly quick turnaround on this application, didn't you?---In one area, yes, we did.

20 Which area was that?---Shop P8.

And why was it that you needed that quick turnaround?---We, our leasing team had leased the space to a tenant and they wanted to start their fit out.

And any delay in starting the fit out meant that you, a delay in Bennelong Funds Management being able to receive the rent for that shop, as simple as that, wasn't it?---I think it's probably, it's not just the money, it's actually that you might lose a tenant and have to start that whole process again.

30 So it's actually more significant than just a delay in receiving the rent, potentially?---Potentially because you then have to, you've already paid fees to get the tenant, you've already gone through all the process of legals et cetera, accepting a deposit and then if it fails you have to go through the whole process again.

Right. The building work for parts of the issues to which this section 96 application related was started before the application to modify the Development Consent and for the Amended Construction Certificate was approved, wasn't it?---Correct.

40

And you were aware of this before the Construction Certificate was issued, you knew the building work had started?---I was aware that the work had started by our builder, yes.

And that was something you discussed with Mr Karkowski, wasn't it?---It may have come up in conversation but I was certainly aware that some works had commenced.



It came up in a conversation didn't it in which Mr Karkowski offered to backdate the consent and the Construction Certificate for you?---I, I have a memory of the, the backdating issue. It, it certainly came up in a telephone conversation but I think I was specific in a sense that from our point of view that really it, we were where we were so we, we had, the builder had admitted that he started so - - -

10 THE COMMISSIONER: I don't understand what you mean when you say we were where we were?---Well, we were at a point of time where our builder had commenced without a permit.

And therefore?---And, and therefore that was incorrect.

I'm not sure, Mr Tasker, what that has to do with backdating or backdating, you made some comment on that I'm trying to understand. You were asked about a conversation in which backdating was mentioned by Mr Karkowski, you said you have some memory of that and then you went to say we were where we were so I'm not sure what you were actually getting at?---I, I think my words to Ed were something along the lines that, you know, not to  
20 get into trouble about it or don't do anything that would get you into trouble because it's not, it's not a, a big issue.

Yes, thank you.

MS WILLIAMS: Mr Tasker, it wasn't an insignificant issue, was it, in that if the Construction Certificate was issued after the work was commenced then it would be of no effect, you understood that, didn't you, no legal effect?---I'm not 100 per cent up with New South Wales building laws, I could answer for Victorian but I understood the implications, yes.  
30

And one of the implications was you would need to get a different certificate, a Building Certificate, to in effect retrospectively approve the work that had been commenced with the Construction Certificate, is that right?---I'm now aware of that, yes.

And that was quite frankly a headache you didn't need in relation to shop P8 at that time, isn't it?---I, I have a number of headaches but that'd probably be one I'd want to avoid.

40 And Mr Karkowski did in fact backdate the consent and the Construction Certificate to a date in June, 21 June I'm going to suggest to you, whereas in fact they weren't issued until 2 July, you know that to be the case, don't you?---I do, I do now, yes.

And at the time you knew that that's what Mr Karkowski was going to do, didn't you?---I didn't know he was going to do that, no.

Well, you knew that he had indicated he would do that?---Correct.

And you were hoping that he would do that?---Yes, yeah.

And so far as you're aware your builder and you and he were the only people who knew that the work had actually started even before the date put on the Construction Certificate?---I'm, I'm sure other people were probably aware. We had, our builder was actually sighted in those offices, they actually had their lunch rooms in there so we're not 100 per cent sure when the work actually started but subsequent sort of look at site diaries has borne out the fact that the work had commenced.

THE COMMISSIONER: The probabilities are that other than Mr Karkowski no one from the council knew?---Oh, okay, yes, sorry.

That's a separate question, that's correct, is it?---Correct.

MS WILLIAMS: Thank you, Commissioner.

Once the Construction Certificate was issued there was another problem that arose in relation to the ceiling height for shop P8 wasn't there?---For a specific part of the shop, yes.

And the problem was that the height was less than that required by the Building Code of Australia, correct?---Correct.

And Mr Karkowski indicated to you that this would mean an alternative solution report was necessary before he could sign off on the work, correct? ---Correct.

And it was agreed between you and Mr Karkowski that he would write the report and it would be submitted under your name. That's right isn't it?--- Correct.

And you offered to pay Mr Karkowski for his efforts?---Correct.

Mr Karkowski didn't indicate did he that it would be inappropriate for Bennelong to pay him for that?---No.

And ultimately you did pay him in the form of two gift cards?---Correct.

To a total value of \$750?---Correct.

Did you pay him in any other way, by cash or any other method?---No.

If you could just turn to page 154 of the volume that you have in front of you, it's Exhibit 10?---Page?

Page 154?---Oh, 154, yep, sorry. And do you recognise the document starting at that page and going through to page 160 as the report that Mr Karkowski prepared for you?---Correct.

Commissioner, I have no further questions for Mr Tasker.

THE COMMISSIONER: Mr Tasker, when did you first see this alternative solution report?---As in a date or - - -

10 I don't think so?---I can't recall, I mean I can't recall the specific date.

But at a time relevant to the approval of the building, what I mean is I assume that you saw it and noticed that it concerned the reduced ceiling height at a time you needed such a report in order to have the building approved despite the reduced ceiling height?---Correct.

And you saw that it was prepared by David Tasker?---Correct.

20 And that was a lie?---Often in our business we have consultants that prepare reports and then we put them in under our company name or our own name. But certainly it's correct. We didn't prepare that report.

It was a lie. Did you prepare the report?---No.

The report says prepared by David Tasker. That's not true is it?---Correct.

And you knew that?---Correct.

30 What did you do with the report knowing that it contained a lie?---Oh, it was submitted to the council.

So that the council would think that you'd prepared it?---Correct.

And for that you gave Mr Karkowski \$750?---Correct.

And you gave it to him after he'd done it I think?---Correct.

Did he ask for it?---(NO AUDIBLE REPLY)

40 Did you agree that before he handed it that's what he would be paid?---No. I never agreed a value.

You just agreed to pay him something?---Well I tried to ascribe some value to the worth of the report.

That was after he'd done it or before?---After he'd done it.

But before he did it do you talk to him about the, about what he would,

whether he would get any payment or other compensation for doing it?---I, I'm a sort of a, we've always sort of paid our way. And I'd sort of certainly suggested that we would, would look after him if he could help us with this report 'cause it was very important to us.

I see. You knew that by doing this he was breaching the duties he had with the council?---I presumed as much, yes.

10 Mr Tasker, I'm, I presume you don't do this with every council officer you meet?---I have been asked that question, Commissioner.

And I presume your answer is no?---Correct.

20 What was there about Mr Karkowski that made you think that you could do this successfully?---Oh, I don't, I don't think, nothing's successful until you're caught I guess. I think we were very, very fortunate at, with the Willoughby Council generally, but particularly with Ed's help in a very, very difficult project. I'd obviously taken him to a number of lunches and dinners to try and cement that relationship that was already there with our  
20 team. And Bennelong has always had a philosophy of paying its way, but also doing the right thing by people that help it. So it was probably not our best example of something that we've done.

By the time Mr Karkowski produced the alternative solution report, you, by you I mean Bennelong, had taken him to lunch and dinner more than once I take it?---Correct.

30 So you had, to use your phrase, cemented your relationship before he did the report?---Look in our, in our business we're very persuasive. And we get people to like us.

Yes. Yes, you use good cement?---Well, well we have a retail precinct at our disposal of which one of the restaurants down there wanted us to bring people and sort of try and grow his business. We traded some, given them a less rent while we were sort of doing the main construction work and for which they gave us an account which we could use at the restaurant.

40 I understand. So I'm going to ask you for some advice, Mr Tasker. Is this kind of conduct, what I mean is, getting to know the council officers who have discretionary powers in relation to your work, is that something that one finds throughout your industry?---Not really, no.

Are you saying that it's only something that your company does?---No, it's not. It's more I think based on personality and people. And I would have said that Ed, in representing the Willoughby Council had been sort of very good for us. He was really tough on us. And we'd sort of really enjoyed the relationship. He was not a normal example of council officers.

In what way?---I think his attention to detail, work ethic, time that he spent at work.

Cooperative?---Sometimes cooperative, but sometimes we, we've fallen on the wrong side of the council a couple of times and been issued fines and, and got ourselves in a bit of trouble. But we're a business about getting ourselves out of trouble.

10 Thank you?---May I make just one comment?

Yes?---Subsequent to that, that report being prepared we've actually commissioned an independent report so that it's actually taken out of that particular area and it's being done by an independent consultant for Bennelong.

I don't understand?---We've actually submitted to the council in the last week a separate report dealing with that matter because we - - -

20 With what matter?---With the reduced height in P8 because we're, as a business, we're not happy about the way in which we've conducted ourselves. And we wanted to correct that.

All right. Yes, thank you for that. Does anyone wish to ask Mr Tasker any questions?

MR BALTINOS: I do, your Honour.

THE COMMISSIONER: Yes.

30 MR BALTINOS: Mr Tasker - - -

THE COMMISSIONER: Just explain who you are Mr Baltinos.

MR BALTINOS: Yes, I'm Baltinos is my name. I'm counsel for Mr Karkowski. Thank you. Can I ask you just a few questions?---Absolutely.

You joined Bennelong Funds Management in 2004 I understand?---Correct.

40 What had you - - -?---I think I joined Bennelong Group in 2004 and possibly in the last three years it became Bennelong Funds Management.

And what were you doing prior to that?---I was actually working for a developer.

And whilst working for a developer and for Bennelong you would have had some experience dealing with councils?---Ah, correct.

Both in Victoria and New South Wales?---Canberra and Brisbane.

As well?---(NO AUDIBLE REPLY)

THE COMMISSIONER: Did you answer yes?---Ah, yes.

MR BALTINOS: And you made an offer to Willoughby Council for Mr Karkowski as I understand your evidence to pay for his time?---Correct.

10 THE COMMISSIONER: Sorry, can I just understand that. You made the offer to the Council did you say?---No, I actually made the offer to Ed.

MR BALTINOS: My question, sorry Commissioner, was through Mr Karkowski, through the Council. That's correct isn't it?---Correct.

THE COMMISSIONER: What was the offer?---Um - - -

20 Why was it to the Council?---I was, I was concerned that if the perception was that Ed was spending a lot of time on our business and I wanted to make sure that we paid our way as far as the Council was concerned for his time or any overtime that he needed to do.

Who were you offering to pay?---The Council.

I see. Yes, thank you.

MR BALTINOS: Yes, Commissioner. And you use that phrase paying your way or your business paying its way several times now giving evidence today haven't you?---Correct.

30 And how do you define the phrase – paying its way?---I think we've always tried to you know finalise our bills or pay people appropriately for the services which they've done.

And you sought to pay the Council for services which it had rendered to you through Mr Karkowski's time?---Probably for the extra work that we perceived that he was doing for us, yes.

Council declined as far as you're aware?---I'm sorry, as far as I was informed that the Council declined.

40 And through your experience with dealing in councils over the years, you're aware that the offer to pay the Council was inappropriate?---No.

Have you paid councils for their services apart from development applications, construction certificate – have you paid them for their time? ---We have, yes. Say for instance when we've had a building surveyor at the council give us some further advice or time we might enter a bill. If we go to site services to get some advice about a footpath or planting matter or car park issue we'll end up getting a charge.

Well have you had occasion where you asked an employee of a council to ask the employees superiors whether they would be prepared to accept payment for that employee's time?

MS WILLIAMS: Commissioner I object, I'm not sure of the relevance of this very general line of inquiry to this specific matters that the Commission is investigating.

10 THE COMMISSIONER: I'll allow the question.

MS WILLIAMS: Thanks, Commissioner.

THE WITNESS: I've had an instance in Brisbane, yes.

MR BALTINOS: Rather improper isn't it?---Why is it improper?

20 Well, I'm asking you, you don't believe that's improper?---I believe that people need to – obviously be paid for the work they do and certainly if they've done more than what they sort of budgeted or allowed for then they should be recompensed for that.

THE COMMISSIONER: I don't understand it, Mr Tasker, Mr Karkowski was working for the Council whatever he did for you I assume was part as part of his duties as an employee of the Council.---Correct.

30 Who was doing no more, no less than what he was employed to do, I assume.---Correct, but from our business point of view we thought he was doing, helping us and working many more hours than possibly he should to assist us and we wanted to make sure and hence I had that discussion with him to say we need to – if there's extra time you're working on this or over time then we need to make sure that we pay that Council for this.

MR BALTINOS: Now this report that Mr Karkowski prepared for you in respect of the ceiling height – he didn't ask you for any money did he?---He did.

40 You didn't give that evidence earlier did you?---No, I wasn't asked that question.

You didn't give that evidence earlier did you?---I don't understand.

You gave evidence earlier at this inquiry and you omitted to mentioned that Mr Karkowski requested payment for the preparation of your report, correct?

THE COMMISSIONER: He wasn't asked that Mr Baltinos.

MR BALTINOS: I'm not suggesting Commissioner, that he was asked that specific question - - -

THE COMMISSIONER: Well, I don't think it's fair.

MR BALTINOS: Well, I'll withdraw that. What do you say Mr Karkowski, what was the conversation you say Mr Karkowski and you had in relation to payment?---Um, I don't think we had a specific conversation about payment um, I think I'd said to him that we will sort something out.

10

Are you suggesting that he requested some form of payment or reward from you?---Yes.

Are you suggesting that he approached you first?---I'm suggesting that we had a issue which he was able to provide a solution at which point I said well, we would obviously have to figure something out.

Well, let me put it another way. Who instigated the conversation concerning payment?---I don't recall.

20

Could it have been you?---It could have been, there were only two of us in the room so it was either Ed or myself.

Because according to your evidence earlier your company is a very persuasive company?---I think – I didn't – I think to clarify that - - -

THE COMMISSIONER: All right, that was in a different context Mr Baltinos.

30

MR BALTINOS: Yes, Commissioner. What I'd like to suggest to you is that you were disappointed that the Council originally rejected your offer to be paid for Mr Karkowski's time - - -?---No.

You weren't disappointed at all?---No, it's just an expense that I didn't have to bear.

Well, you certainly wanted to pay for his time?---I needed to pay for the report that was prepared for us, yes.

40

And you had a conversation with him – you say – concerning payment in respect of the report. Yes?---Yes.

You can't recall who instigated that conversation?---I don't recall the specifics.

Do you recall what type of reward was discussed?---Um, I don't, I don't think any reward was discussed but I'm sure I said, look I'll sort something out and I'll need to work on that.



I've got no further questions Commissioner.

THE COMMISSIONER: Yes, Ms Fisher.

MS FISHER: Mr Tasker, my name's Fisher, I'm the barrister for Willoughby Council. Do you recall that it was drawn to your attention earlier today that you gave a statement to the Commission dated 7 February.---Yes.

10 At paragraph 40 of that statement you say that other than Mr Karkowski, you've never given any gift vouchers or gifts to anyone else at WCC, which I understand to be Willoughby City Council?---The first sentence.

First sentence.---Correct.

Do you adhere to that evidence?---I do.

Thank you Commissioner.

20 THE COMMISSIONER: No other?

MS FISHER: I have no questions, Commissioner.

THE COMMISSIONER: No questions from anyone else?

MS WILLIAMS: No further questions from me Commissioner.

THE COMMISSIONER: You may be excused. Thank you for your evidence.

30 THE WITNESS: Thank you.

**WITNESS EXCUSED**

**[3.29PM]**

THE COMMISSIONER: Please be seated, Ms De Carvalho. Mr Lewis, do you wish me to make a Section 38 order?

40 MR LEWIS: Thank you, Commissioner, yes.

MS WILLIAMS: Commissioner, I call Leonie De Carvalho.

THE COMMISSIONER: Please be seated, Ms De Carvalho. Mr Lewis, do you wish me to make a Section 38 order?

MR LEWIS: Thank you, Commissioner, yes.

10 THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Ms De Carvalho 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 or thing produced.

20 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MS DE CARVALHO 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 OR THING PRODUCED.**

THE COMMISSIONER: Do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

30 MS DE CARVALHO: Under oath.

THE COMMISSIONER: Ms Williams?

MS WILLIAMS: Thank you, Commissioner. Commissioner, you'll find Ms De Carvalho's statement at, commencing at page 283 of volume 4, which is Exhibit 10.

10 THE COMMISSIONER: Thank you.

MS WILLIAMS: Your full name for the record is Leonie Joan De Carvalho?---That's correct.

Am I pronouncing your surname correctly?---Close enough.

Thank you, Ms De Carvalho. And you're commonly known though as Noni. Is that correct?---That's correct.

20 And you are a town planner with the Willoughby City Council?---Correct.

And your title is in fact, Chatswood CBD Place Manager. Is that correct?---That's correct.

You've sworn a, or signed a statement to the Commission in relation to this matter?---I have.

That's a statement dated 7 February 2011?---Yes.

30 Do you have a copy of the statement with you?---No, I do not.

I'll have one provided to you. Your role as Chatswood CBD Place Manager involves you addressing town planning issues in relation to the CBD area in Chatswood. Is that correct?---That's correct.

Concerning Development Applications made in that area?---That's correct.

40 And from time to time you would seek assistance from other officers within the council in relation to those Development Applications?---Yes, I do.

And those officers from whom you would seek assistance would occasionally include Mr Edward Karkowski where there were building issues at stake. Is that correct?---That's correct.

Ms De Carvalho, you mention in paragraph 16 of your statement that the Chatswood CBD contains a very multi-racial community and you refer there to problems that can arise in dealing with members of that community from your point of view as an officer of the council?---Yes.

Have you found that problems arise in terms of expectations on the part of members of that business community as to what may be appropriate to offer council officers in return for assistance?---No. I've found it more a question of communicating what is expected of them in order for us to do our job. So if they're seeking to do a Development Application with council it's communicating to them what they're required to do for us to actually carry out that work.

- 10 Have you ever been in a position where a member of the Chatswood CBS business community with whom you have been interacting in the course of your job has offered to take you out for a meal or provide you with a gift?  
---Not in recent years, no, no.

Ah hmm?---It's not something that I like. I discourage it, actively discourage it. I do not like it.

- 20 I understand that you don't like it. Have you ever been in a position where a meal or a gift or some other benefit was offered to you though?---Not that I can recall.

And when you say you actively discourage it, how is it that you go about discouraging it?---Say coming up to Christmas, which is normally the time where people may suggest they want to give you something, I just say to people, "Don't do it, it's not appropriate. It, well, it's necessary for us to declare it, it's a lot of hassle, it's just, please, don't do it. It's not worth it."

And you've found that quite effective in- - -?---I have.

- 30 - - -heading off these difficult situations?---I have, yes.

Ah hmm. And certainly no doubt in your mind that it's not, it would not be appropriate to accept such gifts or benefits?---No.

And so far as you're concerned, has that been adequately made clear by the council to- - -?---Yes, it has. We've had training in it, it's in our Code of Conduct, there's a gifts and, Gifts Register requirement, there's a policy. We've been trained in that, as I say.

- 40 And is that, is that the reason for your statement in paragraph 18 of your statement that you simply don't have meals outside the office with Development Applicants?---No, I don't.

And is that the reason for that approach, to avoid the perception of them offering or providing you with some benefit?---It's also because I'm not interested, because my relationship with these people is one of a business relationship. I have no interest in taking it any further than that. It's not really constructive to the job I have to do, so I see no point in it.

Do you recall, I'm sorry, I withdraw that. Could you have a look at paragraph 20 of your statement, please. You mention there some discussions with Ed, I take it you're referring to Mr Karkowski?---Yes, that's correct.

And, and those discussions being in relation to a carwash business in Chatswood Chase and a proposal for expanding that business?---Yes.

10 Would those discussions have been sometime during the first half of 2010, does that timing sound about right?---It could well have been. I can't, I can't guarantee it. I recall the discussions because they initially were Ed coming by my office and asking me questions about it and me giving the answers, giving the answers.

And you explain there that the proposal wasn't going to work because any additional car spaces required would attract a contribution of around \$20,000 per car space. Is that right?---It's actually higher than that figure. Yes, it would.

20 And is it the case that that position was very clear, it wasn't a case of further consideration or discussion, there would simply be \$20,000 or more per car spaces that would have to be paid?---That's correct. Any loss of car spaces, Chatswood Chase, after their renovations, does not have spare capacity in their car park to accommodate changes like that. It means we're moving car spaces from the use by the shopping centre, by the general use, and you have to make up that, that loss. For the scale of shopping available you have to make up for that loss. And that, if there was any question like that, somewhere those car spaces have to be made up. If they can't be made up  
30 on site they have to be paid for and it means council has to make them up somewhere.

And you say there that Mr Karkowski came back to you sometime after that initial discussion with the idea of splitting the business over two locations? ---Yes, but it still made no difference. It still resulted in loss of car spaces, because the other thing about a carwash business is that they, they have to have spaces where the store the vehicles while they're waiting to be washed or they're waiting to be collected, so it's more than just the space they use for the actual process of washing, it's that pool of spaces they use to store  
40 the vehicles.

And so was it only on these two occasions you've mention in paragraph 20 that Mr Karkowski raised these issues with you about the carwash, so far as you can recall?---That was, that was my recollection.

And did you attend at some stage a meeting with Mr Karkowski and the proprietor of the business, a Mr Won?---I don't recall that to be honest. I know I heard Ed speak of that. Unless he came into the foyer of council and

Ed called me out to meet him and it was not a formal meeting, that could well have happened, but I just, I don't recall it. In fact as we have been sitting here today I've been trying to recall his face and I can't recall that either, so I am struggling a little bit to respond to that comment.

All right. But in any case, on each of the two occasions when Mr Karkowski raised the car park proposal, I'm sorry, the carwash proposal with you, you made it quite clear that any additional spaces would involve this contribution payment?---Yes, I did.

10

And there was no, no way of overcoming that and as far as you're concerned, Mr Karkowski had that clear understanding from what you told him?---Yes. I could see no choice.

Can I ask you to turn to paragraph 28 of your statement please. You see there you refer to some assistance that Mr Karkowski provided to you in relation to a section 96 application for 1 to 5 Railway Street?---Yes, that's correct.

20

That's the development known as Chatswood Central, that's correct isn't it?---That's correct.

And you refer in paragraph 28 through to 31 to the delay in processing that application being attributable in part to some negotiations about a condition number 20 on the development consent?---That's correct.

And the application was not only for the modification of the development consent but also for the issue of an amended Construction Certificate, is that right?---Yes.

30

And the Construction Certificate couldn't be issued until the modification to the consent had been approved, that's right isn't it?---That's right.

And if the building works the subject of the application had been started before the Construction Certificate issued then a Construction Certificate is of no effect is it?---That's right.

And the only way to overcome that problem is to obtain a Building Certificate?---That's correct.

40

So far as you can recall was it Mr Karkowski who prepared the documentation once the approval had been decided upon and presented it to you for signing?---No, no, the, I do the assessment report and I concluded it was worthy of approval then I actually signed that and issued it for drafting of the approval notice. And that occurred and as far as I know it just sat there while the matter of the engineering condition was resolved between the department I work in and the Engineering Department of council.

And although the development consent was signed by you with a date of 21 June, 2010 you explain in your statement that you've since checked the council files haven't you?---Yes.

And you've ascertained that the date on which it was actually finalised was 2 July, 2010?---That's correct. That's the date the document was finalised in our system but I actually signed my report on 21 June.

10 And the date on which the approval of the modification of the consent and the associated Construction Certificate took effect is that 21 June or 2 July?  
---It should've been changed to 2 July.

I see. And so - - -?---That delay should have been corrected.

And so the - - -?---But the - - -

I'm sorry to interrupt?---Sorry.

20 Please finish?---Well, it just, the notice should've been amended but I actually completed my work in terms of assessment on 21 June.

And did you have any involvement in, no, I withdraw that.

THE COMMISSIONER: When you say your work in terms of assessment what is that work?---I did an assessment report.

What does that involve? What are you assessing?---The requested variations to the development consent.

30 I see?---We're required - - -

From a town planning point of view?---Town planning point of view. The first, there are two major aspects to that assessment is one, whether it's substantially the same development as to that which was originally approved and the second one is reviewing the, what's called the section 79 heads of consideration under the Act for assessment.

Yes, thank you.

40 MS WILLIAMS: And, Ms De Carvalho, you weren't responsible for signing the Construction Certificate were you, that was Mr Karkowski's responsibility?---No. No.

And it was his responsibility to check the date that appeared on that document, correct?---Yes.

Whatever the date was that was stated on those documents the applicant was not entitled to act on those documents until they received them, that's

correct isn't it?---Yes, they, they wouldn't have known until they received them.

I have no further questions for Ms De Carvalho, Commissioner.

THE COMMISSIONER: Yes. Are there any questions, Mr Baltinos?

MR BALTINOS: No.

10 THE COMMISSIONER: Mr Griffin.

MR GRIFFIN: No.

THE COMMISSIONER: Yes, thank you for your evidence, Ms De Carvalho, you may be excused?---Thank you.

**THE WITNESS EXCUSED**

**[3.44pm]**

20

MS WILLIAMS: Commissioner, the next witness I wish to call is Mr Sam Koura.

THE COMMISSIONER: Mr Griffin, do you wish me to make a section 38 order?

MR GRIFFIN: Thank you, Commissioner.

30

THE COMMISSIONER: Please be seated, Mr Koura. Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Mr Koura and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for him to make objection in respect of any particular answer given or document or thing produced.

40

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I DECLARE THAT ALL ANSWERS GIVEN BY MR KOURA AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**



THE COMMISSIONER: Mr Koura, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MR KOURA: Under oath.

THE COMMISSIONER: Ms Williams.

MS WILLIAMS: Mr Koura, you are commonly known as Sam Koura, is that correct?---Correct.

But you also have another name Asad Koura, is that right?---Yeah.

10

And could you please state your address for the record please?---..... ..  
....., .....

You operate several businesses including a business as a property developer, is that correct?---Correct.

And is that business carried out under a firm by the name of Koura and Associates?---Correct.

20 Is Mr Mark McCaul an employee or a partner with you in that business?  
---Associated. He's just an architect.

He's an architect?---Yes.

Is he actually employed by you or he just frequently works with you?  
---Frequently, no, he just assist, he just share the same office with me.

I see.

30 THE COMMISSIONER: Is he employed by you?---No.

MS WILLIAMS: You share office space and you frequently work together on projects?---Correct.

But each time you work together you engage him separately for that specific project, is that right?---Correct.

You are friends with Mr Edward Karkowski?---Correct.

40 And do you also have a friendship with Mr Nick Tobin the General Manager of Willoughby City Council?---Correct.

And how long have you been friends with Mr Tobin?---Mr Tobin more than about 28, 30 years.

And how did you first come to know Mr Tobin?---I used to have coffee shop in Spit Junction, Mosman and he used to work for Mosman Council.

I see. And did you come to know him in the course of your dealings with the council in Mosman or was it simply that he was - - -?---No, I was just running the coffee shop there, he used to come and get coffee or sandwiches at that time. He was just a customer.

10 And how did you first come to know Mr Karkowski?---I met him through a golf day that was arranged by Chatswood businessmen, businessmen in Chatswood arranged by Bill from Sheads Real Estate and he ask me for a sponsor through my cleaning company and I sponsor, you know, sponsor him and I met Ed on the day.

I see. So you were sponsoring the golf day organised by Mr Geroulis were you?---Correct.

I see. And towards the end of 2009 you were negotiating were you to purchase a property at 500 to 502 Willoughby Road?---Correct.

20 There were, so far as you were aware, other purchasers potentially interested in that property against whom you were competing?---No, this property introduced to me by one (not transcribable) Bill Nu and Ed Nu and I met them through them which is on the golf day and he (not transcribable) developer, he asked me there's a property, it's been on the market for a while if you're interested. The gentleman's name Ben Moseley and so I look for it and I rang the real estate agent and I made them an offer and they accepted.

30 And prior to you making the offer or at least prior to your offer being accepted did Mr Karkowski give you any information that he had through the council about that property?---The real estate agent didn't have the, yes, didn't have their stamped copy and I didn't know what condition I'm taking the property so, and couldn't provide it so Ed was there and I asked Ed if he could assist me and he said, I'll get you a copy off the plan and the conditions.

And in your experience is that something that you would've been able to obtain by approaching the council through their customer service desk or - - -?---Yes.

40 Yes. Would you have had to pay a fee for that?---I wouldn't think so.

The council would have just given you a copy of those plans?---Usually, no, there's always copies at the council and, and just asking, Ed said I'll get you a copy.

So far as you understand it if you had applied for those plans through the council rather than just asking Mr Karkowski, would the council have charged you a fee to provide the plans?---I didn't think about it to be honest, was offered to me and I accepted it.

During 2010 you were applying for a development consent for a property at 32 Emerstan Drive, Castle Cove?---Correct. My own resident.

It's a residential property?---Correct.

And it's outside Mr Karkowski's area of responsibility?---Correct.

10 And the officers at the council dealing with that application were a Ms Annie Leung?---Correct.

And Mr Ian Arnott?---Correct.

20 But from time to time you asked Mr Karkowski to get information for you about that development application didn't you?---Correct. I didn't ask him, but I was just, 'cause I used to see, we got a good relationship with Ed and I used to see him regularly and, and I was expressing my feelings and just need to know what's, what's happening. And, and he said I'll, ask if he could find out for me or I should go and he said, I'll try and get you some information.

And over what period of time had you built this good relationship with Mr Karkowski that you refer to?---I think (not transcribable) more than a year. Yeah.

30 So more than a year since meeting at the golf day you had - - -?---Just since the golf day because I already have relationship with Bill and then through business. And when that, the relationship start to get bigger just with the catching up for coffee, catching up for drink and not that I usually go drink after work, and we used to meet somewhere, at the Monkey Bar and just have a few drinks with the, with Bill and, and Bill (not transcribable) have other client with him, which is Bill, what's his name, Ben and Jacky and Ed happened to be there a few times. And we have kind of it's like a regular thing.

And Jacky who you referred to that's Jacky Mai is it?---Correct.

40 And these relationships were built and in particular your relationship with Mr Karkowski was it built mainly for the purpose of friendship or mainly because you thought it might be helpful to your business?---No, mainly just a friendship.

Mr Karkowski provided you with an engineering report relating to the development at 32 Emerstan Drive, Castle Cove in May, 2010 didn't he? ---May, 2010, I don't know the date but he just gave me a report once, he said that's the objection and that's what they required. The only way I used to ask him because I was a bit anxious because I sold my property and I didn't have a, we were renting somewhere with a downsized property from

five bedrooms to four and I've got four kids and we can't put the plan and I was wondering why it was taking so long because before I put the plan in I had pre-lodgement, pre-lodgement meeting with Ian Arnott and the council just to give them what they really need so we can, instead of delaying the time. And our family was, I was a bit under pressure and we were just trying to get it and, just to find out, that's when I ask Ed what they needed so I can really get it done straight away.

10 So you asked Mr Karkowski on a number of occasions didn't you - - -?  
---Correct.

- - - to get you information or documents relating to your development application for 32 Emerstan Drive?---Not number of time, I just need to know what's the delay of the things, of the process because they used to say you know it's going to be another week we'll get back to you or a couple of weeks or a month, whatever it is and if I don't hear anything, I'm, I'm the kind of person I just want to get things straight away and - - -

20 THE COMMISSIONER: So each time there was a delay you'd ask Mr Karkowski to find out why there was a delay. Is that what you're saying?  
---Not all the, but through the conversation with Mr Karkowski, you know, we used to see him three, four times a week sometimes twice a day we'd catch up for coffee and sometimes we just come up and (not transcribable) I said could you find out what, he said, I'll find out for you.

And this happened several times?---This happened several times, yes.

30 MS WILLIAMS: And Mr Karkowski generally would find out some information and get back to you wouldn't he?---Correct.

Now on one occasion he managed to find an engineering report on Ms Leung's desk - - -?---Yeah.

- - - make a copy of it for you and give that to you didn't he?---Correct.

And you knew didn't you that he'd taken that from Ms Leung's desk? He told you that didn't he?---Yes. Oh, well, sorry, can you repeat again the question?

40 Mr Karkowski told you that an engineering report he gave to you at the end of May, 2010 in relation to 32 Emerstan Drive was a report that he had taken from Ms Leung's desk and copied in order to give to you?---I, he told me he's going to find out where this report is, he'll give to me. I, I can't recall he took from Annie's or Ian's or any desk, but he said I haven't got it, I'll look and see where it is. Probably he did. I can't recall exactly whose desk he's going to get it off.

But you were quite content weren't you for him to go searching through council's offices and councils information systems to find out for you the information that you needed?---Not really content in the way, I just need to know what's happening and he offer it and we become very good friends and every time he sees me and, I wanted the information, yes.

10 And you didn't really mind too much how he went about getting it as long as you got it, is that right?---Well, obviously he knows if it's going to get him in trouble he wouldn't get into something like this but I thought this is information which is eventually going to come to the client or the applicant sooner or later.

You just wanted to get it more quickly didn't you?---Correct.

And - - -

20 THE COMMISSIONER: You knew you wouldn't be able to get it more quickly without him?---I would have really contacted the general manager, I would have contacted Ian, I would have contacted the mayor or the, the ward councillors because I do know Ian, I know him as well and as a, as a resident of Willoughby City and probably I would have, I would really found out, you know, if I need to have this information.

Did you know whether you were entitled to this report at the time you got it?---No, then I wasn't entitled from it.

30 Did you, I asked you did you know whether you were entitled to it?---I was aware the council, the council officer would get back to me and tell me that's the problem and that we need to rectify it.

Did, did you think that you were entitled to a copy of the report at the time Mr Karkowski got it for you?---I thought I was, were entitled to one.

So why didn't you go and apply at the council in the usual way for it?  
---Well, I know Ed and I just, I asked him for if he could do that for me.

How would you get this report if you didn't get it from Mr Karkowski?---I would have had to wait or I would have had to the council and get it.

40 But how did you - - -?---I would ask for it.

Ask who?---Ask the front counter.

And, and you would get it?---I don't know, I wouldn't know if I did.

So you really had no idea whether you were entitled to it or not?---Not this particular one if you mention, no.

That's the one I'm asking you about?---No, I don't know, sorry.

You don't know whether you're entitled to it?---I wouldn't know, no.

MS WILLIAMS: Mr Koura, from time to time Mr Karkowski checked the council system to see if there had been any new objections lodged in relation to 32 Emerstan Drive, didn't he?---(not transcribable) yes.

10 And he sent you messages, a text message on some occasions indicating that there were no new objections lodged to keep you up to date. Do you remember receiving messages?---Correct.

And on other occasions when he found objections he would ring you and alert you to them?---Correct.

Can you remember him reading out the contents of an objection letter to you over the phone?---Yes.

20 Telling you who had lodged the objection?---Yes.

Mr Koura, what did you do for Mr Karkowski in return for his supplying you with this information?---I, what did I do, we had a couple of, quite often lunches, sometimes lunches, a couple of gifts and a ticket to the game which is I usually get, nothing, I mean, nothing unusual that I'll do to anybody else that was a friend.

30 THE COMMISSIONER: What sort of gifts?---If I get a tie, when I go overseas I just get some gifts, it could be a tie or a shirt or maybe at Christmastime one scotch or that I usually offer to friends or colleagues or clients.

And what game were you talking about?---The game which is a football game, Manly, I'm a sponsor of Manly Sea Eagles, my company, cleaning company and we get a corporate box and the box which is catered for 14 people which is with beverages and food and, and that's part of the package and I usually just offer them to friends or clients.

40 MS WILLIAMS: Did you also supply Mr Karkowski with a drug by the name of Cialis?---Yes, I did.

And was that something that you had a prescription for?---Correct.

And something that Mr Karkowski didn't have a prescription for, is that right?---Correct.

So - - ?---Not always you can, need the prescription, you could get them without prescription as well.

So you can get them without prescription?---Yeah.

Are the expensive?---They are actually about \$65 for four.

And did you, did he reimburse you for the cost of these drugs or did (not transcribable)?---No, I used to give him one or two, I didn't really give, you know, just a - - -

Commissioner, is that a convenient time?

10

THE COMMISSIONER: Yes. We'll adjourn 'til 10.00am tomorrow.

**THE WITNESS STOOD DOWN [4.01pm]**

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