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27/02/2012

PETRIE  
pp 00001-00059

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HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION PETRIE

Reference: Operation E11/0534

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 27 FEBRUARY 2012

AT 10.10AM

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.

ASSISTANT COMMISSIONER: Thank you. Please be seated. This is a public inquiry being conducted by the Independent Commission Against Corruption to investigate allegations that between March 2005 and April 2006 Ron Mason, former chairperson of the Wagonga Local Aboriginal Land Council, and Ken Foster, former coordinator of the Wagonga Local Aboriginal Land Council, received corrupt benefits from Fortunato, also known as Lucky, Gattellari in return for facilitating negotiations between the Wagonga Local Aboriginal Land Council and Gattellari, Ron Medich Developments Pty Limited and Waterview Developments Pty Limited. And  
10 secondly, that between January 2008 and April 2010 Vanessa Mason, former chairperson and current CEO of the Wagonga Local Aboriginal Land Council received corrupt benefits from Fortunato Gattellari in return for facilitating negotiations between the Wagonga Local Aboriginal Land Council and Gattellari and Waterview Developments Pty Limited.

The general scope and purpose of this public inquiry will be further outlined in the opening address of Mr Geoffrey Watson who has been appointed as Counsel Assisting the inquiry. Thank you, Mr Watson.

20 MR WATSON: Thank you, Commissioner. Commissioner, this public inquiry is the culmination of an investigation into corrupt dealings with Aboriginal owned land near Narooma on the south coast of New South Wales. There were two types of parties to the corruption. On one side were property developers. On the other were the decision-makers within the Aboriginal Land Council which controlled the land. There were three property developers. The principal developers were Ron Medich and Lucky Gattellari. They were introduced to the concept of developing Aboriginal lands by a third man, Ronnie Binge who is also known as Ronnie Jeffries.

30 Ronnie Binge has wide connections within Aboriginal groups, including persons in control of various Aboriginal land councils. In 2005 Binge approached Gattellari with an idea that they use these connections to pursue property developments. It seems that it was a corrupt plan from inception. Binge made it clear that to secure the deals side payments had to be made to the decision-makers in the land councils. While Gattellari liked the idea, neither he nor Binge had the money so Gattellari approached his close associate Medich for funding. Medich also liked the idea and he did have access to sufficient funds. Soon after Medich, Gattellari and Binge agreed to act upon the plan.

40 To appreciate what happens next requires some understanding of the ownership and control of Aboriginal lands in New South Wales. Since 1983 New South Wales has had a legislative scheme which provides for land rights. Certain land, including former Crown land, was vested in representative local Aboriginal land councils. There are 119 local Aboriginal land councils in New South Wales. It is estimated that the value of the lands vested in the councils is in excess of \$2 billion. I wish to make it clear most Aboriginal land councils do a very good job of managing these

valuable assets. Careful management is essential because these lands are a non-renewable resource.

Commissioner, obviously the different lands within the various local land councils have different features and values. Some have significant Aboriginal cultural values; others do not. Some present attractive opportunities for development, others do not. Over the years there have been developments and some of these have been successful, others have not. Unfortunately the very existence of undeveloped land is bound to attract the attention of unscrupulous developers willing to exploit the weaknesses and greed of those with control over the land.

This public inquiry will focus upon the activities within one land council. That is Wagonga Local Aboriginal Land Council. Wagonga Land Council is based in Narooma. Its membership is similar to that of other land councils. An Aboriginal is eligible for membership of Wagonga upon the basis of residents within the area or when able to demonstrate a sufficient personal association with the land in that area. There are two sides to the structure of Wagonga. On one side there is the council, the executive of which is elected by the members. Their work should be voluntary.

Like most associations of this kind, most of the membership is passive and the Executive is dominated by a small and active group of members. In the case of Wagonga, the motives of the small group were not pure. On the other side of the Wagonga structure is the Management. These are paid officers whose salaries and other benefits are paid from the income of the Land Council. Wagonga has nine employees. The top person in Management at Wagonga is the Coordinator, recently retitled the Chief Executive Officer. The CEO is paid more than \$60,000 per annum and has other benefits, including a car. Commissioner, the activities of Wagonga are substantial and in any year the budget is about \$2 million. The one striking feature is that although the activities of Wagonga are substantial, there was an inappropriate degree of informality in the way the affairs were conducted. The Commission's investigations have revealed that many of the critical records, including for example minutes of the meetings, are poorly kept. This has to some extent hampered investigations.

Now I will explain the conduct which is the focus of this inquiry. The property developers, they describe themselves as The Medich Group, so I will call them that. The Medich Group became interested in a potential for development of Aboriginal lands within Wagonga. There were several parcels of lands within Wagonga which were attractive for development. Just for example, there was a thirteen-hectare beachfront property at Fullers beach which if rezoned could be worth millions. The intention was to enter into joint ventures with Wagonga Land Council. A joint venture presented better opportunities to the developers, partly because it made it more likely that the deal would avoid scrutiny. Commissioner, Binge used his connections so that in early 2005 the developers had made contact with the

key decision-maker of Wagonga, Ron Mason. The Wagonga Land Council has for many years been dominated by the Mason family. Members of the Mason family have held senior positions in both the Executive and in the Management of Wagonga for many years, and did so at the time relevant to these events. Ron Mason was the chairperson of Wagonga for many years. His wife, Vivienne Mason, was at one time the CEO and later was the chairperson. At different times, Ron's daughter, Vanessa Mason, was the chairperson and later the CEO, and for a short while she held both positions at once. These close connections proved very valuable to Ron Mason. For example, in 2002 he was able to negotiate with himself to borrow an interest-free housing loan of \$85,000 from Wagonga. These connections were also potentially valuable to The Medich Group. While Ron Mason was chairperson at Wagonga it presided over a series of decisions inexplicably favourable to The Medich Group and correspondingly disadvantageous to the members of his Land Council. I believe the evidence will show that The Medich Group was secretly paying Ron Mason at the same time these decisions were made.

Another man, Ken Foster, was also involved. Foster is or was a very active member of the Aboriginal community. The Medich Group already knew Foster. In 2005 he commenced employment as the Chief Executive Officer of Wagonga and while there he took cash and other benefits from The Medich Group and then supported their proposals.

The corrupt enterprise ultimately failed because none of the proposed deals at Wagonga were able to be finalised. The New South Wales Aboriginal Land Council stopped them, but it was a close-run thing. At one stage Wagonga had agreed to sell four properties into joint ventures. The way in which this was arranged suggests that it could only be the outcome of incompetence or corruption.

Allow me to give one example. Earlier I mentioned the property at Fullers Beach. In June 2005 Wagonga agreed to sell that property on the basis of a single valuation. The value was \$1.1 million. That valuation had been acquired by The Medich Group. Wagonga did not get its own valuation. The developers' valuation took no account of the potential for a massive increase in value should the property be rezoned.

Commissioner, no sensible person would conduct their own assets in the way the Executive and Management of Wagonga handled these vital Aboriginal assets. A second valuation obtained in February 2008 at the insistence of the New South Wales Aboriginal Land Council said the Fullers Beach property was worth \$2.2 million.

Commissioner, I believe the Commission's investigations and the evidence which will emerge in this public inquiry will establish corruption in the form of payments made by the Medich Group in connection with development proposals in four Land Councils. The money came from

Medich, it was mainly paid by Gattellari, the payments made in cash were in the order of \$130,000. In respect of Wagonga, I believe the evidence will establish that it is probably that Ron Mason received in excess of \$38,000 through payments and other benefits and Kenny Foster received in excess of \$35,000.

The situation in respect of Vanessa Mason, which involved a second business with Gattellari and an oyster lease is more difficult to calculate, but is probably greater again.

10

Finally, Commissioner, there is a public interest in having this kind of corruption exposed. Any individuals involved must be identified and removed from decision-making positions. Part of the public interest and part of the purpose of this public inquiry is to attempt to prevent further corruption. To this end, I propose to adduce evidence from persons skilled in the conduct of Aboriginal Land Councils with a view to allowing this Commission to make recommendations on how corruption in local Aboriginal Land Councils can be prevented or avoided.

20

This evidence will show that the New South Wales Aboriginal Land Council is exemplary in its conduct and its professionalism. It is very likely that I will be suggesting that its role in supporting the activities of local Land Councils be strengthened.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you Mr Watson. We will now take a short adjournment after which I will take appearances. Thank you.

30

**SHORT ADJOURNMENT**

**[10:22am]**

ASSISTANT COMMISSIONER: Yes, Mr Watson.

MR WATSON: Commissioner, before we go further in opening the proceedings I referred to the exposure of corruption in four land councils. I should not have said that. I should have said Wagonga Land Council.

40

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Watson. I will emphasise that although other local aboriginal land councils may be referred to in evidence at this inquiry, this public inquiry is investigating corruption allegations in respect of the Wagonga Aboriginal Land Council only. Thank you. Yes. I will now take applications for leave to appear.

MR GHEDIA: Commissioner, my name is Ghedia, G-H-E-D-I-A and I seek leave to appear for Gattellari, Lucky Gattellari.

ASSISTANT COMMISSIONER: Yes, you are given leave to appear, Mr Ghedia.

MR GHEDIA: Thank you.

MR LEWIS: Good morning, Commissioner, Lewis is my name. I seek your authorisation to represent Mr Binge.

ASSISTANT COMMISSIONER: Yes, Mr Lewis.

10

MR HALSTED: Good morning, Commissioner. My name is Halstead, H-A-L-S-T-E-A-D. I seek leave to appear for Mr Ken Foster.

ASSISTANT COMMISSIONER: Yes, Mr Halstead.

MR TERRACINI: My name is Terracini, Commissioner. I appear for Mr Ronald Medich, I appear with Mr Stitz who will be here throughout the inquiry if I am not here. I am instructed by Nicholas Boyden.

20

ASSISTANT COMMISSIONER: Thank you, Mr Terracini. You're given leave to appear.

MR TERRACINI: Thank you.

MR HUDSON: Commissioner, Hudson, I seek leave to appear for Mr Kaminic.

ASSISTANT COMMISSIONER: Yes, Mr Hudson, you are given leave to appear.

30

MR HARRIS: Commissioner, my name is Harris, seeking authorisation to if it please to appear for Vanessa Mason.

ASSISTANT COMMISSIONER: Yes, Mr Harris.

MR WILLIS: Commissioner, my name is Willis, I seek leave to appear for Ron Mason.

ASSISTANT COMMISSIONER: Yes, Mr Willis, you are given leave.

40

MR OATES: My name is Oates, Commissioner. I seek your leave to appear for Mr Toovey.

ASSISTANT COMMISSIONER: Yes, Mr Oates, you've given leave to appear for Mr Toovey.

MS McGLINCHEY: Ms McGlinchey, solicitor. I seek leave to appear for Mrs Vivienne Mason.

ASSISTANT COMMISSIONER: Yes, Ms McGlinchey.

MR McILWAINE: McIlwaine, Commissioner. I seek your authority to appear for Mr Troy Stever.

ASSISTANT COMMISSIONER: Yes, Mr McIlwaine, you're giving leave.

10 MS SKYRING: Sally Skyring. I seek leave to appear for Ms Julie van Agten and Mr Geoff Scott from the New South Wales Aboriginal Land Council.

ASSISTANT COMMISSIONER: Yes. I'm sorry, what was your last name?

MS SKYRING: Skyring, S-K-Y-R-I-N-G.

20 ASSISTANT COMMISSIONER: Thank you. Yes, you're given leave to appear for the, the New South Wales Aboriginal Land Council. Yes.

MR WATSON: Commissioner, I call Fortunato or Lucky Gattellari.

ASSISTANT COMMISSIONER: Yes. Mr Gattellari. Mr Gattellari, you've been called here to give evidence. You are required to answer all of the questions asked of you. You may seek an order. Is your client seeking a section 38 order?

MR GHEDIA: Yes.

30 ASSISTANT COMMISSIONER: Thank you. The effect of the order that I'm about to make, Mr Gattellari, is that nothing you say here can be used against you in any future criminal, civil or disciplinary proceedings. There is an exception to that if it's found you've provided any false or misleading information or otherwise breached the Act. Do you understand the effect of this order?

MR GATTELLARI: I do.

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

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

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ASSISTANT COMMISSIONER: Mr Gattellari, you're required to take an oath on the Bible or make an affirmation to tell the truth.

MR GATTELLARI: Bible will be fine.

ASSISTANT COMMISSIONER: Could the witness be sworn, please.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Watson.

MR WATSON: I believe you were Christened Fortunato Gattellari but to one and all you are known as Lucky Gattellari?---Correct.

10 Mr Gattellari, you've been brought here because of close involvement that you had since about 2005 in negotiations involving property development centred on the Wagonga Local Aboriginal Land Council. Do you understand that?---I do.

Now, if we go back in time, I think many years ago you'd worked at Princeton Holden in Bankstown?---I did.

You worked on the finance side?---I did.

20 You met somebody who worked on the sales side named Ron or Ronnie Jeffries?---Correct.

Now, after you left Princeton, the two of you drifted apart and you hadn't seen or heard of him for some many years until 2005?---This is right.

In 2005 Ronnie Jeffries contacted you quite out of the blue, rang you and, and spoke to you about a proposal he had?---Yes, he did.

30 When he contacted you in 2005 he was no longer known as Ronnie Jeffries, he was known as Ronnie Binge?---That's right.

In any event, after a discussion on the telephone, you met with Mr Binge and you met face-to-face and discussed something?---We did.

Now, at that time Mr Binge put to you an idea that he had. Could you tell the Commission in broad terms what it was that Mr Binge put forward as the idea?---Ronnie Binge believed that there was numerous Aboriginal land available out there for the right developers and he believed he had the right contacts to make, to make inroads into that land.

40 At this stage, at this point in time when you were first speaking to Binge, had you personally had any involvement with developing Aboriginal land? ---None at all.

It was just a fresh idea, a new idea as far as you were concerned?---I'd heard about it in newspapers and so on but I had never been involved in it myself, no.

And did Binge say anything about particular characters or individuals involved in decision-making in respect of the Aboriginal land?---Not at our first discussion, no.

In terms of that first discussion, did he make anything plain about the need in due course to make any side or secret payments to people involved in the decision-making?---He believed that there were a number of people in positions out there in the Aboriginal Land Councils that could be persuaded to make favourable decisions based on cash money.

10

Now, Mr Gattellari, I'm not trying to have a shot at you, but at the time that Binge came to you, were you in the financial position where you would have been able personally to find such land developments?---No, I wasn't.

And were you interested in Binge's idea?---It sounded very good to me, yes.

And did Binge separately have access to the kind of finance or funds necessary to develop the land?---No, he did not.

20 So did you take the idea away with you to speak to somebody about it?  
---I did.

And who was that?---Ron Medich.

Now, if I go over your history with Ron Medich, you had met him when you were just a young man in fact. Is that right?---We've known each other for a long time, yeah.

30 But your paths crossed again in the early 2000's when you were a tenant of his. Is that so?---I rented a function centre from him and his brother at Liverpool.

And as his tenant you got to meet him and you became closer to him?---We, we got, we got to spend a bit of time together, yes.

And would it be fair to say that from the early 2000's you were spending a lot of time with him and getting closer to him in some different kinds of business dealings?---This is correct.

40 And from at least 2004 for example you were in a number of businesses with Mr Medich?---Yes.

And those businesses really involved lighting and electrical supplies. Is that so?---Yes, lighting, electrical contracting, manufacturing, importing and so on.

Now, from at least 2004 you were in almost daily contact with Mr Medich. Is that so?---Quite regularly, not daily, certainly every, every few days, yes.

And you would see him at his office which was in Leichhardt?---Yes, it was.

And would he come out to your office which was in Chipping Norton?  
---No, very rarely, very rarely.

Quite often you'd take lunch together?---We would.

10 Did you speak to Mr Medich about Mr Binge's proposal?---I did.

And could you tell us broadly again what you said to Medich to explain Binge's idea?--- I just basically explained to him the same thing that Ron Binge explained to me, that there was very, very lucrative land available out there which some Aboriginal Land Councils had and that they, they were approachable.

20 Did you mention anything to Medich about the suggestion made by Binge that people would be amenable if cash changed hands?---Yes, I did.

What did you say to Medich on that issue?---I basically told him that – when I first spoke to him I hadn't spoken to anybody in any Land Council, so I wasn't naming anyone in particular. I basically explained to him that I would go out there with Ronnie Binge, meet some of these people and come back and report to him.

Did you mention anything about the potential that there'd be a need to make side payments?---Yes, I did, yes.

30 Well what did you say to Medich about that?---Well just simply that if we had a bit of cash that we could sweeten the pot with, we would probably get the right decisions.

Did Medich respond to your suggestion?---Yes, he did. He said that it sounded like it was plausible.

In any event did you tee up a meeting so that Medich and Binge could meet each other?---Yes, I did.

40 You were there?---Yes.

I think you would confess to being really quite hopeless on particular dates. Is that right?---Yes, I'm not very good on dates, times and things but not on events.

On events you're okay?---Absolutely.

Well do you remember an event where you, Medich and Binge to together and discussed this plan?---I do.

Can you remember now where that was?---That was at Ronald's house at Point Piper.

And when you got together and had the discussion, just the three of you were there?---Yes.

10 Again, during the course of that discussion did Mr Binge explain his idea?  
---Yes, he did.

What did he say?---He explained to Ron the same thing he explained to me, that he knew somebody that had some contacts out there that could get us into some very nice pieces of land.

20 And at this point was anything said about the need or desirability of making side payments?---Ronnie Binge made the comment that there's a lot of people involved in Aboriginal Land Councils that are not doing very well and that for a few dollars they would be maybe more to our favour.

Did Medich respond to this discussion?---Yes, yes. He said that it sounds – something we should give it a try.

Now I think at some stage or another there were more formal arrangements made between yourself and Binge on one side and Medich on the other. Is that right?---I don't understand the question.

30 Well Medich was putting up the money?---Yes.

Now did you and Binge wish to participate in the fruits of, of any development?---Oh absolutely, yes.

Now I think you and Binge set up your own company?---We did.

Tribal Solutions?---Yep, Tribal Solutions, yep.

Tribal Solutions Pty Limited?---Yes.

40 And so you and Binge were the directors and shareholders for that particular company?---Correct.

And that became the corporate vehicle with which you joined the Aboriginal Land Development?---Well it started that way and it took, took many different turns. As we progressed and got to meet people and got to understand what was going on, it took different turns.

And at one stage or another there was a formal agreement entered into by you and Medich under which you were going to be paid some money by Medich for looking after this aspect of property development. Is that so?  
---Correct.

We have a system Mr Gattellari where documents have been provided to people or are available and I'm going to have shown to you now one particular folder of documents which we call volume 1 and I want you to turn to page 65. At the same time I'm going to ask that it be put up on the screen so that it can be seen more generally?---Yep.

Do you recognise that document, that's volume 1, page 65?---Yes, I do.

Now you'll see that it's dated 12 April, 2005?---Yes.

That was after you'd already been to some of the Aboriginal Land Councils. Is that so?---Yes it was, yes.

But who prepared this document?---I think it was prepared at Ron Medich's office.

He probably didn't do the typing but - - -?---No.

- - - did he give it to you?---That's correct.

Was this after some discussions between you and Medich about how you would be paid for your work on the developments?---Yes.

And you'll see that there's a reference to you becoming a property consultant?---Yes.

And you'll see that your duties were in particular in specific areas?---Yes.

And those areas, although they're famous towns in southern New South Wales, they related to various different Aboriginal Land Councils. Is that so?---That's correct.

Relevantly here the reference to Narooma, that's a reference to Wagonga Land Council. Is that so?---That's correct.

And there was an agreement that you would be paid \$140,000 per year in a certain way, but I don't think in the end you were paid like that. Is that so?  
---That is right.

How were you paid?---Oh, basically I got paid from different companies that I worked for that belonged to Ron and myself.

In the end you did get paid from time to time for this kind of work that you were doing as a property consultant for Mr Medich?---Ron, Ron would supply some cash and I would be paid from that cash.

The only copy that I've been able to find is this on page 54 of volume 1, and it appears to be unsigned. Did you sign a copy entering into this agreement with Mr Medich?---Yes, I did.

And did you give him back the original?---We both had a copy.

10

This was your copy?---Well, my copy was signed so it's obviously- - -

Mr Gattellari, in any event, after the discussions with yourself and Binge and Medich you made contact with persons at several local Aboriginal Land Councils. Is that so?---That's correct.

Here today I wish to focus on one, and that's Wagonga. Did Ronnie Binge introduce you to the idea that there were potential development lands in Wagonga?---Yes, he did.

20

Did he do that early on or when did he do that?---Oh, basically straight after we had the discussion we agreed that we were going to speak to Ron Medich about it. He came up with Wagonga 'cause someone else he knew knew some people at Narooma.

Now, who was the person that he knew, that is that Binge knew?---(NO AUDIBLE REPLY)

30

I'm going to suggest a name. Tell me if I'm wrong. Gil or Gilson Saunders?---Gil Saunders, Gil Saunders. Correct.

So did Binge at any time tell you about the importance of meeting up with a family or clan called the Masons?---He did not, no. When we met with Gil Saunders we, we all drove down to Narooma and Gil Saunders introduced me to the Masons.

Well, I'm going to come to that in a moment. By way of background to your original introduction to the Wagonga Land Council, you had to be introduced to Gil Saunders?---Correct.

40

And was it Binge who introduced you to Saunders?---Yes, it was.

And did you meet him before the day you travelled to Narooma or on that day?---On the day I believe I met Gil Saunders.

But it was Binge who made the contact- - -?---Correct.

- - -with Saunders and teed it up?---Correct.

But you knew that you were going to go down to Wagonga that day with Saunders?---Yes.

And you knew that the purpose was to meet the people from Wagonga?  
---Yes.

Before you got in the car had you heard of the Mason family?---No.

10 Could I get you to look in that same volume 1, this time at page 47. I don't know whether you've seen this letter before?---Yes, I have.

You'll see that it's dated 4 March, 2005 and it's addressed to Mr Saunders and signed by Vivienne Mason. Do you see that?---Yes, I do.

Now, anybody could read the content but what it suggests is that Mr Saunders is being invited to attend a meeting on 9 March, 2005 at the Wagonga Land Council?---Yes.

20 Now, that's the visit that first took you down to Narooma. Is that so?  
---Correct.

But did you know anything about the arrangements under which Mr Saunders would be invited by Wagonga to come down and address their meeting?---No, I did not.

That was all organised by Binge, was it?---Correct.

30 In any event, you got in the car with Binge and Saunders and you drove down to Narooma?---We did.

Was it just the three of you?---No, my friend, Senad Kaminic, was with us.

So that we've got the spelling right, that's S-E-N-A-D- - -?---Correct.

- - -K-A-M-I-N-I-C?---Yes, H.

40 Mr Kaminic at various times worked for you and also did some work driving you. Is that so?---That's correct.

And you think he might have been in the car on that occasion you first went down to Narooma?---yes, I think he was.

In any event you drove down to Narooma with Binge and Saunders. When you arrived there were you introduced to any members of the Mason family?---Yes. We drove to – I believe just off memory we drove to Ron Mason's house and I was introduced to him at his house.

And was his house down near Narooma?---Yes, it was. Yeah, near Narooma, yeah, sorry. Yep.

Yes, it's a suburb called Dalmeny, D-A-L-M-E-N-Y?---That's it, yes.

And so you went to Ron Mason, to his house?---Yes.

And you met with him for a while did you?---Yes, we did.

10 Was there any discussion at that time with Ron Mason about the potential for property development?---Not really. We just, it was just, just casual talk like you do when you meet somebody.

All right. He knew why did he, why you were down there in Narooma? ---Well I'm assuming he did because Gil Saunders introduced me and he wasn't, he wasn't surprised to see me.

20 All right. Was there anybody there apart from your group and Ron Mason? For example any other members of the Mason family or the Wagonga Land Council?---Look just, I think that maybe Vivienne might have been there. I'm not sure, I can't be sure on that. But there was nobody else apart from that that I can remember.

Could you look at that volume 1, page 48. This is a record that we've been able to obtain, being minutes of a meeting at Wagonga on 9 March, 2005. You can see that up in the, up the top?---Yep.

30 And if I ask you to move forward and go to page 51 you'll see a record, about two thirds of the way down the page under the heading Development Proposals?---Yes.

And you'll see that the chairperson was introducing yourself, Binge and Saunders?---I see that.

Now what I'm trying to do is lay some background. This is 9 March, 2005 and you seem to have come to the Wagonga meeting with Saunders under an invitation to him?---Ah hmm.

40 Is that answer yes?---Yes, yes, it's a yes.

And the point is that somebody at Wagonga knew to invite Saunders. I've shown you that letter?---Correct.

And when you got down there you immediately launched into, so it appears, a discussion about development proposals?---Well that's why we were down – that's why we were there.

Yes. Do you know whether at any stage, for example, Wagonga had advertised that they (not transcribable)?---I have no idea.

And so the people there knew that you were coming down with this proposal?---Correct.

At this stage had you personally made any points of inquiry with the Mason family or anybody at Wagonga?---No I had not, no.

10 It was just out – organised by Binge and Saunders as far as you were aware?---Correct.

If you turn over to page 52 you'll see that the members had a private discussion – I take that to mean that possibly you were excluded from the room?---Ah hmm.

And that there was a motion put that office bearers sign a letter of intent - - - ?---Yes.

20 - - - with the possible joint venturers. Now if I ask you to go from there to page 55 of the same volume, you'll see a document?---Yes.

And I might be testing your memory but do you remember anything about this particular document?---Yes, this document was put together by Ronnie Binge.

Right. Did he have an office at the time?---He worked out of my office.

30 In Chipping Norton?---Yes.

And did he have access there to a typewriter – did he type this for example himself?---Yes, yes.

And you'll see that it's actually dated 9 March, 2005?---Yep.

So had it been prepared in advance of you going down to the Wagonga meeting on 9 March, 2005?---It certainly was on this date.

40 Well the point is that if one looks at page 56 you'll see that it's said to have been signed – there were three entries on behalf of Wagonga, Ron Mason, Victor Moore, Troy Stever - - -?---Stevens.

And then it's also signed by yourself and Binge. Do you see that?---I do.

And your signature is witnessed by E Moore, there's some evidence that she was present at the meeting. Do you think that, that agreement was signed that evening?---I couldn't, I couldn't tell you for sure. I couldn't tell you for sure.

Did Binge tell you about anything about his arrangements with anybody at Wagonga before 9 March, 2005? Did he say for example that he had smoothed the way for an introduction for you fellows to do the property development?---No, he didn't, he didn't, he did not say that to me. He said that Gil Saunders had the way to be able to assist us to get some land at down Narooma.

10 Now, at this time that you went down to Narooma did you know whether, for example, there were any properties in that Land Council ripe for development?---I didn't see any personally but I was guaranteed that there was plenty of land available down there.

I mean, you didn't know anything about it from any previous research?  
---No, I didn't, I did not.

And no particular properties had been identified for development by that stage, is that so?---That's correct.

20 Did you know at any time whether, for example, Wagonga advertised in the paper to say that they were calling for expressions of interest for development?---No, I didn't.

Or did you know whether or not Wagonga had made any inquiries as to the potential for land to be developed?---No, I had no idea.

And do you know whether you had any competitors?---Not that I'm aware of.

30 For example, if you were selling your own house you'd want to know that there were at least two people trying to buy it, hopefully more. Were there anybody, was there anybody else around competing with you and Binge?  
---Not to my knowledge.

Eventually it came time that you did make some payments to Ron Mason. Is that so?---Yes.

40 We've got some evidence of a payment as early as 18 March, 2005, if that date's right, just a little over a week after you went to the first meeting. Does that sound about right?---Could be.

I'll show you some records and it may assist your recollection. Could Mr Gattellari be shown volume 3, page 14. Do you have that, Mr Gattellari, page 14?---Yes, page 14, yep, I have.

You'll see there, there's a handwritten page?---Yes.

I'm going to come back in some detail to these pages but I just want to use it for one purpose at the moment. Could you tell us is that your handwriting?  
---Yes, it is.

And why did you make these entries?---Well, I had to keep track of all money that went out in regards to payments on any land deal because I needed to report it back to Ron Medich.

10 And eventually, for example, this page, was the original of this page provided to Medich?---He was provided with copies of everything I spent.

All right. Well, what I'm going to do is come back to that in a good deal more detail later but you'll see Ron Mason, there's an entry for \$2,000 at the top of the column?---Yes.

And then it seems to be a list of money sums?---Yes.

20 And are they payments that you made from time to time to Ron Mason?  
---Yes, they are.

Now, this is on the best I can work out very early days. You'll see that the first payment there seems to be \$2,000. If I then get you to turn in the same bundle to page 35 you'll see a different kind of record. Have you got that?  
---Yes, I have.

Now you'll see that some of them are deposit receipts for the Commonwealth Bank?---Yes.

30 And three of them relate to Ron Mason?---Correct.

The bottom right-hand corner you'll see that there's a deposit receipt dated 18 March, 2005?---Yes.

If you look at the stamp you can see that it's stamped Commonwealth Bank 18 March, 2005 Pagewood. Is Pagewood a place that you know or that you would be banking?---Oh, I wouldn't have.

40 Did Mr Mason give you, sorry, I'll should show you something. There's an account identification number, do you see that?---Yes.

I want you to assume we've got evidence that that is Mr Mason's account. Did Mr Mason give you his account number?---Yes, he did.

And why did he do that?---Oh, from time to time I would help Ron out with some cash advances.

All right. Well, in this particular instance there's an entry for \$2,000?  
---Correct.

And you'll see that that seems to match up with the first payment that you made which is recorded on page 14?---Yep.

So, Mr Gattellari, can we take it at this point you would agree that you were paying Mr Mason money commencing at least from 18 March, 2005?---Yes.

Now, he received a lot of payments, I'm going to come back to the detail of it, a lot of payments over a year or so?---Correct.

10

And at all times you were paying him this money at the same time that Ron Mason was the chairperson at Wagonga?---Well, no. I continued helping Ron out financially even when he stopped being the chairman and even stopped being a member of the Wagonga Land Council.

20

All right. For that \$2,000 payment, and we take that as an example, was there any discussion between you and Ron Mason about the potential for him to favour you on the land developments?---There was no, there was never, there was never any statement to that effect, no one ever came to me and said, look, give me \$10,000 and I'll make sure you get this block of land, I think it was just inferred.

He would ask you for some, for some money from time to time?---He would ask for some help.

Now, moving on with the project, you had a joint venture agreement drawn up. Is that so?---That is correct.

30

At that time Mr Medich had a solicitor, a Mr Jeffrey, J-E-F-F-R-E-Y, Hinde, H-I-N-D-E. Is that right?---Correct.

And I think you or Mr Medich went to Mr Hinde to have him draw up a joint venture agreement with the Wagonga Land Council?---Correct.

Now, if I get you to go back to volume 1?---Yep.

And at this stage to go to page 60?---Yes.

40

Is that the document you got drawn up by Jeffrey Hinde?---Yes, it is.

And you'll see that this one, it's got some handwriting at the top, "Our version?"---Yeah.

And it's said to have been made on 11 April, 2005, but in fact this agreement is not the one which was executed by Wagonga. Is that right?---No, it wasn't.

This was one that was drawn up on, in effect, your part and Mr Medich's part?---We drew up this part believing it would be, it would be sufficient to go into an agreement but after discussions with Eddie Newman and or the solicitor spoke, Eddie Newman eventually drew up a joint venture agreement.

10 All right. Well, I'll come to that in just a moment. But just looking at this on page 60 for example, in a joint venture agreement it's in the recitals in paragraph A, there's a property identified, Lot 887. Do you see that?---Yes.

So even at this time, particular properties had been identified?---We'd picked four properties at Narooma that we were very interested in.

How long was it after the meeting on 9 March, that's your first trip to Narooma, how long was it after that first trip to Narooma that you picked out the four properties?---Oh, wouldn't have been, it was a matter of weeks maybe. Look, I'm, I'm not even sure of the timeline, weeks at most.

20 In any event, if you go to page 64 you'll see that this joint venture agreement had been executed at least on behalf of Mr Medich and you and Mr Binge?---Correct.

You can see that. Now, as you say, there was some point taken in respect of it by a Mr Eddie Newman who was a solicitor then acting for Wagonga. Is that right?---That's correct.

30 If you go to the same volume, volume 1, page 66, is this the first page of the agreement which actually finally emerged from Mr Newman?---It looks like it, yes.

I think it'll help you if I tell you that it's quite a lengthy document?---It is.

If I tell you that we've got some evidence that this is the joint venture which was originally entered into between Medich, Gattellari, Binge and Wagonga. If you just assume that for the moment?---Yep.

Eddie Newman had been acting for Wagonga. Is that right?---That's correct.

40 But even after he prepared a typed document, there was some negotiations carried out. Is that so?---I don't understand.

Some further negotiations between you as to the form of the agreement. For example, if I just get you to go in the bundle to page 105?---Yes.

On itself there are handwritten amendments made in respect of the circumstances in which the document has been signed on behalf of Wagonga. That's just one example of where there are handwritten

alterations?---Well, there were a number of alterations made to the agreement. On the, on the day we actually went to Eddie Newman's office to sign the document Troy Stever was there, Ron Mason was there, I can't remember who else from the Wagonga Land Council was there but I was there, Ronnie Binge was there and Eddie Newman was on the phone to Jeffrey Hinde and Ron Medich and they made changes as they went through the document.

10 All right. Now, strangely enough, this form of the document doesn't seem to be dated but there is other evidence I want to ask you to assume, that suggests it was signed on 9 May, 2005. Does that sort of date sound right to you?---I wouldn't, I wouldn't dispute it.

All right. Now, in terms of those negotiations which were being hammered out on the day the document was signed, could I get you to go to page 81 of the document. You'll see there that there is a paragraph 6.8 and there's a reference to a development management fee?---Yes.

20 And that the Medich Group would be paid nine per cent of the total project cost, do you see that?---Yes.

Now, had you had experience in property development before this arrangement?---I had not.

Were you familiar with the kind of profits made in these kinds of projects?  
---No, I wasn't.

30 In the original form of the agreement as proposed by you and drawn up by Mr Jeffrey Hinde there was no allowance for any development management fee in favour of the Medich Group at all, did you know that?---No, I didn't.

Do you know who it was who proposed paragraph 6.8, that is that the Medich Group would be receiving effectively nine per cent off the top of the project?---Well, I think that this particular document was drawn up in conjunction with, between Eddie Newman and Jeffrey Hinde so I'm assuming that Ron may have added that clause into the contract.

40 If you go over the page to page 82 of volume 1 you'll see some further clauses 8 and 9. Now, did you understand that one of the reasons that a joint venture was the preferred vehicle was because it kept the Aboriginal Land Council involved in the project?---Yes, it was.

And did you understand that it was again preferable if arrangements could be made so that the Aboriginal community could be given an advantage by undertaking the development itself, for example, the employment of locals?  
---Well, the understanding, the understanding we had was that it would be advantageous if we would prefer, if there was two people applying for a job, the same job with the same experience, the Aboriginal would get the job.

Could you tell me why it was for example or how it came about that clauses 8.1 and 8.2 were amended? Can you remember that now?---No, I can't.

If you go to page 94?---Yes.

10 There's a clause there 19.4 and you'll see that in its original form, although it seems to have been deleted entirely, it cast obligations upon the Medich Group in respect of the way that any land would be presented for sale. Are you able to cast any light on why that came to be deleted?---Well, as I said that when Ron eventually went through the contract with, with Jeffrey Hinde there were a number of items in that contract he did not approve of.

20 Right. And page 96, there's a clause 21 and although it's not absolutely apparent on this particular photocopy I want you to assume that that whole paragraph 21 has been taken out. What it originally related to was an arrangement under which the Wagonga Land Council could purchase some of the lots of any development itself at a discounted rate?---I think that the arrangement that were made is that Wagonga could take part of their payment of their profit as parcels of land.

Do you know why that was deleted, clause 21?---I don't know, no.

Mr Gattellari, there were four properties you've said that you had decided were desirable development opportunities. Is that so?---Correct.

I want to try and identify them. Would you look at page 107 of that bundle?---Yes.

30 You see that the way that they're listed there, the first is Lot 921?---Yep.

Do you see that?---Yes, I do.

That's the lot which was at Fullers Beach?---Correct.

It was about 13 hectares?---Yes.

It was right there at the beach?---Absolute waterfront.

40 And that was a very desirable - - -?---It was.

That property if it was rezoned could be worth millions?---Correct.

Now the second listed there is Lot 887?---Yes.

Now that I want you to assume – I can show you a valuation, was one which adjoined Nangudga N-A-N-G-U-D-G-A Lake. Do you remember that property?--- Yes, I do.

It was a smaller property of around about three hectares?---It was, it was on the Princess Highway.

It was on the Princess Highway, but it also adjoined the lake?---Correct.

Was it a desirable development opportunity?---Well it was not as good as the others but it was a nice piece of land, yes.

10 The third is Lot 889?---Yes.

Now that one I want you to assume adjoined Corunna C-O-R-R-U-N-N-A Lake - - -?---Corunna, yes.

- - - and it was about 15 hectares. Was that an attractive property?---Yes, it was.

Again, was it lakefront property?---Yes, it was.

20 And the fourth is said to be 14.72 hectares and there's a reference to a deposited plan?---Yes.

That was the property that everyone called Isabel Street. Is that so?---That was the subdivision, the residential subdivision, yes.

And that too was in a very attractive spot. Is that so?---It probably would have been the nicest spot in Narooma had it been developed, yes.

And it adjoined a golf club?---It did.

30

And it enjoyed panoramic views over the Pacific. Is that so?---Correct.

And that was 14 plus hectares of land?---It sounds about right.

And the intention was to get these parcels of land and to have them if necessary rezoned and to sell them as blocks of land. Is that so?---Well certainly the subdivision was going to be sold as a block, as individual blocks of land.

40 That's Isabel Street?---Correct.

Yes?---Lot 921 would have been – we were considering developing that one. We had plans drawn up to build a house on it.

The value of this land was very, very, very substantial if the proposals could go through. Is that so?---Substantial once rezoned, yes.

Could I take you to page 57 of the volume 1. I've taken you there – that's a Chairman's report which seems to be for the period April to May, 2005. Do you see that?---Yes, I do.

And at the foot of the page you'll see that Ron Mason is the Chairman?  
---Yes.

10 The reason why I've taken you here is that you'll see in the second last paragraph there's a paragraph beginning with the words, "At the beginning of April". Do you see that paragraph?---Sorry, which paragraph?

The second last paragraph - - -?---Yes, I do, yes.

Now you'll see that what that paragraph tells us is that until the beginning of April Vivienne Mason was the Coordinator or CEO?---Right.

And she left the job and it was taken by Ken Foster?---Yes.

20 So that's the introduction of Ken Foster. We'll come back to him in a moment. Is that right?---That's the introduction of Ken Foster at Narooma.

Yes. You had already known him?---Yes, I did.

Now Vivienne Mason, who was in the position of Coordinator or CEO, she was the wife of Ron Mason?---Correct.

30 So at the time that you were dealing with these blocks of land and putting the project through, on one hand you were dealing with the Executive, headed by Ron Mason. Is that so?---Correct.

And the Management, which was headed by his wife, Vivienne Mason?  
---Correct.

They were the two people you were principally dealing with?---Yes.

Now if you look at that Chairman's report itself you'll see that in the fourth paragraph there's a reference to the joint venture?---Yes, I do.

40 Had you ever, have you seen this document before?---No, I hadn't.

Well, you'll see there that in the paragraph after the reference to the joint venture there's a paragraph that quote, "Given that Council Members had endorsed the joint venture." By this stage the joint venture, if I'm right with the date 9 May, had already been entered into on behalf of Wagonga. Is that right?---It certainly had been entered into in principle. There was no, we still didn't have any documentation that said that we were in a joint venture.

Could you look over the page, volume 1 page 58, you'll see what's said to be a Coordinator's Report for April/May 2005?---Yes.

Now, look at page 59 and you'll see that the last item is, "Land development, joint venture?"---Yes.

Now, I want you to assume that this document was prepared by Ken Foster. Did you make payments from time to time to Ken Foster?---I did.

10 And were you making him payments during the period that Wagonga was considering the joint venture?---Yes, I did.

You'll see that there's a reference by Mr Foster to the land development, the joint venture, and it starts off with, "My understanding is limited- - -?  
---Yes.

- - -with the, regards the negotiations with Ron Medich Developments having been handled quite well", et cetera?---Yep.

20 That was at a time that payments were being made to Mr Foster?  
---I wouldn't say I made direct payments to Ken Foster for him to write that particular thing, but yes, he was getting payments.

All right. That job, there it's called Coordinator, later on it became known as CEO or Chief Executive Officer. I want you to understand?  
---I understand.

I'll just call it CEO- - -?---Yeah, that's fine.

30 - - -for convenience if that's okay. I want to come now to Ken or Kenny Foster. You knew him before he ever went down to Wagonga?---I did.

Ken Foster is also called KJ?---He's known as KJ, yes.

Virtually everybody calls him KJ?---Correct.

You got to know him and know him well?---Yes, I did, yep.

40 And who introduced you to Ken Foster?---Ronnie Binge.

And it what context did Mr Binge introduce you to Mr Foster?---I was introduced to Kenny Foster through his connections with the Land Council in the city, I can't remember the name now, but he was, at one stage he was chairman of the Land Council and he was introducing, Kenny, he was introducing myself and Ronnie Binge to the Land Council.

All right. Well, in any event, whatever dealings you had with Mr Foster in that capacity, we'll look past those. He then turned up as the CEO at Wagonga?---He did.

Did you have anything to do with his appointment as the CEO at Wagonga?  
---No, I did not.

Did Binge ever tell you that he did?---No, he did not.

10 It was just a coincidence?---I have no idea. I mean, I think Kenny, KJ and Ron Mason were good friends and I just think he was offered the job. I don't know.

Could I get you to look at that volume 3 page 14 again. I'll tell you we've got more trouble tracking down the date of the original payment to Ken Foster, but on page 14 you'll see a column of sums of money paid to him?  
---Yes.

20 And this is the same document mentioned before where you kept a tally of payment which were made?---Correct.

So if we look at that we're able to trace if, if you look at page 13?---Yes.

Sorry, I'll come back to page 13 later. We've been able to trace a payment of \$200, the first one is on 27 April. And I'll just get you the page. I'm so sorry?---That's all right.

30 Yes, if you go to page 33, that's the one I was after. Here you'll see again some of these deposit receipts and you'll see in the top left-hand corner one made out to the account in the name of K Foster?---Yep.

Is that your handwriting?---Yes, it is.

And you'll see an account number?---Correct.

Did Mr Foster give you his account number?---Yes, he did.

40 And was this a payment which you made into his account on his behalf?  
---Yes, it is.

And you'll see there that it's, it's dated 27 April, 2005. That's the first payment we've got?---Correct.

According to that document which I showed you, that would be very soon after Mr Foster started at Wagonga?---Correct.

And if we go back to page 14- -?---Yep.

- - -there are several payments in the sum of \$200, but we'll see that the third is for example \$200. Do you see that?---Yes.

So it may well be that you were paying Foster sometime before 27 April, 2005?---Absolutely.

10 Mr Gattellari, as you can see from for example page 14 and, and other documents shown to you already, there is quite a good deal of evidence that you were paying money to for example Ron Mason and Ken Foster?---Yes, I was.

Was Mr Medich aware of that?---Yes, he was.

How was he made aware of it?---I kept him informed of all money I spent. That's why these things exist.

Did you talk to him about making these payments on the side to Ron Mason and Ken Foster?---Sorry, did I- - -

20 Did you talk to him?---To Ron Medich?

Yes?---In regards to the payment I made to- - -

Yes?---Yes, I did, yes.

And at the time that you were making them were you telling Mr Medich that you were making them?---Yes, I did.

30 Where were you getting the money from to make these payments to Ron Mason and Ken Foster?---The money came from Ron Medich.

Similarly, were you talking to Mr Binge about making these payments to Ron Mason or Ken Foster?---While he was involved, yes.

He eventually dropped out of this arrangement. Is that correct?---He just disappeared one day.

40 All right. But while he was involved, did you speak to Binge about making these payments to Ron Mason and Ken Foster?---Yes, I did.

Was he present when you made some of them?---Yes, he was.

I want to go through an event now, I'm going to give you the date, 9 April, 2005. You'll remember it because you and Binge were pulled over by the police. Do you remember that occasion?---I do.

Now, assume it was 9 April, 2005. Earlier that morning had you been at Mr Medich's home in Point Piper?---I was at Ron's house probably twenty minutes before we were pulled up.

All right. Had you made an appointment to go and see Medich at his house?  
---Yes, I did. I told him Ron and I, Ron, Ronnie Binge and I were going down to see him.

10 And was it your intention later that same day to travel on to Narooma?  
---Correct.

Before you went to Medich's home, when you were teeing up the appointment with him, did you tell him why you were going to see him?  
---Yes, I did.

What did you tell him?---I told him that we're taking one of those trips that I discussed with him and that I needed some cash.

20 All right. So you went to Medich's home- - -?---I did.  
- - -in the morning?---Might have been morning, I can't remember, morning, lunchtime, it was during the day.

All right. So you were with Binge?---Yes, I was.

Just the two of you?---Just the two of us.

And did you go into Medich's home?---We did.

30 Did you have a conversation with Medich in front of Binge?---We did.

And what did you say?---Well, I told him that we were taking a trip down to Narooma and that I needed some cash in case it's needed.

40 Was it also the case at that time you needed some cheques from Medich to put a deposit on properties?---Correct. We needed, we were putting, I suppose you'd call them deposits, for the four blocks of land we were paying the Wagonga Land Council I believe 25 or \$20,000 for the four blocks, \$5,000 each block, holding fee or something, and he supplied the cheques for that as well.

All right. So he gave you, was it four cheques or one cheque?---It was one cheque for the four properties.

And, and you also spoke to him about the need for cash?---I did.

Did you tell him why you needed cash?---I did.

And what did you say to him?---I told him that we may need some cash if we needed to butter some people up.

And did you tell him how much you needed or did he ask you how much you needed?---Not exactly, I just said, I said, "Have you got any money?" He just told me what he had in the place and I said, "Well, let me take what, let me take 50,000 of it and we'll so how we go from there."

10 All right. So after that discussion did Medich do something?---Yes, he, after considerable further discussions he left, went to his safe, came back with the money and gave it to me.

So he left the room?---Yes.

Did something, came back with cash?---Yes.

20 How much?---Look, I think it was just, it was 50,000 or 55,000, I can't even remember now to be honest with you, but you would have had it in record 'cause the police counted it.

And so you left with the cheque, the 50,000 and you went out to your car? ---Correct.

Soon after getting into the car you were pulled over by the police?---We drove about three hundred metres and we were pulled over by the police, yes.

30 And the police wanted to talk to you about something?---They said that they were checking all cars, there had been some robberies in the area and that they were checking all cars going up and down that street.

And when they checked yours they found a bag with \$50,000 in it?---They did.

And no doubt they asked you where you got it, et cetera, et cetera?---They did and they needed to actually go down to Ron's house, which they did at the time, to confirm that Ron had actually given me the money.

40 All right. So they went off and made their own private inquiries with Mr Medich?---Correct.

And eventually you were allowed to go?---Yes.

I think Mr Binge might have been in some trouble?---He was, he was detained as there was some mix up with his name or something and he was mistaken or somebody else. I really don't know.

In any event did you continue on your way to Narooma?---No, Ronnie was, we had to put that off for a day or so while we organised Ronnie's situation.

Well, Ronnie was behind bars?---That's right.

And so when he got out did you then go on the trip to Narooma?---We did.

10 And did you travel down there with just Binge or did somebody go with you on that occasion?---Ah, no, Gil Saunders and I, look, I think, I think Senad was definitely with me at the time but I can't be sure.

In any event you went down there, you paid over those cheques as deposits on the land?---Yes.

And did you use any of the cash for the purpose of, as you put it, buttering somebody up?---I used some of the cash. How, how it was used at the time I can't tell you now, it's just - - -

20 We may be able to work that out from some of the records that you produced?---Sure, sure.

Now, from about May 2005 things started to get very drawn out on the development front, is that so?---Yes.

And there was a delay in progress and you were getting cranky about it? ---Yes.

30 I think throughout this whole idea there was delay after delay after delay and then you got cranky several times?---It became a frustrating adventure.

Anyway, for months it dragged out and then in December 2005 did you come up with another proposal which was to potentially to buy some of the properties outright?---We asked them if that would be possible, yes.

If I ask you to look again at volume 1, this time at page 193?---Yeah.

You'll see there that this is on the paperwork of Medich Property Group? ---Yes.

40 But it's signed by you?---Yes.

Did you have the authority to do this kind of thing on behalf of Mr Medich?---I did.

And you'll see that it's addressed to the chairman and coordinator at Wagonga?---Yes.

And it's December 205?---Yes.

Now, as I read it there are two different proposals. The first figures in the first two paragraphs relates to Isabel Street?---Correct.

Where you proposed an outright purchase for \$1.6 million?---Yes.

Could I say this, had that valuation of Isabel Street been obtained by that time?---I think that we obtained valuations on all four blocks of land at the same time as we starting doing the joint venture with Eddie Newman.

10

All right. And then in the second part of the letter you propose an outright purchase of Fullers Beach?---Yes.

And in that instance \$1.2 million?---Correct.

So negotiations are still ongoing at that time with the Land Council?---Yes.

In February 2006 we've got information that Ken Foster left Wagonga. Do you know the circumstances in which he left Wagonga?---Not all of the circumstances, no.

20

Did he leave Wagonga under a cloud?---I believe so.

Was there any exposure as it were of the fact that Foster was receiving payments on the side?---Not to my knowledge, no.

What was the cloud which you understand he left under?---Well, Kenny, Kenny had a habit of, KJ had a habit of making, borrowing money all over the place and not paying it back so I think he was, yeah, around Narooma he'd had a number of outstanding debts which were not being met.

30

Anyway, he left Wagonga very suddenly and was - - -?---He did.

- - - replaced with an administrator, Wayne Martin, who had an offsider Lynne Marlow?---I'll take your word for it.

You didn't deal with them?---No.

You continued, however, to deal with the Executive which continued at that stage to be Ron Mason, is that so?---Correct.

40

In March 2006 Ron Mason stood down as the chairperson of Wagonga? ---Correct.

Is it your understanding that that occurred under a cloud?---No.

He was replaced with his daughter Vanessa Mason?---Yes.

So that did your relations with Ron Mason cease once he stood down as chairperson?---No, they did not.

Did you still talk to him on a fairly regular basis?---Yeah.

Now, when Vanessa Mason took charge of the Executive at Wagonga she was still pressing for approval of the joint venture, is that right?---Well, at the stage by the time Vanessa got on as chairperson the joint venture had been completely forgotten. Isabel Street, the subdivision was going, was going to be put out for tender. We continued to negotiate on the other three blocks of land and through their new solicitors, oh, I can't think of their name right at this moment, we drew up purchase agreements for those.

Well, I'm going to come to that. Perhaps, perhaps if I - Commissioner, I'm not sure whether you would prefer to take a break at this stage or - - -

ASSISTANT COMMISSIONER: Yes, I think - is this a convenient time for you?

20 MR WATSON: If it's a suitable moment.

ASSISTANT COMMISSIONER: We will take a 15 minute break.

#### **SHORT ADJOURNMENT**

**[11.31am]**

ASSISTANT COMMISSIONER: Thank you. Please be seated.

30 MR WATSON: Mr Gattellari, would you go to volume 1, page 281?---Yes.

And you'll see that this is on the letterhead of Wagonga Local Aboriginal Land Council?---Yes.

And it's dated 31 May, 2006 and addressed to the New South Wales Council?---Yes.

And if you look at the bottom you'll also see that it's signed by Vanessa Mason, who at this stage is Chairperson?---Correct.

40

Now I was making a point just before we adjourned that Vanessa Mason after she became Chairperson, also was pressing for approval. And this is the document to which I was referring. You'll see that the subject matter here is the joint venture - - -?---Yes.

- - - and the four properties, and you'll see there, there's the reference to which I made earlier that there was evidence that the joint venture contract was signed on 9 May?---Yes.

Now if you look she recites some of the history of it and in the last paragraph Vanessa Mason says this, "Would you please organise a reply as a matter of urgency". That's a strong word do you agree?---Yes.

"Because Wagonga is under an ethical obligation", that's a strong phrase do you agree?---If you say so.

10 Well what – see while Vanessa Mason was new to the job and taking charge she was still very much in favour of putting the development through. Is that right?---I think, I think Vanessa knew the history and how long it's taken, all the ups and downs that we've had with this and all the problems encountered and I think she was just trying to clear the books and get it done and finished.

One of the curious features of all of this is that the property at Fullers Beach wasn't free title so to speak because I was – or at least part of it subject to a very long term lease. Do you remember that?---The three blocks were.

20 If you have a look at page 282, you'll see another letter from Wagonga Council signed by Vanessa Mason, but this one addressed to Mr Ronald Mason Junior?---Correct.

Now just to put the family into perspective, as you understand it, there's Ron Mason Senior and his wife, Vivienne?---Yes.

And they, they have a child Ron Mason Junior?---Yes.

As well as Vanessa?---Yes.

30 And there are others in the family?---There are others in the family, yes.

But here Vanessa is addressing her brother as Dear Mr Mason, you see that. And there's a reference to something called the Walkun, W-A-L-K-U-N Mara M-A-R-A Aquaculture Lease. Do you see that?---Yes, I do.

Now you understand what the background is there?---I do.

40 Part of the Fullers Beach property had been leased to a company called Walkun Mara Aquaculture Pty Limited?---Yes.

And it was a long term lease, a 99 year lease?---Yes.

And that created problems in terms of the ability of the Wagonga Council to deal with the property because part of it at least was subject to this very long term lease?---Well I think that you'll find that when, when it was looked into that Walkun Mara lease, none of the conditions or the rent or anything

at that stage had been paid to the Wagonga Aboriginal Land Council. And the lease became null and void. It wasn't worth anything.

In the end that may well have been what happened but at one stage there was a concern that Walkun Mara Aquaculture Pty Limited had a substantial interest in that very land?---Yes, yes.

10 Now if I ask you to go forward to page 298, we'll see something to which you refer. This is now an email sent from a person named Michelle Geary, G-E-A-R-Y - - -?---Yes.

- - - to Wagonga and if you look at the foot you'll see that Michelle Geary is sending on behalf of Malcolm Heard, H-E-A-R-D, who's a partner in the law firm Heard, McEwan Legal. Earlier you were searching your mind for the solicitors who replaced Eddie Newan?---That's, that's correct.

These are the solicitors?---Yes, yes.

20 And you'll see that they had been looking at the issue of the long term lease at Fullers Beach. In paragraph 1 they noted one of the problems?---Yes.

The long term lease had never been registered and then in paragraph 4 there's a reference to an offer made by you. And I just wanted to get some detail on this. Somebody at Wagonga had sent to Malcolm Heard an email suggesting that you'd made an offer of \$1.0 million to Wagonga for its share in Walkun Mara Aquaculture Pty Limited and \$100,000 to the other shareholders for their shares?---Yes.

30 Now if I take you forward to page 306 of the same volume you'll see a very poor copy of a letter - - -?---Yes.

- - - signed by you and addressed to Terry Curley, C-U-R-L-E-Y, a solicitor - - -?---Yes.

- - - and it's on the letterhead of Medich Property Group?---Correct.

40 Now I want to show you those things because the next page has got a much better, a much clearer copy of that letter but without the letterhead. But I wanted to show you that it had been signed by you and - - -?---Yes.

- - - it was on the Medich Property Group letterhead. And you'll see that this is a letter to Terry Curley at Heard McEwan. I want you to assume that he was a solicitor there?---Yes, he was, yep.

And a former Wallaby actually?---Is that right?

Yeah. Dated 30 August, 2006. And this is the solicitor for Wagonga and you'll see that the proposal is contained in the third paragraph – “The

agreement is, we the Medich Group pay Walkun Mara, that's the lessees as I understand it, \$400,000 to transfer all shares, clearing the way for us to continue with the joint venture." That Walkun Mara would give Wagonga \$200,000 reflecting back rent and then in the next paragraph, you would pay \$700,000 to Wagonga and purchase the Fullers Beach property?---Correct.

So that was a serious proposal at the time?---Well, it seemed to be a way to get around that lease, the lease complication.

10 All this while, while these negotiations were taking place, Vanessa Mason's chairperson?---Yes.

Had Vivienne Mason returned as CEO?---I, I don't know, I don't, I don't believe so.

Ron Mason, however, was still there and instrumental in the doings of the land council?---I don't know that Ron Mason had anything to do with the Land Council at that stage.

20 All right. In any event, meanwhile nothing was happening in terms of the joint venture as such?---I'm still waiting.

Disaster?---Mmm.

If you go to page 322 you'll see that somebody's faced up to the inevitable and drawn up a Deed of Rescission and if you turn over you'll see that it's a Deed of Rescission between the group known as The Medich Group, that is the group originally involved in the joint venture on your side- -?---Ah  
hmm.

30

- - -and the Wagonga Land Council on the other, and the idea was to terminate the joint ventures. I'm just trying to trace and put in- -?---Yes.

- - -context the whole of the history. Now, if you go to page 337 of this bundle, it will probably be preferable if I show you first of all page 334 because it's the book recording the presence of certain people at a general meeting of Wagonga on 7 August, 2007 and then if you go to page 335 there's the commencement of the minutes and then you'll see three pages of minutes and the end of it at page 337 there's a discussion on Coordinator.

40

Now, that position Coordinator and CEO, I've used those interchangeably, but here it says that Vanessa Mason won the position as Coordinator commencing work on 9 August, 2007?---Right.

Now, I'm just trying to put together the history of the involvement of various people at this stage. Ron Mason had been the chairperson, he'd was succeeded by Vanessa. Vanessa stood down eventually as chairperson to become Coordinator or CEO?---Right.

And she was replaced, that is Vanessa, by Vivienne Mason as chairperson of the Council. Is that your recollection?---That could be it. It chopped and changed so many times I've lost you.

All right. If you look at page 370 for example, just so that you can see I'm getting it I hope close to right, you'll see minutes of a meeting on 5 November, 2007, and the meeting was opened by the acting CEO, Vanessa Mason, and the first item is, nominations for chairperson, Vivienne Mason is nominated and declared chairperson. Do you see that?---Yes.

10

So that seems to be the succession at Wagonga. Now, meanwhile the joint ventures having come to an end, another proposal occurred to somebody on your side, maybe you, that long-term leases over those same properties could be entered. Is that right?---That's correct.

20

Now, if I take you to page 351 of this volume, this is the first reference that I can see to it. This is the fourth page of minutes of a meeting. The meeting on page 348 was on 29 August, 2007. So there's an item just pops up in the meeting, motion number 10, which is lease Lot 921 for 33 years with option for renewal. That was your proposal, that a long-term lease be taken over the Fullers Beach property?---It was my proposal that we took over leases over three of, three of the properties, Lot 921 was one of them, but they were to be 99-year leases, not 33-year leases.

Well, I was going to come to that. In fact it was 33 years with the option for renewal being 33 and 33 again?---Right, yeah.

30

Now, this came as you can see at the end of a long period of nothing much happening on the joint venture but eventually the rescission. Out of the blue you proposed the 99 year leases, is that right?---We've tried, well, we tried everything else that didn't work so we were having one last go of it, yes.

Well, you appreciate we're here to understand what Wagonga was doing to protect its members' interests. When you put that proposal for example did you understand that Wagonga went to a real estate agent to get any advice from a real estate agent?---I didn't ask.

40

Did Wagonga put it in the paper to say that we're considering long-term leases and expressions of interest to call for?---To my knowledge they were being advised by Heard McEwan. They had all the information from them that they needed and they were progressing in regards to a legal situation.

Well, it seems as though as best I can tell from the whole of the record and we'd naturally need to ask some other people about this, but there seems to have been virtually nothing done on their side to investigate the economics of it. Do you know of anything that they did to investigate?---I know, I know that when it got to Heard McEwan and then we got to the situation of the leasing arrangement we had to redo valuations and I had to pay for full

new valuations as the old valuation had run out. So I'm, I'm assuming they were being advised as to what to do to make it right.

Well, we might get a feel for that at page 360 of volume 1 if you turn there and you can see that this is something which is printed out by you. It's an email sent by Malcolm Heard to you, Lucky (not transcribable). Do you see that?---Yes.

10 And you'll see that this is at a fairly rudimentary stage, some discussion regarding long term leases now of three lots, lot 921, lot 887 and lot 889 and the tenant would be Waterview Developments Pty Limited?---Correct.

Who or what is Waterview Developments Pty Limited?---Waterview Developments is a company that I own and it was decided that we would register the land under Waterview Developments.

All right. So when you say it was decided we, who was the we apart from - - -?---Ron Medich and, Ron Medich and myself.

20 Did Medich have any interest in Waterview Developments Pty Limited? ---Not that I'm aware of.

But what was his role then in continuing with this? It was a secret role or was it - or have you shut him out of the action?---Well, we're going to, we're going to get in, we're going to get into other matters, if we're going to get into this we're going to get into other matters which may not be - there was a reason why we were putting it under Waterview Developments - - -

30 All right?--- - - - and not, not one of Ron's companies.

Was it done with Mr Medich's permission?---Yes, it was.

And knowledge?---Yes.

And was he a participant - in the event that Waterview Developments had made good, was he a participant in the potential profits?---Ron Medich was the bulk holder of all profits that were supposed to come.

40 But in any event we can see there that there's some discussion about rent in paragraph 4 and you'll see an ambiguity immediately. It says that initial rent is to be \$12,000 plus GST paid annually in advance but it doesn't make it clear whether that's 12,000 per property or 12,000 for all three. Do you see that?---Well, the, the rental - it was never going to be a monthly or a quarterly rental. The rental was going to be based on the valuations of the properties and the money would be paid up front for the whole 99 years.

Well - - -?---Each property had its own valuation. Lot 921 was 1.2 million I believe and the next one was about 380,000 and so on and they were all, to be all paid up front on settlement.

Well, I am going to come to the, the detail of that in a moment but at this stage these, this page 360 of volume 1, that reflects the kind of initial skirmishes in negotiations relating to potential long-term leases?---Yes.

10 Now if I take you back to page 355 there may be a document which is helpful in light of something that you have just said. You'll see that it's on the Medich Property Group letterhead and it's signed by Ron Medich and it's dated 11 September, 2007 and addressed To Whom it May Concern. Do you see that?---Yes, I do.

And it allows you to negotiate with Wagonga et cetera, et cetera?---Yes.

Is that what you were referring to before when the - - -?---Correct.

20 - - - corporate vehicle Waterview Developments Pty Limited was created?  
---Correct.

Now would I be right in thinking that at this time when you were negotiating the long term leases you were speaking mainly to Vanessa Mason or were you speaking to somebody else at Wagonga?---I spoke mainly to Vanessa Mason.

All right. If I take you through to page 375 of volume 1?---Yes.

30 You'll see that Mr Heard, the solicitor is writing to you to try and clear up what might be seen as being an ambiguity, which is that the initial rent of \$12,000 plus GST was to be for each of the lots. Do you see that?---Yeah, that, that really didn't mean anything.

All right. Well go over to page 376 and you wrote back, this time on the letterhead of Waterview Developments Pty Limited?---Yes.

40 And your suggestion was that the 12,000 was to be for Fullers Beach and the others would be proportionately less, they being smaller and less valuable properties?---Correct.

And then there's a suggestion that you pay some sum entirely in advance, a 99 year old rental entirely in advance?---Correct.

All right. So this is the state of negotiations which you were having with Vanessa Mason are reflected in that letter?---Yes.

And all the way through she was agreeable to anything effectively you suggested. Isn't that right?---I suppose it looks that way.

Well if I take you now to volume 2. I'm so sorry Mr Gattellari there are so many documents but - - -?---No, that's all right.

You'll get volume 2 in a moment. But I wanted to take you - - -?---I could use a bigger desk.

I wanted to take you in particular to page 115?---This is come undone.

Take your time?---Got it.

10

I actually feel obliged to say to you Mr Gattellari and tell you where I'm going with this?---Right.

What I'm trying to show you from these documents is that there have been changes made in the way in which the deals were negotiated?---Yes.

You agree with that?---I do.

20

And then very rapidly the Wagonga Land Council was responding positively to your suggestion that there be the 99 year leases. Is that right? ---That's correct.

And then it had been shown I think to you in the letters that the 99 year leases would be covered by a particular rate of rent. You've seen that? ---Yes.

30

Now even if we look here at this letter, it seems as though those at the Wagonga Land Council were very eager to do the deal with you on the rates proposed by you. And I'll show you why I say that. You'll see that this is an email printed out by Vanessa, presumably Vanessa Mason and sent by Malcolm Heard to Wagonga Land Council. It's addressed to Vanessa and he records in it that he had spoken with Vivienne Mason and then in the third paragraph, "Vivienne Mason also expressed the desire of Wagonga Local Aboriginal Land Council to execute the documents today. Now the whole thing, could I respectfully suggest, seemed to be a little rushed. Do you see that?---Well if you're, if you're involved in the, the effort to acquire these lands from day one, you wouldn't think it was a bit rushed. It had been, we're talking about a couple of years now. There's been nothing rushed about it to be honest with you.

40

Well that may seem to be so, but in terms of this rent did you know whether Wagonga did anything to try and protect themselves in terms of whether or not it was a market rate of rent?---Well as I explained to you, we weren't worried so much about the market rate of rent because what we were going to pay was the actual valuation for the land. Now the rent would have to be - Lot 921 was valued at \$1.2 million, so the rent for the 99 years had to add up to \$1.2 million. That's how I understood it to be.

I think you may be right, but eventually that was yet a further proposal but that was made right at the end, and at this time the proposals were in simple terms that Fullers Beach be 12,000?---Right.

For example, if you look at that same volume 2, page 199, you'll see that Vanessa Mason is emailing Malcolm Heard and you and suggesting that leases had to be provided, "promptly", and that she felt that it had been dragging on too long. Do you see that?---Yes.

10

Now, what, what I want to suggest is that if the agreements had gone along in that form, they would have been quite incredibly favourable to Waterview Developments. Do you accept that?---If, if the, if the rezoning could take place, I would agree with you.

Well, what I want to show you is that there were leases drawn up - - ?  
---Yes.

20

- - -and it was only, and this is later again, only at the suggestion of Mr Heard that Wagonga ever obtained a valuation. Do you accept that?  
---No, I don't. It was only at his suggestion that we obtained the second valuation.

All right?---We'd already had a valuation on the land.

Well, if we have a look at volume 2 page 207, what you'll see is there the first page of a valuation by a firm of valuers, Caddey, C-A-D-D-E-Y, Searl, S-E-A-R-L- - -?---Yep.

30

- - -and Jarman?---Yes.

Do you see that? And you'll see that they're instructed by Heard McEwan?  
---Yes.

And the date of valuation is 7 February, 2008?---Correct.

40

Now, the point here is that we've seen documents from Vanessa Mason which seems to be suggesting that she wanted the lease signed in its then current form. We've seen emails from Mr Heard saying that he'd spoken to Vivienne Mason saying she wanted it dealt with, yet this valuation post dates both of those by a couple of months. Do you see that?---Mmm.

Now, if you go to page 208 you'll see that three properties were the subject of the valuation?---Correct.

Then you'll also see that the valuer talks, and this is valuer speak, but we presume these people know what they're talking about, in the final paragraph, that as a valuer would assess a 99-year lease, it's the equivalent

of being unencumbered. Do you see that?---What page are we talking about at this stage?

Well, don't worry about it. I'll show, I shouldn't trouble you with that. What I want to suggest to you is that in the way that the leases were originally negotiated and the way in which Vivienne Mason and Vanessa Mason were trying to enter them on behalf of Wagonga was way undervalued and a deal really very favourable to you. Do you accept that in general terms?---No, I don't. No, I don't.

10

Have a look, have a look at page 209 then?---Yep.

You'll see that this is the valuation on property number 1, Lot 887?---Yes.

And the valuer first of all says, this is what I think is the current market value?---Yes.

20 And then he, he does something. He says, "The present value of the ground rent is calculated by reference to two per cent tables." This is something the valuers do. And he suggests that the ground rent should be in the order of \$8,728 per annum whereas the lease, the lease that you had proposed was for \$1,500 per annum and in his view represented clearly too low a price for acquiring such a long-term asset. Do you see that?---Yes, I do.

If you go to page 211 on property number 2, Lot 889, the same sort of calculations are made, so that he said that the market value was something in the order of \$10,100 per annum whereas the lease called for only a payment of \$2,500 per annum. Do you see that?---Yes.

30 Again the valuer is saying that what Wagonga was agreeing to was, "Clearly too low a price- - -?---Yeah.

40 - - -for acquiring such a long-term interest."?---I, I have to disagree with you in, in this way we were heading for the simple reason is that that land, as it, as it stood was worth nothing. I mean, A, it needed to be revalued, not revalued, rezoned, and if no rezoning was forthcoming, the land itself would be worth absolutely nothing. Secondly, this was the second valuation that these people did and in the first valuation they gave us an outright value of each block of land as it stood. Likewise I believe they did here. He then took it upon himself to decide that if I went to, if I went to Vanessa Mason or to the Wagonga Aboriginal Land Council to lease this block of land, right, this is what I would have to pay for to lease it, but I didn't want to lease the block of land, we were out there to buy the block of land and we were prepared to pay the value of the block of land which was say for instance 921 was \$1.2 million, we were prepared to pay \$1.2 million. How they divvied that up in rental or any other way was up to them.

I appreciate what you wanted to do and the way you were going about it. Really effectively you and Medich wanted to buy the land so you could deal with it as you liked?---Correct.

There were problems with doing that and this long-term lease was seen as one way of meeting those problems?---Correct.

10 But what I'm trying to show you here now is that it does seem that at a critical time during negotiations that Wagonga was agreeing to accept rent and actually trying to force a deal through which was far too low. For example, if you look at page 212 there's a reference to property 3, and that's Lot 921 or the one that we've been calling Fullers- - -?---Yeah, Fullers Beach.

- - -Beach?---Yes.

And the valuers here are saying that instead of \$12,000 the rent should have been \$30,000 per annum?---Well, you can see why valuers are not land developers.

20

Maybe that's right. Well, all I can say is that certain of these problems are reflected in Mr Heard's concerns if you go to page 217, where you'll see they wrote to the New South Wales Aboriginal Land Council on 9 April, 2008, to Julie van, V-A-N, Agten, A-G-T-E-N, and they discussed this. And you'll see in paragraph 3 Mr Heard's assertion is, is that following his advice an independent valuation was obtained and the fourth paragraph, there's a substantial difference, and paragraph 6, "We've advised Wagonga that there should be a well-advertised expression of interest process conducted by an independent reputable real estate agent", and that Wagonga  
30 can tell Waterview that Waterview is able to participate. Do you see all of that?---I do.

Well, still could I suggest to you what Wagonga did was, or what Vivienne Mason did and what Vanessa Mason did was come back and deal only with you. Isn't that right?---It certainly looks that way, yes.

40 You see, if you, if you go forward at page 224, despite what Mr Heard was telling them or at least what Mr Heard was saying to the New South Wales Aboriginal Land Council, at the foot of page 224 you'll see that this is an email from Vanessa to Mr Heard, "Hi, Malcolm", and then if you go over to page 225 - "Please be advised that Wagonga have had a meeting with Lucky Gattellari from Waterview to discuss the new valuations and have agreed to the changes." In other words, no expression of interest called for, no independent real estate agent supervising it, just dealing one-on-one. Now, Mr Gattellari, you were getting pretty favourable treatment. Is that right?---Well, as I said to you, if you were involved in these negotiations from day one you mightn't think so.

I can understand your frustration- - -?---Yeah.

- - -with lawyers and indeed- - -?---I know where you're coming from.

Well, what I want to do now is move to an entirely different matter and I want to go back to that volume 3 if I could?---Okay.

And in volume 3 we've got those, that paperwork that I've shown you a couple of times?---Yes. Which page, sorry?

10

Well, I'm going to jump around page to page because they're not in chronological order, but what I've done is, I've tried to put these things in chronological order and you can tell me if you think I've got it wrong, but if I start with page 14?---14?

Yes. And if I start, we'll deal only now with Ron Mason and ignore the other entries on that page?---Okay.

20

I know we've touch on this before but it's better to have it clear. This is in your handwriting?---Yes, it is.

And you'll see that there is first of all under the heading Ron Mason, a list of payments?---Yes.

And they're payments that you made to him?---Correct.

Now you'll see that they tally \$7,400 and then there is a reference, plus car \$2,500. To what does that refer?---That's \$9,500?

30

Sorry, plus car \$9,500, what – to what does that refer?---Ron Mason bought a car from me at the time that I didn't need and that was that money. That was the 9,500.

And then there's a reference to registration \$900. Is that to get the transfer of the registration and all that?---Yes, yes.

40

If we then go to page 7. As I say I'm jumping around a little bit, but I believe this is the next entry. Do you know before we go there I've got to ask you one last question about page 14?---Yeah, sure. That's all right, yep.

And if you look at it. Did you give that document, that is page 14, to Ron Medich or did you show it to him?---Ron Medich got a break down of every, as I said, everything that was spent.

Did you discuss that page with him, those payments?---Not individual, not individual pages, no.

Well what about the car, did you tell him about that for example?---It wasn't necessary to tell him about the car because it wasn't one of his cars, it was one of my cars.

It was your money?---Yes.

If we go then to page 7 you'll see that there are entries and here there's a reference to Eling E-L-I-N-G Forest Winery?---Yes.

10 That's a business associated with you?---I owned Eling Forest Winery, yes.

And you'll see that there are references again to Ron Mason and it picks up as at 20 June, '05 7,400?---Yes.

Now if I got you to turn back to page 14 you'd see that the tally was there \$7,400?---Yes.

20 And it seems as though what's happening is that you're keeping a running tally, that this is the next sheet on?---Correct.

And then you'll see that there's the reference to the car registration?---  
Ah hmm.

And then there begin to be some payments and now you're putting dates on them?---Yes.

Were they payments that you made to Ron Mason?---Yes.

30 If I just show you something now for example there's one there dated 21 June, 2005 for \$300. Do you see that?---I do.

Turn to page 36?---Yep.

On page 36 there's a deposit receipt for Ron Mason of \$300. It's dated the day after, 22 June, 2005?---Yes.

Is it likely that those two documents link up?---Yes, they are.

40 Now I don't think you have all of the deposit receipts or all of the records relating to all of the payments that you made?---Not all the payments were made by, by banking.

Because some of them were made in cash, just passed over?---Correct.

So those which were made when they were banked into the account of Mr Mason we have deposit receipts like that one we see on page 36?---I think so.

And we've got some dates on them and we've also got account identification numbers. But I can tell you that we've also got some other evidence in the - - -?---Sure.

- - - inquiry which will show the payment going from one point to another. But so we can see those payments listed there, Mr Mason on page 7, all of those remained and at the end of that time it was \$10,920?---Yep.

10 Would you then go to page 17? And here we can see, you pick up the previous total of \$10,920 and there are some payments more?---Yes.

There's a substantial payment where it says cash on 15 August, '05 and there's a reference to loan. Do you see that?---I do.

First of all if I just take you to page 35, at the top of page 35 there's a very poorly copied document but it looks like an old fashioned form of a - - -? ---Credit card.

20 - - - credit card receipt?---Yes.

And you'll see that it seems to have been drawn on your account?---Ah hmm.

And you'll see if you're clever enough on the right hand end of it to read the date, it's 15 August, 2005 and the amount is \$5,000. Do you - - -?---Very vague on this copy, but I'll take your word for it.

30 With that, with that idea that there was a loan to Ron Mason of \$5,000, was it truly a loan or was it a gift?---No, I considered it a loan at the time.

Did you ever get anything back from him?---I did not.

It sounds like the money I lend to my sons?---I understand that too.

Page 18 if we go, sorry, page 17, the tally there is 19,220 and then if we go over to page 18 you've got Ron Mason, that sum plus car. Is that the same car or another car?---The same car.

40 But it seems to have gone up in value?---Oh I think I paid for insurance all other things involved with that car so it just went up to \$12,500.

I'd just to touch on some other things which figure on that page.---Yes.

You'll see that it's on Unique Lighting Solutions Pty Limited.---Yes.

Was this page or the information on this page given to Mr Medich?---All information concerning cash and money paid on behalf, in regards to the dealings at Wagonga were given to Mr Medich.

All right. Well, what you can see is that, and there's some things blacked out so we'll just protect those people's reputation for the moment. You'll see that there's a kind of tally so that about a third of the way down the page there's a number \$47,750.---Yes.

And then there's a reference to the car.---Yes.

10 And then there's a reference to 20K meaning \$20,000.---Yes.

From Medich to Land Council.---Yes.

That's the deposit to which you referred - - -?---Correct.

- - -the cheques that you got on the day you were pulled over by the police. ---Yes.

20 And you'll see that you're doing some add ups. Then you need a valuation for the small block.---Yes.

Contract and then there's a bit of a discussion – some notes here and there. ---Yes.

This document is an attempt to tally the amount of money which had been paid to try and secure the blocks of the lands down at Narooma. Is that so? ---That's correct.

30 Even if you look at the top of the page it's got a note on it, Ron, presumably Ron Mason- - -?---Yes.

- - -plus KJ.---Correct.

Meaning Ken Foster. And it's then got another heading, money spent to date.---Yes.

Could you go to page six - - -

40 ASSISTANT COMMISSIONER: I'm sorry, could I just ask before you leave that. Is the car being added in because you gave him the car but he never paid for it?---No, I think that was, I was just trying to show Ron Mason that I was being very, very generous and you know, that I was looking after him even though he wasn't doing anything for me, so, it just, reminding him of what I've done for him.

Did he pay you for the car?---No, he did not.

So you just gave him the car? Did you ever expect he'd pay for the car?---I was expecting to get paid for the car, yes.

But did you enter into any arrangement for payments to be made?---We did not.

And I presume the same with the \$5,000 cash loan there was no arrangement made as to repayment?---There was no written agreement made, there was no, it was when he had it, he could pay it back.

All right. Yes.

10

MR WATSON: You told the Commissioner just then that you were showing these things to Ron to demonstrate to him that you had been generous toward him. Were you showing these sorts of calculations that you carried out to Ron Mason?---Did I show Ron Mason these things?

Look at page 18 for example. Did you discuss these numbers and these events with Ron Mason?---On a couple of occasions I, I expressed to Ron that, Ron you know, Ron you've cost me a lot of money and I've got nothing from it. So, you know.

20

Would you go to page six. Now this is on a different letterhead yet again, it's on Commercial and Retail Lighting. Is that a company you know? ---These are, these things were just scribble pads supplied by different companies to the company and they mean nothing to me.

All right. So if we have a look at the heading on it, it says, as at 17 October, 2005 plus 25K paid to Land Council and then you do another calculation. ---Yes.

30 And then there's a reference to a loan not paid by Mason.---Yes.

And then there's more payments cash or the like.---Yes.

There's one for \$9,190 which as I see it is car payout. Do you know what that is?---Well, I'm glad you brought that one up actually, was that \$12,500 car that he bought was actually still under lease.

Yes.---And he was supposed to be making the payments.

40 Yes.---And I think there was a reference in one of the other things you showed me where two car payments, you didn't bring up.

Yes.---Now, I was making the car payments every time I got notified that they weren't made and finally I got sick of it and paid the car out.

All right. You're quite right about the two car payments. If you go back to page 7 you'll see under Ron Mason's headings that on 8 July 2005, \$1020, two car payments.---Correct.

So, then we've got a tally as of that date for Ron Mason of \$31,000 odd and then if I ask you to go to page 13.---Yes.

You'll see there that there's in the middle of the page another, just before the blackout, Ron Mason 200 cash and then if I ask you to go to page 5 - - - ?---Is that - are you talking about - oh, yes, sorry, yeah.

Yes?---Yeah.

10

And then if I ask you to go to page 5?---Yes.

You'll see that there's another column and now with a substantial payment just before Christmas in 2005 of \$5,000. What was that for? Do you remember?---Yes, that was - Ron asked me could I let him have some money to make sure his family had a good Christmas and Kenny Foster I think got the same thing.

20

And then there's, if we look at it, the next one, it's got a little bit more detail, it's got things such as \$201.56 for a light bill. Were you paying this for Mason's light bill?---I did sometimes.

And parking fine?---Yes.

And you paid him to attend a meeting with Jeffrey Hinde, that's the solicitor to whom we referred earlier?---Yes.

30

Then if I get you to go to page 4 and I believe that this is the last document that we have from you, Mr Gattellari, which seems to be Ron Mason, balance brought forward and then there's a small payment in May 2006, then we have the final tally of \$38,878.23?---Correct.

They're either sums of money that you paid directly to Mr Mason to that point in time, that is May 2006, or benefits which you paid on his behalf - - - ?---That's correct.

- - - or loans for which he failed to make any repayment at all?---Yes.

40

I want to show you just a few other pages in this volume and ask you some of the detail about the nature of the transactions. Could you go to page 8? ---Yes.

Sometimes in this note you get a bit emotional, Mr Gattellari so you'll see that there's a reference to Ron Mason, the first thing that you enter is the \$25,000 paid as deposits to the Land Council. Then you've got the 31 August, 2006 Ron received in cash and payments 31,000-odd, do you see that?---Yeah.

Then what you've got is a record of what had come of all of this?---Yes.

The Narooma deal was screwed?---Yes, I see it, yeah.

And then there's a reference to a tractor?---Yes.

What's that about?---Oh, just another, another deal that didn't come off.

Was that a tractor you bought - was it to do with Wagonga and Narooma?  
10 ---Ah, it was a tractor that was purchased that was never paid for, that's all.

Who, who did, did you pay for it?---No, it was sold to Ron and I never got paid for it, that's all.

All right. Well, somebody paid the \$2,500, you owned the tractor beforehand did you?---That's what I, that's what I was to charge him for the tractor.

Oh, right. And loan, nothing. You see that?---Yes.  
20

And on it goes. What's it mean when it says "Viv's car, \$12,000 to be repaid"?---Where have you got that? Oh, here we go, Viv's car.

The 6<sup>th</sup> of the asterisks?---Well, it was supposed to, that was supposed to be paid and it never was.

Now, is that just the one and the same car, the - - -?---Yeah, we're only talking about one car, yes.

30 What, what does it mean when it says "Viv's car"?---Well, I believe that Ron Mason bought the car and gave it to his wife.

When you say bought it, bought it by not giving you a penny?---Well, he took possession of the motor vehicle and gave it to his wife.

Right. So that went to Vivienne Mason?---Correct.

Then there's some other references and there's a reference to KJ and et cetera, et cetera and down the bottom a grand total of \$115,871.67?---Ah  
40 hmm.

Plus car loss which is now \$24,000. I'm not sure whether that's the same car or whether it's - - -?---Ah, it's another matter which is under investigation so - - -

Oh, I see. But did it involve Wagonga?---No, it didn't.

All right. If I then take you to page 19. These are all notes made by you, are they?---Yes, they are.

You'll see that on page 19 there's reference to Ron Mason Wagonga, the \$25,000 advance et cetera?---Yep.

Again these are just records of payments which were made over time for - - -?---Yes.

10 - - -in, in the hope that certain transactions could be pulled off?---Correct.

Mr Gattellari, I suppose people would look at it and say that there were a number of properties here at Narooma that you were looking at. If any one of them had come off, would that have paid for all of your outlay?---It certainly would have made life easier, yes.

If I, if I get you to go to page 21, similar sorts of things, notes that you've made, just some of them can be read. That one on page 21 seems to be about some of the potential for redeveloping blocks?---Page 21?

20

Page 21. It's got a - - -?---(not transcribable)

Yes. It's got a dam in the middle of it?---Oh.

Do you see that?---Yep.

It seems to be, one site, seventy-one blocks is going to be there, seventy blocks on another. Some sort of note of these- - -?---This is ah, just a scribble about Isabel Street, just an idea of what, how many blocks we were going to get and what have you.

30

Well, the point is that when you look at page 22, I want to ask you about it, it seems as though this one is addressed to Ron Medich or there's a note to be taken up with Ron Medich, and you'll see there the references to Narooma?---This was just one of the notes that I've given to Ron in regards to how the, how we were progressing with a number of negotiations we were having.

I'm just seeing if there's any point labouring this. If you look at page 16 you might see something which might be a fairly forlorn gesture by you, Mr Gattellari. It's in your handwriting. Is that right, page 16?---Yes.

40

And it's addressed to Ron Mason and what you're trying to do, as I understand it, is get a kind of written confirmation that \$8,000 had been loaned to Ron Mason?---Yes.

But he never signed that and in any event he never paid any of it. Is that right?---I'm not even sure I even showed it to him, to be honest with you. I can't remember that one.

If you look at page 20 you see the same sort of thing?---Yes.

Where you see that in page 20 that it's a little bit more specific, it's Ron Mason agreeing that on completion of the sale of Narooma, that certain sums would be repaid?---Yep.

10

You discussed that with Mr Mason, did you?---I didn't discuss it with him when I wrote it, no.

Why did you think that he would come into funds upon completion of the sale of Isabel Street in Narooma?---I just assumed he would.

I'll try and move a little bit more quickly for you, Mr Gattellari, but I've got to do now a similar sort of thing in respect of Mr Foster. I'd like to take you back to page 14 of volume 3?---Yes.

20

Page 14 you'll see a number of payments there made and tallied up and they tally \$9,520?---Yes.

If you look at the third-last entry, there's a cheque for \$1,100 for rent? ---Yep.

Do you see that?---Yes, I do.

30

Now, when Mr Foster went down to Narooma to take up the job as the CEO - - -?---Yeah.

- - -he needed somewhere to live?---He did.

Who paid for his home?---I have no idea. He rang me up one day and said that he was behind with the rent, could I help him out 'cause he was going to be thrown out and he'd have nowhere to live, and I went, I paid his rent for, I don't know, a couple of months or whatever it was, whatever that figure was for. I had nothing to do with him getting the, getting the unit or the, or the house, whatever it was, in fact I've never been there.

40

Well, in any event, they're payments on page 14 that you actually made to or on behalf of Mr Foster?---Yes.

Similarly if you look at page 7, same sort of thing?---Yes.

Page 17, same thing?---Yes.

Page 18, same thing?---Correct.

I'll show you on page 18 another reference, is that Kenny Foster has got at this stage 17, 670 next to his name?---Yep.

And it says, "Plus 4,500." Do you know what that was?---Just must have been another cash advance that he got.

10 And you'll see that there's a calculation made next to it 3,000 per month. Is that a suggestion that Foster had been receiving payments which tallied that for the time he'd been there?---No, it was my, it was my estimate list. I wanted to point out to Kenny Foster, as I did to Mr Mason, that in all the time, in all the cash advances I'd made to him I had nothing to show for it.

All right. Did you say that to Forster?---Yes, I did.

Page 11 there's more references to Mr Foster and, and payments to him. You'll see - - -?---Yes.

20 - - - two entries for rent and then some other matters?---Yep.

And even a Foxtel bill?---Yeah, to watch the races.

Again, if somebody needs to, to the extent that these things were paid into back accounts, they can be lined up with some of your records. If you see there the reference to 16 November, 2005 for \$200, admittedly a small sum, but that matches up with your page 32 - - -?---Yep.

30 - - - on the right hand column, 16 November, 2005 Ken Foster and entered the bank account, \$200. And then if we just track it through, page 6, more payments listed for Ken Foster?---Yep.

Page 12 another small one up the top, a credit card payment of Austar? ---Yep.

And then page 13 just two above the blacked out line, loan to KJ, TV, what are you lending him money for a TV? Is that right or - - -?---A loan to KJ - - -

40 It matters not Mr Gattellari?---I can't, I can't work it out.

Page 5, I want to just stop you there and get you to look at page 5 for a moment. You'll see that this is, balance brought forward a certain sum and then it says Christmas money 18 December 5,000. He too was given a Christmas bonus was he?---Him and Ron Mason, yes.

Right. And then if we need to get it in order that would seem to be the last page that we've got with an entry for Ken Foster. It seems as though he -

either money paid to Mr Foster or paid on his behalf for rent et cetera \$31,301?---Yep.

You paid all of that?---I did.

10 Mr Foster and his rent, did Mr Medich know about the rent being paid on behalf of Mr Foster?---Mr Medich was not given individual – unless he wanted to know specific details he wasn't given a \$1,000 paid for rent, \$200 paid for the TAB or whatever. He was just told that money was being spent on a particular project and he was given a list, a breakdown of the money spent at that place.

Well I just want to ask you something about Mr Foster. I don't know that Mr Foster will still stay this, but I believe that at one stage Mr Foster was minded to suggest that he may have received some small sums from you from time to time because during this period he was also working for you as a gardener or things like that?---Kenny Foster?

20 Yeah?---No.

Ever work for you?---No.

What about Ron Mason, was he ever your gardener or doing - - -?---He was doing my, Ron, Ron Mason gave me a hand a few times with some jobs I had around the house, which he was paid for doing. He never actually worked for me, no.

30 But are they these payments? Are they reflected in here or - - -?---Some of them could be. Some of those cash payments could be work days.

Well are we talking about a lot of dough? Are we talking about much money?---No, no.

What I was going to suggest to you is that on one occasion you went into the real estate agent down there at Narooma?---Yes.

40 A man Phillip Potter was the real estate agent and that you went in actually with Mr Medich and you actually paid Mr Foster's rent across the counter or Mr Medich did, one of the two?---Yeah, we were down there one time and I went in and paid some rent for, for Kenny, yes.

I want to show you page 9 of volume 3 and ask you if you can explain it. It's headed "KJ", Kenny Foster, you see that?---Yes.

You're already smiling as you read it, does it - could you explain to us what the document reflects?---Kenny Foster would occasionally come to me with proposals and this was just one of those proposals that he, he put to me.

And that proposal was that you pay him \$15,000 and he will get you a letter from somebody for exclusive dealing with Isabel Street?---Yes. I never paid him the 15,000.

No, but he proposed this to you, that - - -?---Yes, he did.

- - - you pay him \$15,000?---Yes, he did.

10 And it refers to golf club land. What is that?---The golf club, the golf club adjoining Isabel Street also had some land that they were going to do something with and Kenny Foster suggested that that could be acquired as well to make it one big subdivision instead of two individual ones.

Anyway, this is a handwritten note made, made by you when Foster came to you with the deal?---Yeah.

It didn't come about?---No, it didn't.

20 But nevertheless we can see Mr Foster's state of mind that he was willing to do this?---Right.

What about the middle of the page where it says "15,000 must have car as security". Who, was that you?---I, I, Ken, Ken ah, Ken, KJ had a Holden GTS or I don't know what kind of car it was and I said to him that if he wanted to borrow \$15,000 and he gave me his car as security till he paid it back I'd be happy to lend it to him.

30 And there's a reference to seven grand with no car after that. Was that a kind of counteroffer?---No, I was just testing him out to see what he would do but he didn't accept it.

I need now to ask you about some arrangements with Vanessa Mason?  
---Yeah.

With Vanessa Mason she had an interest in acquiring an oyster lease. Is, is that right?---Correct.

40 Now in relation to Vanessa Mason you entered into an arrangement with her that you would finance the purchase of the oyster lease and as a result you'd acquire 51 per cent of the shares and she would have the other 49 per cent of the shares?---Correct.

And quite substantial sums were paid to Vanessa Mason and to her company about that, is that right?---Yes.

For example, well, sorry, I'll identify the company. The company was Emandem, Emandem, E-M-A-N-D-E-M Enterprises Pty Limited?---Sounds right.

Now, that was her corporate vehicle for pursuing the oyster leases?---Yes, it was.

And that the oyster lease actually was purchased from her own brother, Ron Junior?---Apparently.

You didn't know that?---Not at the beginning I didn't.

10 In any event, we've got records going through your bank account or her bank account which establish 11 payments totalling \$125,000 into Emandem made either by you, by one of your companies or by, in one instance, a cheque signed by Senad Kaminic. Does that sound right?  
---That doesn't sound right at all.

The Senad Kaminic bit but what about the 125,000?---The what?

One hundred and twenty five thousand, three hundred - - -?---Well, that sounds, that sounds about right.

20

Yeah?---Senad couldn't have signed any cheques.

All right. Well, it seemed odd to us as well but there's also a company called PES Management Pty Limited. Do you know that company?---PES Management.

Yes. Was that one of the electrical contractors?---Oh, yes, sorry, yes it is, yes, one of, one of the, yes, combined companies.

30 Was that your company or was that Mr Medich's company?---Well, both of us, let's put it that way.

Well, we've also got on 6 April, 2010 an account directly made out of one of Mr Medich's accounts to Vanessa Mason or Emandem Enterprises for \$10,000?---Yes.

Do you remember anything about that?---Yes, that's correct.

40 Well, what were the circumstances in which Mr Medich was making a payment direct to Vanessa Mason or her company?---Well, Mr Medich was, was involved, he would have been co-owner with me in the oyster lease and I needed to get \$10,000 to Vanessa, I didn't have it spare in any of the companies at the time so he sent a cheque over.

All right. So - - -?---He gave me a cheque for it.

Well, what did he understand was the nature of that payment, was that a loan to you or a loan to her or?---Oh just an investment in the deals we were doing in Narooma.

Right. Another kind of payment which might be to butter somebody up?  
---No, not it wasn't.

Well, was Mr Medich trying to acquire a share of the Oyster Lease?---Well, he had a share of the Oyster Lease because, I, would have been part of my  
10 share.

All right. So, the PES or PES Management Pty Limited was that something directed by you or directed by Mr Medich?---I would have directed PES. What did PES pay?

\$25,000.---Right, it would have been part payment for the Oyster Lease.

And did you tell Mr Medich about that?---Mr Medich knew about all the money I spent.  
20

All right. Would you just excuse me for a - - -?---Sure.

That's the examination of Mr Gattellari, thank you for your patience Mr Gattellari. Throughout I've referred to documents from bundles. I tender now Volume's 1, 2 and 3.

ASSISTANT COMMISSIONER: Yes, well Volume 1 will be marked Exhibit 1.

30  
**#EXHIBIT 1 - FOLDER MARKED "VOLUME 1"**

ASSISTANT COMMISSIONER: Volume 2 will be marked Exhibit 2.

**#EXHIBIT 2 - FOLDER MARKED "VOLUME 2"**

40 ASSISTANT COMMISSIONER: And Volume 3 will be marked Exhibit 3.

**#EXHIBIT 3 - BUNDLE REFERRED TO AS "VOLUME 3"**

MR WATSON: Thank you Commissioner.

ASSISTANT COMMISSIONER: Mr Gattellari, could I just ask you, you say you raised with both Mr Foster and with Mr Ron Mason that you've given them a lot of money and got nothing in return.---Yes.

10 What, if anything, did either of them respond to you?---Well, I think that by the time we got to that stage we'd developed a friendship and even to this day, I considered Ron Mason and Kenny Foster as friends, although they mightn't think so any more but I never believed I was going to get the money back and at the time as I explained when this, when they discovered all these entries in my diaries which were never meant to be for public viewing anyway, I explained that had one of the deals come at Narooma, just one of them, all these payments would seem insignificant and I basically put those documents together because if I was asked for any more advances, I'd say mate, I can't do any more, I've done enough for you.

Well, that doesn't really answer my question which is, did Mr Mason or Mr Foster respond when you put to them, look I've given you all of this and you've done nothing in return effectively.---Nothing of significance, no.

20 And well, did they have an answer to that?---No they didn't, more of a chuckled and you know, there was no answer.

They had no answer. And the other thing is, although you say you became friendly with them, it's no doubt that initially when you were dealing with them, it was business for you wasn't it, you wanted to make some money up in the area?---Yes.

30 That's why you approached them and that's why you – I think the term you used is buttered, buttered them up?---It wasn't the term I used it was the term that Ronnie Binge used, as far as I was concerned, as I explained to the investigators when they all these. The reason I kept documents and records of all these things is that at no stage did I believe I was breaking any laws, I never outbid anybody, I never, I never asked them not to list it.

I just interrupt you. You're not really answering my question which is more that although you say you became friendly with them, it was a business - - - ?---Yes it was.

40 - - -at the beginning.---It was.

And you went up there to try to make some money on behalf of you and The Medich Group as it was called.---Correct.

That was your purpose.---That was the purpose, yes.

Yes, thank you.

Now is there an application to cross-examination this witness by any party?

MR TERRANCINI: There is by me Commissioner, but will I start 2 o'clock.

ASSISTANT COMMISSIONER: Yes, Mr TERRANCINI, you may start at 2.00. Will anyone else be seeking to cross-examine Mr Gattellari?

MR HALSTEAD: I will be Commissioner for Mr Foster.

10 ASSISTANT COMMISSIONER: Yes, all right. Well, I think perhaps everyone can wait until 2.00. We will adjourn now until 2 o'clock. Thank you.

LUNCHEON ADJOURNMENT

[12.54PM]