

SKYLINEPUB03439
08/05/2019

SKYLINE
pp 03439-03498

PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION SKYLINE

Reference: Operation E17/0549

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 8 MAY, 2019

AT 10.15AM

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THE COMMISSIONER: Yes.

MR CHEN: Commissioner, before Ms Dates returns to the witness box, could I indicate that Mr Harrowell will be seeking your leave, Commissioner, to represent Ms Sophie Anna, and he'll make that application now, Commissioner.

THE COMMISSIONER: Mr Harrowell?

10 MR HARROWELL: Yes, Commissioner. I seek leave to appear in place of Mr Ramrakha. He has a family crisis and I've been instructed at the last moment.

THE COMMISSIONER: Yes, certainly. Yes, Mr Harrowell. I grant leave to you to appear.

MR HARROWELL: Thank you.

20 MR CHEN: Secondly, Commissioner, those who have reviewed the transcript would have seen that there was an approximately one minute of recording that was not available to be transcribed. I understand the position has been corrected, and so the transcript will be revised to include that part of the evidence that was missed in the first version of the afternoon session, Commissioner.

THE COMMISSIONER: Thank you. All right. Now, Mr Petroulias, are you ready to proceed with - - -

30 MR PETROULIAS: Yes, Commissioner. I must appreciate, thank you for, you gave me an example yesterday and that's the first time I could sensibly comprehend what, what you meant, so I've taken that on board.

THE COMMISSIONER: Well, I received a document entitled Standard Direction 13 in relation to both Ms Dates, another one in respect of Mr Green. That's your document, is it?

MR PETROULIAS: Yeah, with some assistance. I struggled with it. I really - - -

40 THE COMMISSIONER: I'm sorry - - -

MR PETROULIAS: I struggled with it (not transcribable)

THE COMMISSIONER: I just want to clarify, the document I'm talking about - - -

MR PETROULIAS: Yes, with assistance.

THE COMMISSIONER: - - - which has got three columns, Purpose, Issues and Affirmative - - -

MR PETROULIAS: Yeah.

THE COMMISSIONER: - - - has been prepared by you overnight, has it?

MR PETROULIAS: With assistance, yes, because I just couldn't get anywhere.

10

THE COMMISSIONER: That's all right. Mr Petroulias, I appreciate you're not legally represented and the public inquiry does traverse quite a number of issues and facts.

MR PETROULIAS: Yes.

20

THE COMMISSIONER: The document you've produced does assist to some extent in me understanding the issues you wish to pursue in further cross-examination of Ms Dates, but I think it is important also that, with respect, you do not lose sight of the, if I could refer to it as the architecture of the public inquiry as it affects you.

MR PETROULIAS: Yes.

30

THE COMMISSIONER: Because it's important that, if I can use the expression, you stay on song for this reason, that it's in your own interests to be aware of what are the real issues that impact upon you so that, for example, it may or may not be that there are matters Ms Dates can give evidence about, which is relevant to matters that affect you, but in terms of determining at the end of the day what is your case. I'm just saying this to try and provide some guidance. As I emphasised yesterday, I'm not in a position here to give advice to anyone, including yourself, but in the interests of trying to ensure that the examination of witnesses and cross-examination of witnesses is relevant and I don't have to keep interrupting you, for example, or reject questions, it might be just useful if I spend a little bit of time just saying a couple of matters, and that is that you really need to identify at some point – and I would have thought by now you've heard witnesses, many witnesses give their evidence – to identify what is your case. And when I pose that question hypothetically, I'm saying, well, what is your case in relation to the central issues.

40

MR PETROULIAS: Yes (not transcribable)

THE COMMISSIONER: Now, one of the central issues, for example, is the alleged entitlement of Gows, which goes right back up the timeline. What was its interests in the Awabakal land at Warners Bay in the first place?

MR PETROULIAS: Oh, exactly what I'm - - -

THE COMMISSIONER: Now, just in answer to that question, there is evidence that would raise questions about that Gows agreement.

MR PETROULIAS: Yes, I understand that.

THE COMMISSIONER: As to what is it, whether that it has or could ever have had any legal effect.

10 MR PETROULIAS: Commissioner, I'm with you a hundred per cent.

THE COMMISSIONER: No, no. Please don't interrupt.

MR PETROULIAS: No, it's not that, it's that it might be, with the witnesses present, might not be - - -

THE COMMISSIONER: That's all right. No, no. I don't think it will impact on what she has to say. But I'm just simply – I mean, if you wish, I'll ask her to wait outside while I'm dealing with this but - - -

20

MR PETROULIAS: Yes, please, if you don't mind.

THE COMMISSIONER: All right. Ms Dates, if you wouldn't mind just waiting outside for a short – we'll just sort this out and then we'll get going with your evidence. Thank you. Ms Dates has now left the hearing room. So one question, of course, about the Gows alleged entitlement is that that's the foundations to - - -

MR PETROULIAS: Yes, I get it.

30

THE COMMISSIONER: - - - on which everything else later happened. Now, the question will be, for example, well, how did this alleged agreement come about, what happened, who did what. Now, it might be said, well, at the end of the day, once you've identified all the relevant facts about that agreement, alleged agreement anyway, some might say, well, it's doesn't - - -

MR PETROULIAS: Yes. Commissioner, will and would.

40 THE COMMISSIONER: Just a moment, no, no, pause. But it doesn't add up to anything. It might be said against you, this agreement was misconceived because it was never an agreement. I'm not saying that's my view at all but I'm simply trying to put you in the picture as to what evidence there is, might be used to put a proposition against your interest and then how you would respond to that. It might be said, some might say it's not only not a lawful agreement, it was an improper agreement in some way or an unlawful agreement or an unlawful attempts to create a false

interest. Now, I'm not saying that the evidence would establish those matters, but all I'm putting you on notice upon is that - - -

MR PETROULIAS: But, sorry, Commissioner - - -

THE COMMISSIONER: No, if you - - -

MR PETROULIAS: Mr Green's here, Commissioner.

10 THE COMMISSIONER: No, if you just listen to me. If you with each witness say to yourself, now, is Ms Dates in a position to give any evidence on that issue, and it may be that the answer is not at all, there's nothing she can say about it because she had nothing to do with it if that was the case. So I want to really know at some stage – and now would be a good time, actually, if you're in a position to do so – is what is your case in relation to the Gows agreement entered into, I think it was, October 2014? And then you'll tell me what is your case.

20 Now, you can do that now or you can do it later, whatever you wish. But unless you ask yourself that question, it's very hard to see how some of the witnesses can assist you or your position on that matter. For example, Ms Dates might just not be able to take it anywhere, she might be able to take it a little, you know, distance along, but that's a matter for you. Then you go to the transactions that came later, you're talking about the Sunshine transaction, followed by the Solstice transaction, followed by the Advantage purported transaction and then you anything, well, what's your case? How does that impact upon you in relation to any potential findings that could be made in this inquiry. Well, you say, well, the Sunshine transaction, take
30 that one, was a transaction allegedly involving not two but three parties. In the notional triangle, at the top you've got the Awabakal Land Council, in one corner of the triangle you've got Gows, in the other corner you've got Sunshine, and it's said that there was a transaction entered into between Gows and Sunshine, but importantly I understand you'd be saying – but you tell me if this is not right – with the approval of the Land Council because it was their land and they had to be involved in this matter, otherwise there could be no transaction between the other two.

40 Now, the issues there are, well, what would the Land Council have had to have done, and there is issues such as authority, authority given by the Land Council board to somebody perhaps. There's issues of approval. Was there an approval? If so, how did that approval come about? Consent. Was there some form of consent by the Land Council? If so, what are the facts about that? What's your case on that, if you have one? Instructions given on behalf of the council, who gave the instructions, who could give instructions, who had the authority to give instructions and what were the instructions? Advice. What advice was given either to Ms Dates or to anyone else for that matter, so that they could sign off on agreements?

See, what I'm saying to you is that unless you have regard to what the issues are, your interests may or may not be served by some of the cross-examination, for example, of witnesses. It's not my job to assist you but it is at least because, as I say, you're unrepresented, I think in a matter in which in which has gone as long as this one has and the detail of it, that in fairness to you I should try and compartmentalise it the way I see it at the moment in terms of issues. Now, many in the room might say that they disagree with the way I've formulated some of those issues, and that will be dealt with in final submissions, but what I would really like to hear from
10 you at some stage is, what is your case in relation to the Sunshine transaction, in particular the Awabakal Council approval, if there was any approval at all, or its consent or its instructions, and who gave them and - - -

MR PETROULIAS: Do you want me to do it now?

THE COMMISSIONER: - - - those sort of issues, because you see, Ms Dates was involved in various things, signing off agreements and that sort of business. Okay. Well, before you even get to what she did, what was her
20 status, what was her functions, lawful functions to be able to undertake on behalf of the council? What were her powers and where would any powers she purported to exercise come from? Because the question of what delegated authority she had or powers goes to imprint on her actions possibly legal significance, possibly not at all, if she didn't have any powers or functions if she's signing off on agreements, for example. So these are the sort of issues that I want to know what is your case about the Sunshine transaction, what is your case in relation to such issues in relation to the Solstice transaction and what was your case in relation to Advantage.

MR PETROULIAS: Okay. Well - - -
30

THE COMMISSIONER: Because unless you tell me, it's very hard for me to sometimes determine whether or not you should be permitted to ask questions, because if they're not questions dealing with issues such as those, or some other issue that you identify is part of your case, then it's very hard to allow you just to keep asking, firing off questions if they're not really hitting the target, if you like, and it's certainly not perhaps assisting you in your position in this inquiry. So, Mr Petroulias, I'll say no more. I just want to make quite clear that you understand what I'm saying - - -

40 MR PETROULIAS: Yeah, yeah.

THE COMMISSIONER: - - - so that it might assist you to be focussed in your questions and focussed in your own interest.

MR PETROULIAS: Yeah.

THE COMMISSIONER: But I do ask you if you're in a position now or if you're not, when are you going to be in a position to tell me what is your case in relation to those matters I've identified.

10 MR PETROULIAS: Commissioner, let's say this is the first time ever that I actually understand you and we're on the same wavelength. That, the foundation stone, and I'm not going to go into every agreement, it's pointless, the foundation stone and how it was laid is a, is a long time ago and it's got multiple aspects to it. So right now what I'm, what I'm trying to do, and I don't want to prejudice two witnesses who can give that evidence, is all I can do right now is give them sufficient prompts, remind them of conversations that took place that lead up to a certain conclusion about where exactly that authority, you know, expectation of rights comes from. And then the other, what happens after that isn't that important.

THE COMMISSIONER: All right. Well, Mr Petroulias, at some stage you will, I gather, inform me as to what your case is on some of the matters that I've identified and perhaps anything else you want to raise as part of your case.

20

MR PETROULIAS: If - - -

THE COMMISSIONER: So I think what we'll do is, we'll get Ms Dates back, continue the cross-examination, I'll review it if you're still proceeding with her by lunchtime in order to determine how we're travelling and how much more time - - -

MR PETROULIAS: That's more than fair, Commissioner.

30 THE COMMISSIONER: I should determine, I'm required under the directions to have regard to efficiency and that's why the time limitation provision is in the standard directions. All right, thank you, we'll have Ms Dates back. Good morning, Ms Dates. If you just stand there, we'll just administer again the affirmation. Thank you.

THE COMMISSIONER: Thank you, Ms Dates. Just take a seat. Yes, Mr Petroulias.

MR PETROULIAS: Yes. Ms Dates, just a little clarification. You mentioned yesterday that sometimes you had a meeting with board members but there wasn't a full board, and you said, for example, with your sister. So
10 it wasn't, wasn't a quorum.---Yeah, that's right.

They don't, when you talk of that sort of thing, is that, is that, sometimes you say this went to a board. Is that a board? Because sometimes you say, oh, I, no, I'm pretty sure this document went to a board. We can't find any minutes that support that it went to a board. Is that what you're talking about, this informal group that was not a proper quorum?

MR CHEN: I think there's a bit too much, with respect, in what's being put, and it's too imprecise in my respectful submission, Commissioner.
20

THE COMMISSIONER: Mr Petroulias, are you asking her to say whether or not board members who attended but did not constitute a quorum - - -

MR PETROULIAS: Yeah.

THE COMMISSIONER: - - - whether she regards that as a board meeting or not? Is that what you're saying?

MR PETROULIAS: Because there's many instances - - -
30

THE COMMISSIONER: No, I know, but what do you want to ask her? Is that what you're saying?

MR PETROULIAS: Yes. Does she regard that as a board meeting.

THE COMMISSIONER: Well, just put it again in those terms.

MR PETROULIAS: Do you regard those meetings where there's not a quorum but, I don't know, three, four, five of you turn up, is that a board meeting to you?---No.
40

Okay. Rightio. Now, all I can, what I want to do is just try to remind you – because it's a long time ago, back in December 2014 – by certain conversations, and, and I want to ask you about that back in, sorry, November, December 2014, if you can think way back then. Do you remember us talking about the Land and Community Business Plan and what the community expected of the board?

MALE SPEAKER: That's two questions, Your Honour.

THE COMMISSIONER: I'll allow it.

THE WITNESS: Well, I think it was every three years we had to put that Community Plan and Business together. That's something the Land Council has to do anyway.

10 MR PETROULIAS: Do you remember us discussing it, about, you know, how to find effective use of the land?---I can recall, yes.

Now, do you remember, for example, that basically I said to you to me it looks like what, what, what this plan is, is to sell the unproductive land and get productive, productive income-producing property?---Yeah, I can remember that, something like that.

20 Now, do you remember me saying, like, for example, the Warners Bay properties was called surplus holdings, if you remember, the kind of things that they wanted to sell? Does that remind you?---We had a few developers look at Warners Bay Post Office, but, yeah.

Okay. And, right, that's why, okay, okay. Now, do you remember me telling you that what, what, because we're talking about how, I'm reminding you how to best get the value, and do you remember a conversation with me about that you use a market value by someone that Awabakal respects and trusts, and we discussed with you various names?

30 MR O'BRIEN: Your Honour, sorry, Commissioner, I object to that very lengthy question. And I also object, if I might say, to the assertion at the beginning (not transcribable) Mr Petroulias, unrepresented, is reminding this witness of a conversation. It is, in my respectful submission, (not transcribable)

THE COMMISSIONER: Well, it's cross-examination of a kind, isn't it?

MR O'BRIEN: Well, to say I'm reminding you of something is to state that (not transcribable)

40 MR PETROULIAS: Okay, does this remind you. Okay, I've got it.

THE COMMISSIONER: Well, I think, Mr O'Brien, that a certain amount of leading is tolerable, but the questioner has to bear in mind, the more they lead, the less value the evidence becomes because it's spoonfeeding the witness, and at the end of the day the evidence often is very unhelpful and deserving of no weight or very little weight. So I think that's the answer to your objection on the grounds of leading. As to the other matters, Mr Petroulias, I think Mr O'Brien has a point in that you're rolling up in one question two different matters. You said conversation to how best to get

best value, to use market value by someone you trust and then we talked about getting a lot more money, et cetera. I mean, this is your summation of what you're suggesting to the witness.

MR PETROULIAS: I'm trying to be - - -

10 THE COMMISSIONER: The topics, plural, were discussed. I think what you've got to do is constrict the questions to one point at a time, not having double points or treble points in your questions. So perhaps if you have another go at that one.

MR PETROULIAS: Okay. Do you remember me asking you and us talking about the kind of real estate people that your community would trust and respect?---How far are you going back because there was a lot of - - -

Well, well, there's really not that many, is there? I mean, how many could there be back then?

20 THE COMMISSIONER: Well, I don't think she can answer that question. You should try and narrow it down.

MR PETROULIAS: Okay. Do you remember discussing Tony Galli and Gary Dowling?---Yes.

And they were both at that time at the same firm?---Yeah, Dowling Real Estate.

30 And I asked you, "Okay, so if they like the valuation, what's the chances it would go through?" And you said – do you remember that?---I don't, I, I can't recall that.

Didn't you have the numbers to approve, in your family, the community meeting?---My family, my - - -

MR O'BRIEN: Well, I object to that.

THE COMMISSIONER: Yes, Mr Petroulias, I'm afraid that's not permissible.

40 MR PETROULIAS: Okay, can I say that you told me that, that if it was a, if it was approved by someone they respected that it would easily go through the community?---Because my family's the biggest family in Newcastle.

Okay. Can I show you MFI 33, page 3, please.

THE COMMISSIONER: Page 3?

MR PETROULIAS: Yes.

THE COMMISSIONER: Right, bring that up on the screen.

MR PETROULIAS: If you can take a minute to read it and get familiar with it. Do, do, have you read it?---I've read some of it.

Do you remember it?---(No Audible Reply)

10 First of all, is that your signature?---I can't really see it. I can't see the last section of my signature.

Can we have a an original, then, at all? Because these, the foundation ones are important. Do you recognise this document as something that you would sign?---No, I can't recall it.

So do you want to see the original to check if your signature's there?---The part at the end, part of my signature's missing, that's all. I can't see my signature.

20

Can we have the original, please?---Is that, is this at a board meeting or - - -

This is a meeting where you're agreeing to, to a, to a conversation - - -

MR CHEN: Well, I object to that at the moment, Commissioner.

THE COMMISSIONER: Yes. It's not, it's a memorandum, it's a file note.

30 MR PETROULIAS: It's a file note and you've signed it because I'm going to suggest to you I explained it to you.---Well, I can't recall. I can't remember.

Can she be shown the original, please.

MR CHEN: Commissioner, Mr Petroulias has asked for that. I'm not sure whether there is one, and if there is one - - -

MR PETROULIAS: No, there is, there - - -

40 MR CHEN: Well, Mr Petroulias, you just say where it is and we'll do our best to - - -

THE COMMISSIONER: Why do you need the original? We're looking for it, but why do you need it?

MR PETROULIAS: Because she, she can barely see her signature, I need her to - - -

THE COMMISSIONER: Well, I think, did you, have you recognised your signature there or not?---(No Audible Reply)

Can you recognise your signature or not from this copy?---Not on this copy I can't.

Okay. All right.---Can't recognise my signature.

10 MR CHEN: What I'm told, Commissioner, is it's from Ms Bakis's material and perhaps she could assist in producing it.

MR PETROULIAS: No, the original was part of her file.

THE COMMISSIONER: Has - - -

MR PETROULIAS: She - - -

20 THE COMMISSIONER: Are we able to establish whether it's been produced to the Commission?

MR PETROULIAS: Yes, yes.

THE COMMISSIONER: I'm not asking you, I'm sorry, I'm addressing Counsel Assisting.

MR CHEN: And could also perhaps Exhibit 84 be checked. That is certainly a version of that agreement, whether it's an original I don't know.

30 THE COMMISSIONER: All right. Well, let's have a look at Exhibit 84. Ms Goodwin, you might be able to assist just while we're searching for this document - - -

MS GOODWIN: Yes.

THE COMMISSIONER: - - - as to whether your client knows whether she produced the original of this file not or not.

MS GOODWIN: Yes, she has, Your Honour.

40 MS BAKIS: I believe so.

THE COMMISSIONER: So she's produced the original to the Commission?

MS GOODWIN: Yes, as part of the file.

MS BAKIS: I thought it - - -

MS GOODWIN: I'm told it might be within the material pertaining to Lawcover.

MR PETROULIAS: No, no, no. That was in the first block.

MS GOODWIN: So perhaps not.

THE COMMISSIONER: All right. Well, Mr Petroulias, can we, we'll keep searching.

10

MR PETROULIAS: Okay.

THE COMMISSIONER: We may or may not have it. Can you deal with some other matter?

MR PETROULIAS: Now, Ms Dates, in a situation, let's, you recognise part of your signature. Is that what you're saying?---I, I can't say.

THE COMMISSIONER: You can't what?---I can't recognise that, that's, it's really hard. I can't say that's my signature because the part of it's missing.

20

MR PETROULIAS: All right. So while we're, can we just assume that it is for a moment. If, if I would give you a document for you to sign, would you look at it, would you ask me to explain it before you signed it?---A few documents you have.

Now, okay. Does this remind you, then. In this document I am saying, not Richard, I am telling Ms Bakis that Cyril and I are partners, or joint whatever, in joint venture with me and on board.

30

MR CHEN: I think the problem, may I say, at the moment no facts surrounding the creation of this or her participation in this have been asked or established and so the questioning is proceeding at a fast pace without dealing with those fundamentals in my submission, Commissioner.

THE COMMISSIONER: I think, Mr Petroulias, as I understand Senior Counsel Assisting is saying is that whilst you're asking her to accept that there's reference by you to this relationship with the other entity, is that United or, no, it's not United, it's Mr Gabey's organisation.

40

MR PETROULIAS: Yeah, yes.

THE COMMISSIONER: Whether you mentioned it to her or not doesn't establish the fact as to whether there was such an association. I think Senior Counsel Assisting is saying, well, witnesses have come and gone and nobody's been asked to - - -

MR PETROULIAS: Well - - -

THE COMMISSIONER: No, no, let me finish. Witnesses who might be able to contribute on this subject have come and gone without any mention of any such association. There's no documentation that's been produced that I'm aware of that evidences the existence of that association with Mr Gabey's entity. So whether you put it, whether you did mention it to this witness in the meeting which the file note relates to is not probative of anything in terms of the existence of that association.

10

MR PETROULIAS: Commissioner, the evidence - - -

THE COMMISSIONER: Do you understand the point I'm making?

MR PETROULIAS: Yeah, the, the, the evidence that's public, that, that, that everyone can hear from, from Mr Gabey was, one, that we were partners; two, that in the partnership his role was to serve as an introducer, my role was to do everything else; three, that he sent me the presentation and that I was supposed to work with it.

20

THE COMMISSIONER: Let's assume for the moment all of that is correct. What does asking the question add to the evidence that there was such an association if all of what you say is correct? Wouldn't matter at all, would it?

MR PETROULIAS: Well, it, it, it would matter.

THE COMMISSIONER: Why?

30 MR PETROULIAS: Because it goes to how Gows appeared in the agreement. And I, that's - - -

THE COMMISSIONER: But you're asking her to confirm that you mentioned it in this, this, on this occasion.

MR PETROULIAS: No, no, no, no.

THE COMMISSIONER: No, no. Which the file note relates to.

40 MR PETROULIAS: Yes.

THE COMMISSIONER: Now, assume that she says yes, you did. That evidence wouldn't take it anywhere to prove that there was such an association. It would be a mere assertion by you to her in the meeting.

MR PETROULIAS: Yes. Yes.

THE COMMISSIONER: But the assertion doesn't prove anything.

MR PETROULIAS: That's right. It, it, it - - -

THE COMMISSIONER: Well, why are we wasting time on dealing with this?

MR PETROULIAS: Sorry, sorry, I have said it, Mr Gabey has said it.

THE COMMISSIONER: Yes, okay.

10

MR PETROULIAS: So - - -

THE COMMISSIONER: Well, you don't need, you don't need any evidence from Ms Dates because she wasn't party to any association.

MR PETROULIAS: No, it goes to, it goes to, it goes to the next question, which is what it says there, that I didn't want to use that presentation that Cyril had presented to the board. I had legal problems with it.

20 THE COMMISSIONER: I think we've spent enough time on this. I won't allow the question. Next question, please.

MR PETROULIAS: Are we still going to see the original, Commissioner?

THE COMMISSIONER: Can't hear you.

MR PETROULIAS: Are we still waiting for the original?

30 THE COMMISSIONER: Well, there are searches being made for it, as I understand it. It might take a bit of time. You move on to something else. We'll come back to this.

MR CHEN: Mr Broad tells me that he doesn't believe it to be the original. The file can be brought up, Ms Bakis's file can be brought up from property, but that takes, as you would expect, Commissioner - - -

40 THE COMMISSIONER: Well, it doesn't have to be done immediately. It can be obtained over morning tea adjournment, and if it's in our possession, then it can be provided to Mr Petroulias. But in the meantime, Mr Petroulias, if you just reserve that aspect and move on to something else.

MR PETROULIAS: Okay. Okay. Basically, did, did, haven't I told you that my job is to implement the presentation or, that the board approved?

MR CHEN: Commissioner, I object, Commissioner, in that form.

THE COMMISSIONER: No, no, Mr Petroulias, I won't allow it.

MR PETROULIAS: Okay. Can I put it to you that I said that I am going to implement the agreement, sorry, I am going to implement the agreements that come from the presentation?

MR CHEN: Well, Commissioner, again - - -

THE COMMISSIONER: Mr Petroulias, you're assuming there were agreements that came from the presentation.

10 MR PETROULIAS: No, I just said those words. Whether they came or not, I just want that - - -

THE COMMISSIONER: But there were no agreements that came out of the presentation. That was just a general discussion about possible transactions concerning Council land at some point in the future. There had been no identification as to what properties might end up being marketed.

MR PETROULIAS: Well, actually, Commissioner, it's quite specific. There's, there's, there's a minute.

20

THE COMMISSIONER: And you referring to that in that question that you might have said something along those lines doesn't advance matters at all. No, I won't allow it, Mr Petroulias. Please focus on what is in your interests, relevant to your case.

MR PETROULIAS: And it is. What my case - - -

THE COMMISSIONER: No, I'm not allowing it. Next question, please.

30 MR PETROULIAS: Commissioner, do you, do you, do you remember that there were two minutes, two versions of minutes?

THE COMMISSIONER: Please put your next question.

MR PETROULIAS: Can you see MFI 33 number 2, page 2? You can't see your signature at the top there?---There's no signature there.

So we need to, we need to, we need the original. I have a note, Commissioner, of where the originals are.

40

THE COMMISSIONER: Okay. We're going to deal with this later, Mr Petroulias. I want you to move on using precious time to deal with some other matter and come back to this.

MR PETROULIAS: It's a foundational stone.

THE COMMISSIONER: Okay, you come back to it. Next question.

MR PETROULIAS: Okay. Can you see page 4 of MFI 33, do you see that's your signature on that?---Yeah.

Now, if you can have a flick through it just quickly, can I suggest to you that we're talking about ways of speeding up land claims?

MR CHEN: Well, I think the letter, again it's to the witness, appears to be signed by Ms Bakis and under the hand of Ms Bakis.

10 THE COMMISSIONER: Yes.

MR PETROULIAS: And, and didn't we do some research on, didn't, wasn't I supposed to be doing some research on how to speed up land claims?

THE COMMISSIONER: Just keep, don't make statements, please, Mr Petroulias, just ask questions.

MR PETROULIAS: I thought I did. Okay.

20

THE COMMISSIONER: Sorry, what was the question?

MR PETROULIAS: Didn't I tell you that I was going to be doing some research on how to speed up land claims and get more claims because that is what's in the Community Plan?---I can't recall, but it should be, we did have a board meeting to discuss some of this but I can't recall.

Now, you mentioned a couple of times that, that you trusted me, and I suggest to you that you wouldn't have signed a document just because it came from me unless you agreed with what, with what I told you the document was and you agreed with it.---Yes, but I thought we were moving the Land Council forward.

30

I understand. But you wouldn't, at the time whatever I told you, you must have agreed with in order to sign it.

MR O'BRIEN: Well, I object to that. It is too broad and whilst I'm not in any way suggesting that Mr Petroulias take the witness through every document that she signed that's been authored or explained to by her, a question of that type is so vague and unhelpful in relation to how it came to be that Ms Dates signed these documents, either on this occasion or others, as to be really an impermissible question.

40

THE COMMISSIONER: Mr Petroulias, I think the problem is that there's evidence of a number of agreements that were presented to the witness for her signature. Now, some of the agreements may not have any great significance in the scheme of things in this inquiry, but others might. So I think you need to focus your question in terms of the proposition you're

putting to her by identifying what agreement in particular you're referring to and rely upon - - -

MR PETROULIAS: Okay.

THE COMMISSIONER: - - - as one she would have entered into - - -

MR PETROULIAS: Sure.

10 THE COMMISSIONER: - - - on the basis of the premise of your question.

MR PETROULIAS: Ms Dates, would you, would you agree that we had regular weekly meetings, if not, and, and, and/or phone calls from 2014 till the end virtually?---Yeah, I can recall.

So I would keep you up to date as we went, what the issues were, and you would tell me what you thought?

20 MR O'BRIEN: Well, again, that is far too nebulous. We don't know what up to date means and we don't know what conversations transpired in those proceedings. So if it later emerges that Mr Petroulias gives evidence that he kept Ms Dates up to date about this transaction or that transaction, the answer there would be so unhelpful.

THE COMMISSIONER: Mr Petroulias, you need to confine your questions to specific subject matters. Now, in this case - - -

MR PETROULIAS: I am.

30 THE COMMISSIONER: - - - your question is in general form that you used to keep her up to date, and that begs the question, up to date about what? And now if she just answers yes, her affirmative answer doesn't tell me anything because you haven't put to her what it was that you kept her up to date about. So the answer is valueless because the question is too broad. Now, we're going to be having - - -

MR PETROULIAS: No, no, no.

40 THE COMMISSIONER: No, no. I'll just finish. There's going to be, I foresee, a lot of objections to this style of questioning and it's unfortunate because it breaks up the continuity of your cross-examination or, yes, call it cross-examination, it's in the style of cross-examination anyway. So, we're going to have to just deal with it question by question. If you keep putting questions in this very broad way, then I'm afraid we're going to have to proceed at a slow pace and that's chewing up valuable time. Because I think I put you on notice yesterday, you don't have unlimited time. You have limited time. Now, I think I should just remind you of that because in

your own interests you should use the time to best effects in order to deal with your interests.

MR PETROULIAS: Commissioner, I'll be very clear here. I'm dealing with the foundation stone and I don't have the originals because her signature is obscured by the photocopy.

THE COMMISSIONER: It comes back to the problem, up to date about what?

10

MR PETROULIAS: Well that's the problem. If I had a document that had, the original, I want to put in front of her to recognise her signature. I know where it is, I can tell you. Bakis volume C, page 44.

THE COMMISSIONER: All right. I'm not going to continue this dialogue, Mr Petroulias, because it's now just after 11 o'clock and we haven't got very far so far in the cross-examination and the meter's ticking, as it were, and I'm afraid, you know, you're doing yourself a disservice by not putting questions that are properly focused.

20

MR PETROULIAS: Okay. Now, Ms Dates, you remember that, you remember the transactions that Mr Zong came and signed, 28 October or 23 October, 2015? You gave some evidence about it, that, to Counsel Assisting where you said that you agreed to a certain payment being made to Gows.

THE COMMISSIONER: Now, look, this is hopeless, Mr Petroulias. What do you want to ask? Ask yourself the question, what do I want to ask this witness? Now, you're talking about, in a global way, transactions, plural, don't know which ones yet, Zong, 2015. Now, that covers a huge spectrum, potentially, of transactions because we know there's multiple agreements entered into concerning Sunshine. So, again, if you don't focus in on what it is about one of those transactions, or more than one, this witness is left guessing as to what's the question seeking.

30

MR PETROULIAS: Commissioner, sorry, Mr Zong, sorry, her evidence was that, that, that we came to the boardroom, we all signed documents and she recognised that certain payments were made to the Gows, that was her evidence. Now I'm going to take it further and ask her what, what was, what was she going to do with that information.

40

THE COMMISSIONER: All right. Well, you just think about how you can put that in very specific terms so that the witness, in fairness to the witness, is able to identify what it is she's meant to be answering.

MR O'BRIEN: And could I just add, Commissioner, I don't believe that to be the effect of her evidence and if that is the effect of her evidence, I would like to see that in the transcript, or at least referred to - - -

THE COMMISSIONER: All right. Well, you flagged that point and we'll come back, as necessary, to it.

MR O'BRIEN: Thank you.

MR PETROULIAS: Okay. Do you remember the transactions executed with Mr Zong 23 October, 2015, that there were some documents executed and you signed?---Who was it with?

10

With Tony Zong and myself. Sam Sayed was at the meeting, Richard was at the meeting.---I do recall the meeting but I can't recall what happened.

Would you have told the board about that transaction if it happened, if you signed some documents at, at, at, at a meeting in October, would you have told the board?

THE COMMISSIONER: I reject it in that form. Told the board what?

20 MR PETROULIAS: Well, if she had signed documents which - - -

THE COMMISSIONER: No, no. I'm just posing that question so that you can try and focus your question. What she - - -

MR PETROULIAS: Would you have told the board - - -

THE COMMISSIONER: What she is being asked to assume she had told the board?

30 MR PETROULIAS: Would you have told the board of the transactions, that you had entered into transactions, that you had signed documents?---Of course I would have.

Now, do you remember that in November and December you were suspended?---Yeah.

Of 2015?---Yeah.

So you didn't get back until 2016, is that right?---Yeah, yeah.

40

Now, do you remember that there was a board meeting in March 2016? ---There was a few, few meetings.

In March 2016 this one you might remember because you were asked to approve what had been done whilst there was no board.

MR CHEN: There's two meetings and they both cover roughly certain transactions and ratification motions, and I wonder whether Mr Petroulias should be more specific.

THE COMMISSIONER: Would you identify which - - -

MR PETROULIAS: Sorry (not transcribable)

10 THE COMMISSIONER: No. No, no. Identify which meeting you are now asking the witness to address her mind to.

MR PETROULIAS: I didn't realise it was a controversial point. I thought it was - - -

MR CHEN: Well, it's not a controversial point. It's just in fairness to the witness. There are two meetings.

20 MR PETROULIAS: Well, do you remember any meeting where you were asked to approve what had happened whilst there was no board during 2015?---We had a board meeting about discussing why I was suspended, what happened. I remember we did have a meeting, yes.

Can I show you Bakis volume C, page 281. Now, that's, as you can, have a look at it and try to familiarise yourself with it. That's your signature approved at the top there?---Yeah.

30 And you see how it talks about Richard Green, United Land Councils, founding member? And you'll see on this column date of disclosure, and it says, "Memorandum, declaration, consent, 5 May"?---Yeah.

Now, you said yesterday, as I understand, that you remember signing that 5 May declaration.

MR CHEN: I don't think she said that.

MR PETROULIAS: I thought she did.

MR CHEN: Well, I don't believe she did.

40 THE WITNESS: What did I say, what happened yesterday?

MR CHEN: I don't believe she did say that and I don't believe I took her to it, if that's what Mr Petroulias is asking.

THE COMMISSIONER: That's the declaration.

MR CHEN: Well, as I understand it, it's a document with MFI 33, but if Mr Petroulias could be more specific. If he's saying that I asked the questions, perhaps he - - -

MR PETROULIAS: Yeah, I thought you did. I thought you did.

MR CHEN: Well, no, if you did, that's - no, no - - -

10 MR PETROULIAS: Sorry, I'm sorry, just to be clear, MFI 33, page 7. And if we go to page 8, you recognise your signature?---Yes.

So, now, if we go back, so if we look at this document for a moment, if you look at, for example, that, that we're about to enter into some transactions because there's no board, the board is fractured - - -

20 MR CHEN: I think if Mr Petroulias is just asking about MFI 33, page 7, he should ask her some of the preliminary questions to identify its position, how she came to sign it and matters of that kind. At the moment she hasn't assented to any of these matters at all.

MR PETROULIAS: Well, she said - - -

THE COMMISSIONER: Yes, I think - - -

MR PETROULIAS: I think we established that she signed this.

MR CHEN: Well - - -

30 THE COMMISSIONER: I think what Counsel Assisting is raising is what were the circumstances in which she came to sign this, did she know what she was doing and - - -

MR PETROULIAS: Oh, right.

THE COMMISSIONER: - - - did you have any advice and how did it come about that this document was created, the primary questions such as those.

40 MR PETROULIAS: Rightio. Ms Dates, do you recognise that, that the purpose of this discussion was to make or to keep a record of what we were discussing whilst there was no board?

MR CHEN: Well, I don't think she's accepted any, she hasn't involved, Mr Petroulias hasn't established she was involved in a discussion at the moment.

THE COMMISSIONER: Yes.

MR PETROULIAS: Do you remember that we had discussions about keeping records whilst there was no board?---And who was that with? Was that with me and Despina and the acting CEO?

And Richard, yeah. Me, Despina, me, you Despina - - -?---Yes, I recall that.

10 Now, do you remember that this is the first such interview, the first such record, and that I came to you and I said, "This is the first record of our discussions, sign it if you agree with it?"---I can't recall, but my signature's on there but I just can't recall it. I can't remember.

But you do remember that this was a document that I gave you as a record of our conversations?---It could have been, I don't know. Could have been.

Right. Now, do you see the paragraph 1, "Gows Heat and Awabakal entered into an agreement to purchase land further to a unanimous board resolution and the agreement was in 14 December, 2014?"---I can see it but I can't recall.

20 Okay. Can I take you to 5(e), sorry, 5(c), which says, "Gows representatives are its directors and Cyril, Nick Peterson," that's me, and some other names. "And together," see the next, "We are part of the ULC consortium."---Yeah, I see it.

Does that remind you that there were such discussions?---There was a discussion. All I can remember is the big Torres Strait Islander bloke and yourself.

30 Being together?---Yes.

Being partners?---Yes.

So if, if we, if this is saying that we represent each other, does that surprise you or would you, would you think that that's, that's what we had said, that we represent each other?---That's what, that's what was said.

That's what was said?---You represent each other, yeah.

40 Yeah. Right. So if we go back to the, the, the community disclosure document, that's, sorry, where are we, the pecuniary interest folder, volume C, 281, by signing this and putting it in the pecuniary interest folder, aren't you telling the world that this is what we're declaring?

MR CHEN: Well, I do object, Commissioner.

THE COMMISSIONER: Yes. I reject the question.

MR PETROULIAS: By referring it in this, by referring the document that we just saw, the 5 May agreement, in this document you are attaching it to the community, to the, to the register of interest.

MR CHEN: I object to that.

THE COMMISSIONER: Yes. Mr Petroulias, I don't know where you're going with this quite frankly. If you look at the file note of 5 May that's meant to have been attached to this - - -

10

MR PETROULIAS: Ah hmm.

THE COMMISSIONER: - - - you read through it and you ask yourself, so what question, what flows out of this memorandum of declaration? No binding legal effect comes out of it, that's for sure, and it doesn't assist you at all.

MR PETROULIAS: Well - - -

20 THE COMMISSIONER: You can spend time on this if you want, but I can't see – unless you can demonstrate otherwise – how this is helping you in this inquiry at all. The fact that even if these matters were discussed, let's assume they were all discussed, then so what question pops up? Because - - -

MR PETROULIAS: Well, okay - - -

30 THE COMMISSIONER: - - - all these matters are talking about the Land Council and Gows agree – well, it says that but was there any agreement? That's the question.

MR PETROULIAS: Okay.

THE COMMISSIONER: Not whether this memorandum says there was an agreement. The question is, where's the primary evidence of any agreement? Now, that's just a point at random I've taken from this memorandum to try and bring home the point. You're taking a lot of time over this document and the schedule to which it was attached, but so what?

40 MR PETROULIAS: Well, I'll tell you - - -

THE COMMISSIONER: What role does that play? How does it help you? At the moment, as I see it, not at all, and it's just using up your time with this witness which could be perhaps better spent on some other issue.

MR PETROULIAS: Commissioner - - -

THE COMMISSIONER: But that's entirely a matter for you.

MR PETROULIAS: This is the foundational issue that we're focusing on. It is this, that you heard evidence of Mr Gabey that we were partners. The partnership had roles. His role was an introducer, my role was an implementer. He forwarded his, his, his proposal to me. The proposal contemplates the setting up of documentation. That's my role. I follow through with implementing the proposal. I decided to use Gows Heat as the company, rather than, rather, because the proposal is to a nominal company. I choose Gows Heat for my own reasons, tax planning reasons. This is made known to Ms Dates because, and we've discussed it and it's of no consequence to them who, who the investors are. What proportion they take is of no consequence to them and they know that and they believe that the Gows agreement is a faithful implementation of the board resolution of 31 October. Having done so, whether mistakenly or otherwise, we proceed down this road that the Gows agreement is the legitimate agreement that was expected out of that board resolution. That's intended to be taken to a community meeting. She said that if it's done on market value terms that there's a reasonable expectation that it will be, that it will be approved. Therefore we have a contingent interest with a legitimate expectation of, with a legitimate expectation of it being fulfilled. That, I say, is my legal interest. From there, as this agreement 5 May says, I'm going to go market that agreement to third parties and I'm going to use the proceeds of that agreement in ULC. She believes ULC is a good idea, and then the whole road goes down that pathway. We then speak to Mr Zong, everything follows, and every disclosure to every, to the, to the, in the register, to the community, there's a ton of disclosures where this same history – whether correct or otherwise – is repeated. So I am reinforced in my view that I have a legitimate expectation that I have a future property contingent interest, expectancy, whatever you want to call it – in tax law we did these things all the time – a legitimate interest that, that, that can be sold. Now, the fact that this is years ago and I don't remember the names of companies really can't be used against me. I'm trying to just show a pattern, a consistent pattern of one exact story all the way through disclosed to everyone, including auditors auditing the community, of a course of events that, that justifies every transaction that occurred after that. Now, it would have been much better – I'm still waiting for the originals – if she could see the original. I'm pretty sure it would refresh her memory.

THE COMMISSIONER: Is that all?

40

MR PETROULIAS: Well, yeah.

THE COMMISSIONER: Well, it comes back to this. You have the memorandum. It's in evidence. The witness can't add anything to the memorandum because it speaks for itself, so you've got the evidence on all of those matters you want, if they're addressed in this memorandum. You can't improve on this memorandum. I've sought to indicate to you, the

memorandum has limited effect but whatever effect it has, it speaks for itself. So why keep asking this witness about the memorandum - - -

MR PETROULIAS: Oh, well, sorry - - -

THE COMMISSIONER: - - - when she's struggling to deal with it because it's a long time ago, and that's understandable. I think you are, with respect, not utilising your time to best effect so I think I'll ask you in a moment to put your next question.

10

MR PETROULIAS: Yeah, okay. And the best, and the, sorry, what I'm trying to say is, the, the best way to refresh her memory is to show statements that they've made or adhered to.

THE COMMISSIONER: And how is that going to improve the worth of that document?

MR PETROULIAS: It's her memory I want to improve because it's the conversations we had that I want - - -

20

THE COMMISSIONER: But it's there in black and white. You can ask her about every paragraph in that memorandum all day if you wish, but - - -

MR PETROULIAS: No, I don't want to do that, no.

THE COMMISSIONER: - - - it's not going to improve the value of that memorandum. Now, put your next question.

MR PETROULIAS: I have no intention of doing that, Commissioner. If we can jump to the, the, you remember you had some interest in the Advantage proposal?---Yes.

30

Do you remember we prepared a – Bakis volume C, page 309. We prepared a statement for the community telling them what it's all about and – do you recall this document? Is that, firstly, is that your signature?---Yes.

And do you recall that we had prepared it, this statement, this document to go to the community on 20 July?---Yes.

40 And do you remember you also issued an annual report on that day?---I can't remember but I probably did, yeah.

If you did, can I suggest to you that I had nothing to do with your annual report and that whoever, that you wrote it from internally in your, in your office?---I probably did, I probably would have done it with the CEO?

Now, if I take you to, there's a, that document at the back of it – sorry. There's, at the back of that document, there's a irrelevant history.

THE COMMISSIONER: What do you want to ask her, what part of the document?

MR PETROULIAS: No, up one, sorry, up one. So here, we talked about Richard Green's being disclosed and what he's been doing so that there's no, so that the community knows?

10 THE COMMISSIONER: What do you want to ask her? Don't make statements.

MR PETROULIAS: Do you remember that we did that?

MR O'BRIEN: Sorry - - -

MR PETROULIAS: Do you remember that we wanted to disclose to the community whether Richard Green's interest was so that there was no doubt?

20 MR O'BRIEN: I think the word we needs to be broken down.

MR PETROULIAS: Yeah, okay. That I told you that it was important that we disclose to the community what Richard has been doing so that there can't be, that, that everyone knows?---Yeah, I can recall that.

Okay. Do you see down below, it says, "31 October, 2014, the board unanimously voted to sell land"?---Yep.

30 And it says, "Richard Green brought Gows and IBU to make presentations to the community about the possibilities by the board."---Yep, yep.

Now, do you remember that this was put into this agreement and, and we discussed it? Did I discuss with you that this should be put into this - - -

THE COMMISSIONER: No. I reject that question. What agreement are you referring to?

40 MR PETROULIAS: Did I tell you that it was important to put this – didn't I tell you, I put it to you that I told you that it was important that this be, history, be put in the community agreement?

THE COMMISSIONER: It's not an agreement.

MR PETROULIAS: This community statement.---Is that what the community seen?

Yes.---Yeah, I, I recall that.

Okay. Thank you. Now, do we have any time on the originals?

MR CHEN: We'll get them at morning tea, Commissioner.

THE COMMISSIONER: Yes.

MR PETROULIAS: Oh, okay. Fine.

10 MR CHEN: Just for future references, if Mr Petroulias wants an original document he should give us notice and we'll make sure that it's efficiently available to him at the appropriate time.

THE COMMISSIONER: Yes. Mr Petroulias, I think if you do - - -

MR PETROULIAS: Yeah, yeah.

20 THE COMMISSIONER: If you do follow that procedure, that is give a note to Commission staff if you want an original document out of the holdings of the Commission - - -

MR PETROULIAS: Yes.

THE COMMISSIONER: - - - it gives us half a chance at least to find the document before it's needed - - -

MR PETROULIAS: Yeah.

THE COMMISSIONER: - - - rather than waiting till - - -

30 MR PETROULIAS: Sure.

THE COMMISSIONER: - - - the middle of an examination of a witness to call for it.

MR PETROULIAS: Okay. There's two, and there's one more and they're all in the same - - -

THE COMMISSIONER: No, you just tell them later.

40 MR PETROULIAS: Okay.

THE COMMISSIONER: Write it down on a piece of paper and the staff of the Commission will do their best to find it if it exists.

MR PETROULIAS: Okay. Were you, when your daughter, Candy, gave evidence you were present in, in this, in this inquiry?---No, I don't think I was.

Haven't we discussed Candy's evidence? Have I discussed with you Candy's evidence, we've discussed what Candy's evidence was as part of meeting out the front here?---(No Audible Reply)

THE COMMISSIONER: When did this discussion take place?

THE WITNESS: I don't - - -

10 MR PETROULIAS: When we were sitting out the front here.

THE COMMISSIONER: You and the witness outside the hearing room.

MR PETROULIAS: Yes.

THE COMMISSIONER: Today, was it?

MR PETROULIAS: No, sorry. When Candy gave her evidence.

20 THE COMMISSIONER: When she gave her evidence, yes.

MR PETROULIAS: Sorry, sorry, sorry.

THE COMMISSIONER: What discussion do you say you had?

MR PETROULIAS: Sorry. We would regularly meet up during the course of this public inquiry and, and give updates of the latest news. Is that correct?

30 MR O'BRIEN: Well, I mean if this is a permissible line of inquiry I'm not too certain, but if that's going to be put and there's going to be something said about someone saying something about someone else's evidence, then, which I suspect is probably hopefully impermissible, I hope it's impermissible, but if it is, we need to put some parameters on times and dates of those sort of discussions.

THE COMMISSIONER: Yes, I agree.

40 MR PETROULIAS: Do you remember Candy giving some evidence about changes she had made to some minutes?

THE COMMISSIONER: Well, were you here to hear her evidence?---I don't think I was.

No. Have you read the transcript of her evidence?---I can't, I don't know how to.

No. All right.

MR PETROULIAS: Okay. Well, I can't, okay, better wait. Now, just, just so we're clear, when, I suggest to you that during, from 2014 to 2016, during this period, that you weren't looking out for my best, or anything that I wanted, but that you were looking to meet with other developers.

THE COMMISSIONER: No, I reject that question.

MR PETROULIAS: Did you meet Dyldam with Sophie Anna to, to discuss their, their proposal?---Say the names again.

10

Dyldam.---Dilby Dan?

Dyldam, Dyldam, property developers, Dyldam, Ray Khattar and his friend, Andy?---I can't recall. Probably did. Probably happened but I can't recall.

You with Sophie Anna. Do you remember having a meeting with Sophie Anna and other developers?---A few, a few developers went through the Land Council, not just them, what I remember, yes.

20 Yes. And what I'm saying is, whilst I'm the, whilst you're dealing with me you're also dealing with any other opportunity that comes your way?
---Yeah, course.

Okay. And for example, and you wouldn't, I mean you would often act against my advice?---(No Audible Reply)

Would you like an example?---Didn't always take advice from you.

30 I know that. For example, you engaged Ben Fogarty of counsel to do a prosecution involving Candy and Worimi.

THE COMMISSIONER: I won't allow it.

MR PETROULIAS: Did you do things that were against my advice?

THE COMMISSIONER: Don't, Mr Petroulias, unless you're specific about it, it's of no use at all.

40 MR PETROULIAS: Okay. So is it a form question? I'm happy to fix it if I know what, what you, what you, what the problem is.

THE COMMISSIONER: It's got to be relevant to the matters we're investigating here.

MR PETROULIAS: Oh, the, sorry, I thought the issue was blind following my - - -

THE COMMISSIONER: Well, you've heard what I've said.

MR PETROULIAS: Okay. So do you remember an occasion, for example, when I told you something shouldn't be done and you did it anyway?

THE COMMISSIONER: I reject the question.

MR PETROULIAS: Okay. Do you remember engaging Ben Fogarty to do a private prosecution involving Candy and Worimi Dates?

10 MR O'BRIEN: I object to that.

MR PETROULIAS: What's wrong with that? Very specific.

THE COMMISSIONER: What's the relevance of this?

MR PETROULIAS: It's the next question.

THE COMMISSIONER: Candy and Wollimi, did you say?

20 MR PETROULIAS: Worimi Dates.

THE COMMISSIONER: Sorry, what is it? Worimi Dates?

MR PETROULIAS: Worimi Dates, yes.

THE COMMISSIONER: Who's that person?

MR PETROULIAS: That's her brother.

30 THE COMMISSIONER: Right. And what's that got to do with this inquiry? Does it relate to one of the transcripts we're examining?

MR PETROULIAS: No, it goes to the question that she would expressly refuse my advice.

THE COMMISSIONER: No, no. Does it relate to any matter that's in evidence in this inquiry?

MR PETROULIAS: The evidence - - -

40

THE COMMISSIONER: That is what Mr Fogarty was retained for?

MR PETROULIAS: That's not important, really. I mean, I'm happy to tell you that - - -

THE COMMISSIONER: No, I won't allow it. I won't allow the question.

MR PETROULIAS: Commissioner, if, if the, if the inference is going to, or the allegation is going to be made that she had some blind allegiance to myself, then I'm allowed to rebut that, aren't I, by giving examples of situations where she expressly did not take my advice?

THE COMMISSIONER: You're quite entitled to put to her a question which deals with an aspect of the subject matter of this investigation in which she didn't accept your advice, so you go to one of those matters if there are any.

10

MR PETROULIAS: She's already given evidence - - -

THE COMMISSIONER: Well, I mean, she's given a lot of evidence to the effect that whenever you put a document in front of her and asked her to sign it, she signed it without even reading it, let alone having any advice. Now, do you want to take issue with her about that?

MR PETROULIAS: Yes, actually. Of course.

20 THE COMMISSIONER: All right. Why don't you do that?

MR PETROULIAS: Ms Dates, actually, I do want to take issue with that. Can I suggest to you that you never signed a document without being satisfied that is something you should sign?---What do you mean? What did you say?

That if you signed a document, you were happy from what you were told that it is a, a proper thing to do?

30 MR O'BRIEN: Well, I know that question has somewhat emerged, although in a difficult fashion, from the argument immediately before it, but if someone said something about a document and then it's signed based on what was said, what was said might not reflect what the document shows, and that's the real problem with that question and the positive answer to it.

THE COMMISSIONER: Mr Petroulias, in order that it's useful for my purposes, if you know there was a particular transaction which resulted in you presenting an agreement to the witness and asked her to sign it and you know that she read it from start to finish before she signed it, you put that to
40 the witness, but you need to identify the transaction where you contend she did read it before she signed it.

MR PETROULIAS: I'm trying - - -

THE COMMISSIONER: No, no, no, no. Unless you can do that, it is of no value for me to put in the broad view. You signed the agreement after having read it. I mean, what agreement? When? In what circumstances?

So put all of that to the witness so she's got at least a fair opportunity of trying to understand what agreement you're addressing.

MR PETROULIAS: Okay, that's - - -

10 THE COMMISSIONER: So, you know, I'm sure you, in preparing cross-examination, if there was an occasion when this witness in your presence read the agreement from start to finish before she signed it, I'm sure you would have picked up on that and now's your opportunity to put any such occasion to this witness so that she, in fairness, will be able to deal with that proposition in your previous question.

MR PETROULIAS: Okay. Can I take you to MFI 33, page 24. If you look at the back of that document. Do you see your signature at page 27 at the bottom there?---Yes.

20 Now, can I put it to you expressly. Before you signed your signature I had given you what was a summary of a document. You believed it was plausible and true and then you signed it.

MR O'BRIEN: Well, I object to that. What was the summary, and whether it was plausible, well they're two different things but firstly, what was the summary? If the Mr Petroulias says to this witness he gave a summary, we need to know what that is.

30 THE COMMISSIONER: Mr Petroulias, I think the vice in your question was, when you adverted to, "and you believed," et cetera, well, I think you need to just deal with it physically. What happened on this occasion, leave it, you know, what happened and who said what and who signed what and so on.

MR PETROULIAS: Okay. Ms Dates, before you signed it, you asked for an explanation, isn't that true?---I can't recall it. I could have but I can't recall it.

So you would sign, would, would you have signed it without an explanation?---What was that again?

40 Would you sign something without an explanation?---A lot of paperwork wasn't explained to me before I signed it but I can't, can't recognise this one, I can't recall it.

So would you sign that one if you didn't, would you be happy to put your signature on that if you didn't - - -

THE COMMISSIONER: Which one?

MR PETROULIAS: This one here, right here.

THE COMMISSIONER: Which one?

MR PETROULIAS: This one right here.

THE COMMISSIONER: The one on the screen now?

MR PETROULIAS: The one on the screen. Would you put your signature
on that document if you were not happy that, that you, you understood at
10 least enough to, from what I told you, to, to sign it?---I can't answer that.

THE COMMISSIONER: Sorry, what's your response?---I said I can't
answer that.

All right. Well, I think we'll take a morning tea adjournment at this point.
So we're going to take about 15 minutes and then we'll resume. So if you
could be back here in 15 minutes.---Thank you.

And I'd ask you not to discuss your evidence with anyone before then.
20 Thank you, Ms Dates. Yes, I'll adjourn.

SHORT ADJOURNMENT

[11.37am]

THE COMMISSIONER: Apologies for the delay. There was a matter I
had to deal with. Yes, Ms Dates, thank you.

MR PETROULIAS: Commissioner, can I just note, still waiting for the
30 originals, nothing's happened.

THE COMMISSIONER: Have we got any - - -

MR CHEN: Yes. I believe they're in the room, I think that's - but I'll just
wait until Mr Broad returns and we'll make them available forthwith.

THE COMMISSIONER: Yes, all right. Mr Broad's not here at the moment
but he shouldn't be far away. Mr Petroulias, when Mr Broad returns, I'll
40 find out what's happened to the documents.

MR PETROULIAS: Okay. Can I ask the witness to be shown Bakis
volume C, page 1. Debbie, can you see in the top right-hand corner. No
one can.---Yep.

You see how it says - is that your signature there?---Yes.

And your signature is confirmed as true and correct?---Yep.

Now, there's nothing more simple than that to explain to someone, that this is true and correct?

THE COMMISSIONER: I reject that question.

MR PETROULIAS: So you understand that what you're doing - - -

10 THE COMMISSIONER: Please. Just careful in the way you're framing questions. This is not a conversation you're having with the witness. You're putting questions. Just think about how to put the question, if you will.

MR PETROULIAS: Okay. My question is that that says that it is, that these minutes are true and correct?

THE COMMISSIONER: I reject that. Now, where's the signature to be found on the document?

20 MR PETROULIAS: The top right-hand corner.

THE COMMISSIONER: Top right-hand corner. Oh, yes, that's it. And whose writing is written there - - -

MR PETROULIAS: That's Ms Bakis's writing.

THE COMMISSIONER: - - - "Confirmed as true and correct"? Whose writing is that, Mr Petroulias?

30 MR PETROULIAS: Ms Bakis's writing.

THE COMMISSIONER: She wrote it, I see. Very well, thank you.

MR PETROULIAS: Now, to sign that, do you need more explanation, would you need more explanation to sign it?---No.

So you now say that this is true and correct?

THE COMMISSIONER: No, well, you'd better read the document through.

40 MR PETROULIAS: No, I mean, sorry - - -

THE COMMISSIONER: No, no. Have you read this document recently? If not, do you wish time to read it?---Yeah, I wish time to read it.

All right, take your time.---Yep, that's the minutes of a board meeting.

MR PETROULIAS: Yeah and do you see the back, please, there's a typed version. Next page. You see how it says, "Proposed sale to Gows and/or,"

and/or just incomplete, “on market value minimum per heads of agreement including standard terms and conditions”?---Yep.

You’re saying that this is a true minutes?

MR CHEN: Well, I object to that. I mean, this, as Mr Petroulias well knows, is a key area. She’s given evidence about it. Mr Petroulias should take it step by step and properly put before the witness the material that will enable her to fairly and fully respond to these questions.

10

THE COMMISSIONER: Mr Petroulias, there’s some issues you can lead on, but when there are keys issues the questioning should be put in non-leading form, otherwise the evidence is hardly worth anything because you might suggest an answer by leading a witness. I think your own interests, it’s better that the witness comes with her own evidence. So the question should be framed, I think, in a non-leading form, as to circumstances in which, for example, whether she’s aware of circumstances in which this minute was, alleged minutes was created.

20

MR CHEN: Could I add to that, just again, so Mr Petroulias understands more specifically the complaint I make about the form of the question, is the witness has given clear evidence about this minute, the other minutes and the handwritten minute, and Mr Petroulias’s questions are seeking to blend all of this together and it’s seeking to elicit some response, presumably of a particular kind and perhaps in a way that’s, well, I won’t say what her evidence is but she’s given evidence, clearly, Commissioner, at page 2718 to 2719 all the way up to 2722 across a range of these topics and Mr Petroulias, with great respect, needs to be cognisant of that evidence and not lead her and show her fully all of the documents that will enable her to fairly answer this question.

30

THE COMMISSIONER: See, Mr Petroulias, this document doesn’t stand on its own. The circumstances which bring us to this document need to be clarified with the witness. She’s already given her evidence about this matter.

MR PETROULIAS: Exactly. And that’s exactly where I want to go.

THE COMMISSIONER: Well, that’s what you’re not doing.

40

MR PETROULIAS: Do we want, can we have the other one? I mean, sorry, I thought I was trying to get there with Candy Towers. Anyway, can we have the other one to compare, let it compare with this one and, and so I can put to her propositions of how they came about? So can I just put them and then - - -

THE COMMISSIONER: What’s your next question?

MR PETROULIAS: Can we show her the other version, the other minutes?

THE COMMISSIONER: No, well, you tell us what version you're talking about.

MR PETROULIAS: Well, Mr Chen just told us the version, he said there was another - - -

10 THE COMMISSIONER: You tell us, what version are you talking about?

MR PETROULIAS: I don't have - - -

THE COMMISSIONER: Well, we can't help you, I'm sorry, if you can't help yourself. You're doing the cross-examining or you're doing the examining. You must know what you want the witness to be shown. What do you want the witness to see?

MR PETROULIAS: The other board minute.

20 THE COMMISSIONER: Which board minute?

MR PETROULIAS: The other board minute of 31 October that Mr Chen was referring to that is different from this minute. Okay. See motion number 7?---(No Audible Reply)

Can you read, Debbie?---Yeah.

30 That says, "Propose a contract of sale to IBU." Can you read that?
---Yeah.

And it also says, "Sale to be at minimum value rate."---Yeah.

And then this one that you've signed - - -?---Yeah.

- - - that I was just taking you now, does not refer to IBU or minimum sale. Can we go back to the - is she shown?

MALE SPEAKER: Yes.

40 MR CHEN: The resolution, for Mr Petroulias's benefit, which is recording that which is at point 7 of the minutes is at volume 2, page 12, Commissioner.

MR PETROULIAS: Right.

THE COMMISSIONER: Thank you.

MR PETROULIAS: Could we go back to the original? Oh, sorry, no, while we've got it there, while we've got it there, Debbie, can I put to you that this is what happened and you tell me what you think. That having a look at this proposed sale to IBU, I said to you, "It's not a sale," sorry, "The presentation was not a sale to IBU, it was made by IBU, the presentation is to a nominal company called Awabakal Development Company and it's going to have many, many investors."

10 THE COMMISSIONER: Now, Mr Petroulias, before you can put that - - -

MR PETROULIAS: Did I say that to you?

THE COMMISSIONER: Mr Petroulias, before you can put that question you need to identify the occasion in which you said - - -

MR PETROULIAS: Sure.

20 THE COMMISSIONER: - - - this statement was made so that the witness can have the context in which you're putting it.

MR PETROULIAS: In, in and around November 2014, we had a discussion about Cyril's presentation and I said to you that this has got it wrong, that the board didn't resolve to sell to IBU at all, that what it, what it did was accept the presentation.---Yes.

Do you agree with that?---Yes.

30 Okay. Do you agree with that I said to you that the presentation is to a nominal company with many investors?---Yeah, something like that you said.

Okay. Do you agree, and I also said, and I also said to you that you don't, the board didn't really intend for a minimum value sale, what it wanted was a market value minimum.---Yeah, I can recall you said something like that, yeah.

Okay. Now, and we said this, I think, I'm not sure, Candy then changed the minutes to correct the minutes.

40 THE COMMISSIONER: What do you know?---Can't recall if that happened.

MR PETROULIAS: Okay.---It's in the minutes.

Okay, but then we get to this agreement, then we get back to the one we started with, Bakis volume C, page 1, the typed version at the back.

MR CHEN: Commissioner, I just wonder, in fairness, because Mr Menzies of Queen's Counsel put very specifically a version of events about how these minutes came to be changed and how this second resolution came about. Now it seems to be faintly suggested that perhaps contrary to what was put back last year, a different set of circumstances arose that may involve in fact this witness doing something, and if that is what indeed is to be put and suggested by Mr Petroulias, I think the witness should be entitled to answer that in clear terms in my submission, Commissioner.

10 MR PETROULIAS: At this point all I'm asking - - -

THE COMMISSIONER: You heard what's just been said.

MR PETROULIAS: Yeah, yeah.

THE COMMISSIONER: And it's a very important point.

MR PETROULIAS: No, no, I do take, I - - -

20 THE COMMISSIONER: And it's up to you to - - -

MR PETROULIAS: I do take the point insofar as Candy is concerned. All I'm doing at this point is saying what I have said. There's no inconsistency.

THE COMMISSIONER: Queen's Counsel who was representing you is obviously acting on instructions. Those instructions would have had to have come from you. And Counsel Assisting, Senior Counsel Assisting me now, points out that there seems now to be a very significant contradiction in just what you've put to this witness.

30

MR PETROULIAS: No, I, I - - -

THE COMMISSIONER: And I'm not going to repeat what he said but you heard what he said.

MR PETROULIAS: Yes. I'm going to leave out the - - -

THE COMMISSIONER: And it's up to you to - - -

40 MR PETROULIAS: I'm going to leave out the Candy Towers part for the -
- -

THE COMMISSIONER: Would you stop talking over me?

MR PETROULIAS: Sorry.

THE COMMISSIONER: It's up to you to resolve what now appears to be a major point of conflict in your case, based on what Senior Counsel said, as

has just been referred to, and now what you're doing with this witness, and that's a matter of significance that I'll have to deal with.

MR PETROULIAS: Okay.

THE COMMISSIONER: You'd better have regard to it, it's been drawn to your attention and now you have an opportunity to try and clarify what the position is, Mr Petroulias.

10 MR PETROULIAS: Yes. Sorry. At this point in time all I'm saying is what I've spoken to this witness about.

THE COMMISSIONER: You put the next question and we'll see how you go.

MR PETROULIAS: Okay. And if you don't, if you recall, the, I told you that the presentation required things to be followed up by someone from Awabakal and someone from, and someone from the IBU group.---What was that for?

20

For, the presentation says, okay, once we've agreed, we've got to follow up with agreements.---Was that at a board meeting?

Yes. I'm telling you what I said follows. That I said that the proposal requires follow-up agreements.---You probably did say that if it's in the minutes.

Yeah, now - - -

30 THE COMMISSIONER: When do you say you said that?

THE WITNESS: Yeah.

THE COMMISSIONER: Give us a date, so the - - -

MR PETROULIAS: Sorry, I thought we were clear. December 2014. No, sorry, November 2014.

40 THE COMMISSIONER: Well, yes, that's - you're talking about a whole month. What's the occasion when you claim to this witness you said these things?

MR PETROULIAS: Okay.

THE COMMISSIONER: Where were you? Were you in a coffee shop or were you in the boardroom or where were you?

MR PETROULIAS: We met several, I thought we established it, but we met several times during this period in December, in November, December and in January.

THE COMMISSIONER: When? In November - - -

MR PETROULIAS: 2014.

10 THE COMMISSIONER: When in November do you suggest to this witness this conversation took place in which you made that statement?

MR PETROULIAS: Middle of November.

THE COMMISSIONER: Middle.

MR PETROULIAS: Oh, no, early November.

THE COMMISSIONER: Where did it take place?

20 MR PETROULIAS: Actually in one of the meeting with the witness in, in, in, in Newcastle in a coffee shop.

THE COMMISSIONER: So the witness is following you, you're alleging to her or putting to her - - -

MR PETROULIAS: Yeah.

THE COMMISSIONER: - - - there was a meeting in mid-November.

30 MR PETROULIAS: Yes.

THE COMMISSIONER: Took place in Newcastle .

MR PETROULIAS: Yes.

THE COMMISSIONER: Took place in a coffee shop.

MR PETROULIAS: That's right.

40 THE COMMISSIONER: That's right. And what do you say in the coffee shop you said to Ms Dates?

MR PETROULIAS: Well, I'm continuing.

THE COMMISSIONER: No, what, what - - -

MR PETROULIAS: Oh, sorry, yes, you're right.

THE COMMISSIONER: Just put it again.

MR PETROULIAS: Yep.

THE COMMISSIONER: Put it again.

MR PETROULIAS: That the proposal that was accepted by the board
required follow-up contracts.---I thought you said that in a board meeting,
not a coffee shop. I can't recall a coffee shop. A board meeting at the Land
10 Council I can.

Do you recall a board meeting. All right. But you, but it's your recollection
that we're testing here. And, and it follows in the following-up that I am the
following, I said to you that I am the guy that's going to be following up
from the IBU end and Richard's the guy who's going to be following up
from the Awabakal end.

THE COMMISSIONER: Do you have a recollection of anything like that
being said to you?---Well, you'd have to take me back to the date, the time,
20 when, where. I can't remember.

MR PETROULIAS: Well, you say that I spoke to you at a, at a, at the
board, the boardroom.---Yes.

THE COMMISSIONER: No, she didn't say that.

MR PETROULIAS: Oh, sorry, you remember the conversations – sorry.

THE COMMISSIONER: Start again, start again.
30

MR PETROULIAS: You remember that we had conversations in the
boardroom in November 2014?---Yes, I do.

And that I said to you that the proposal needs follow-up, needs agreements
to be put together, and that I am following up from my end.---You most
probably did say that, yes.

And that Richard was going to follow up from your end.---Yes.

40 Right. And I decided to use Gows as the company to which, to do the
dealing.

THE COMMISSIONER: I reject that statement.

MR PETROULIAS: Did I, did I tell you that I decided to use Gows as the
company?---I think that's in a board meeting, in the minutes, if I'm correct.

Well, that's what I'm saying why we got to these minutes. Did I make that statement?---Yeah, you probably did, yes.

Okay. Now, can I suggest to you that we agreed that that was the correct way it was supposed to happen and that is why you created and signed true and correct these minutes.---What minutes are they, they ones that - - -

These ones that say confirmed as correct, Debbie Dates.

10 MR O'BRIEN: Well, I object to that. Counsel Assisting has already made it clear that there has been, the evidence in relation to how these minutes came to be and even the providence of the minutes has been examined previously and this is suggesting some sort of different type of method by which these minutes have come about. That will require that Mr Petroulias go through that earlier evidence and suggest various propositions before making that assertion as he seeks to do.

THE COMMISSIONER: What do you say?

20 MR CHEN: Well, my learned friend is correct, because what hasn't been established through the signing, which is what Mr Petroulias had in his hand when he was seeking to ask the witness questions, we haven't established any time or date as to when that was done and in what circumstances it was done, and there is a clear and obvious point within those minutes which has been given, sorry, which was the subject of considerable evidence by many of the board members as to how certain words were put in there and matters of that kind. Now, my learned friend Mr O'Brien is plainly right. It must go through a proper process and her attention must be drawn to the
30 distinction between the typed minutes, the original minutes, and how, if that's what Mr Petroulias really seeks to establish, that she was signing off and endorsing amendments to the minutes, the handwritten minutes, and in my submission my learned friend's objection should be upheld and Mr Petroulias should go about it in a proper and fair way.

MR PETROULIAS: How's that?

THE COMMISSIONER: Mr Petroulias, you've got two sets of, you've got the handwritten minutes and then you've got the other document, the typed
40 minutes.

MR PETROULIAS: No, both typed.

THE COMMISSIONER: We need to understand the process by which each of those documents was created and how they were created and any changes made, how those changes and who made those changes.

MR PETROULIAS: Well, actually, Commissioner - - -

THE COMMISSIONER: Now - - -

MR PETROULIAS: - - - we don't, because I'm not disputing how they, how the original minutes came about. All I'm saying is that my role was to implement this proposal and I recognised a fault, I pointed it out and it was agreed with.

THE COMMISSIONER: Well, you've already dealt with it.

10 MR PETROULIAS: (not transcribable)

THE COMMISSIONER: You've already dealt with it, then.

MR PETROULIAS: Okay.

THE COMMISSIONER: You've earlier addressed this.

MR PETROULIAS: Okay. If it's not, if it wasn't, okay, that's fine. Ms
20 Dates, here are the originals that we, of what we were talking about. Do
you mind having a look at these?

MR CHEN: Could I just ask Mr Petroulias, before he rustles through it, I'd just ask that nothing be taken out of that folder because I don't want any documents to, for whatever reason, mistakenly go in or out. It's been marked and the integrity of that needs to be retained for everybody's purpose.

THE COMMISSIONER: Where's the sleeve that these were in?

30 MR PETROULIAS: They're in a folder. (not transcribable) here. Does that suit everyone (not transcribable)

THE COMMISSIONER: How did we locate these documents? They were in a folder or in a sleeve or what?

MR PETROULIAS: Yeah, yeah.

MR CHEN: They were in Ms Bakis's files produced to the Commission, and that's what Mr Petroulias has.
40

THE COMMISSIONER: And we've now got the file.

MR CHEN: He does have the file.

THE COMMISSIONER: Would you hand that file up, please, Mr Petroulias, and that will be taken by my staff member, my associate.

MR PETROULIAS: Can you look at the document called file notes - - -

THE COMMISSIONER: Just hold your horses. All right. I'll put the documents back in the folder. That's been done.

MR PETROULIAS: Commissioner, the witness has the documents - - -

THE COMMISSIONER: Just hold your horses. Yes, very well. Now, you want to put these documents before the witness?

10 MR PETROULIAS: She's got the original file note.

THE COMMISSIONER: No, no. Which document do you want her to have?

MR PETROULIAS: She, she has two, doesn't she? Oh, there's a file note - - -

20 THE COMMISSIONER: I've got them. They've been – the ones you extracted from the folder, Ms Bakis, has now been returned to the folder. Which one do you want her to see? Is it the file note of 12 December?

MR PETROULIAS: The file note of 12 December and the letter, Knightsbridge, 12 December.

THE COMMISSIONER: All right. Well, just hand this folder to the witness. Ms Bakis, you'll see I've opened it at the file note and there's a letter in front of the file note from Knightsbridge Lawyers. Yes, Mr Petroulias.

30 MS GOODWIN: Commissioner, sorry, might I just correct, I think you might have inadvertently just referred to the witness as Ms Bakis and just so it's clear on the record that those documents were not handed to her, could I just note that.

THE COMMISSIONER: Yes, thank you for that. Yes, Mr Petroulias.

MR PETROULIAS: Okay. Ms Dates. Do you see the file note, 12 December?---Yeah.

40 And you can now see your signature, is that correct?---Yes.

THE COMMISSIONER: Yes, Mr Petroulias, I'm waiting for your next question.

MR PETROULIAS: Yeah, I'm just waiting for an answer.

THE COMMISSIONER: I thought she answered it.

THE WITNESS: Yeah, it's my signature.

MR PETROULIAS: Oh, sorry, sorry. And it's under the words, "All agreed"?---Yep.

Okay. Now, again, I have – before you signed, "All agreed," I have presented you a summary? I mean, I verbally presented you a summary before you signed it as "all agreed"?

10 THE COMMISSIONER: Do you remember that?---Where was this done, at the Land Council?

MR PETROULIAS: No. No, this was, this was, this was in – oh, yeah, sorry. Well, yeah.

THE COMMISSIONER: Well, was it, Mr Petroulias?

MR PETROULIAS: I'm asking you, do you remember it at all? I think it was but - - -

20

THE COMMISSIONER: Mr Petroulias, where did this summary take place that you say you gave - - -

MR PETROULIAS: Oh, this summary took place, yes, yes. In the Land Council in Newcastle.---I can't remember it but my signature's on it.

No, but do you remember that I gave you a summary before you, you, you signed to agree?---Yeah, I think so.

30 Yeah. And can I tell you the summary was that I didn't like the way Cyril had made the presentation and I didn't want to be associated with it and that what I'm going to do is use Gows, Gows and, and that Cyril is in JV with me and on board.

THE COMMISSIONER: Well, Mr Petroulias, that's not a summary of what's in that document, that's something else.

40 MR PETROULIAS: Sorry. That, that I used those words, that I did not agree with the proposal as it was, I didn't think it worked and that I was going to use Gows instead and that Cyril agrees with me?---I can't recall you said that.

THE COMMISSIONER: Yes, next question.

MR PETROULIAS: Yep. Okay. Now, just at the bottom there you see it says that - - -

THE COMMISSIONER: What are you talking about now? What document?

MR PETROULIAS: The last paragraph on the file note, that there's a written agreement there that, that Despina is happy to listen to whoever but any, any information she gets, she's going to confirm with you and Richard. Do you agree that that was said?---Yeah, that was always said.

10 Okay. Now, and then do you see the cover letter by Knightsbridge, do you see your signature, "Received by"?---Is that one over?

Yes. You can see your signature clearly now.

MR CHEN: Could Mr Petroulias identify for the record what he's talking about?

THE COMMISSIONER: Yes. Is that the letter dated 12 December?

20 MR PETROULIAS: I thought I did. 12 December, 2014.---Yep.

And there's the words, "Received by," and you've signed it?---No, my signature's not on here.

It was on the one that (not transcribable) but there's a blank one as well. Mine's page 2, Commissioner.

30 THE COMMISSIONER: Mr Petroulias, I'm just keeping an eye on the clock. Please use your time wisely, because I will be imposing a time limit to operate from 2 o'clock.

MR PETROULIAS: No, Commissioner, can she have, can she have the one with the handwriting on?

THE COMMISSIONER: Well, I don't know what she's got, she's got the file.---Yeah, I've got that.

I haven't got it.

40 MR PETROULIAS: Can you turn it up to one where there's, there's a couple there with a signature.---My signature's on it.

Have you got that?---Yes, yes.

Oh. Do you recognise your signature?---Yes.

So, okay. So do you see how the first paragraph it talks about draft heads of agreement with Gows?

THE COMMISSIONER: Yes, look, the document speaks for itself. What do you want to ask her?

MR PETROULIAS: That I want to ask her that we said that this document would go through the normal community process, approval process.

THE COMMISSIONER: Do you recall whether that was said on this occasion about that letter?---Well, that's, that's the only way we can do is take it to the next level.

10

All right. What's your next question?

MR PETROULIAS: Okay.

MR CHEN: Well, he should in fairness put the first sentence to the witness surely. I mean this is what you've been drawing his attention to.

THE COMMISSIONER: That's the first sentence being? I haven't got the document in front of me.

20

MR CHEN: What is actually the agreement? I mean that's presumably what needs to be put to the witness.

THE COMMISSIONER: Yes.

MR PETROULIAS: Oh.

THE COMMISSIONER: I note that the file note of 12 December which is the same date of the letter doesn't, the file note doesn't indicate there's any specific property even been identified for potential sale. How it can get on the same day into a heads of agreement when the file note indicates there's been no agreement as to what property might be sold in the future, but anyway, all will be revealed no doubt in due course. But how on the same day a heads of agreement could be drafted if it's suggested that it relates to some particular lots or property is yet to be revealed.

30

MR PETROULIAS: Okay.

THE COMMISSIONER: Anyway, Mr Petroulias, you might just take that on board.

40

MR PETROULIAS: So the first, the first sentence apparently is, that I have to tell you is, you agree that it's a heads of agreement of Gows Heat ready for your execution.

THE COMMISSIONER: How could it be ready for execution if on the same date it's clear that they hadn't even identified what properties would be sold?

MR PETROULIAS: It doesn't - - -

THE COMMISSIONER: If you look at the file note it shows that they hadn't even put their head around that issue. What property belonging to the Land Council might be sold?

10 MR PETROULIAS: It says that it can achieve plan A or B, which means that they must know there is a plan A or B, and I say you get that from the minutes, which is the five Warner, five Warner Bay properties.

THE COMMISSIONER: Okay. Well, let's move on.

MR PETROULIAS: Okay.

THE COMMISSIONER: So what's your next question?

MR PETROULIAS: Oh, yes. Ms Dates - - -

20 THE COMMISSIONER: Ms Dates, if you wouldn't mind just closing that folder and my associate will relieve you of it. Thank you. Yes, yes, Mr Petroulias.

MR PETROULIAS: Does that, what you've just seen now, the originals, does that refresh your memory that you believed, as I had told you, that Gows and IBU were one and the same?

30 THE COMMISSIONER: I reject that question. Next question. Next question, Mr Petroulias.

MR PETROULIAS: Okay. Having seen the originals now does it refresh your memory a little bit about those events at that time?

THE COMMISSIONER: I reject the question.

MR PETROULIAS: Sorry, Commissioner, please tell me what I'm doing wrong.

40 THE COMMISSIONER: What her understanding on this issue, how does that help you, having seen that.

MR PETROULIAS: Yeah.

THE COMMISSIONER: The documents will speak for themselves.

MR PETROULIAS: Well - - -

THE COMMISSIONER: The fact that she's looked at the documents now, how does that improve anything?

MR PETROULIAS: Well, can you now recollect that I told you that Gows and IBU were one and the same?---Only by coming to a board meeting. That's how I knew that you were one company.

Okay. And this is the boardroom meeting that I came to you?---Yes.

10 Okay, now if there was no such meeting and it was just me coming to the board, would that be possible? It was me coming, maybe others were there, but you're saying that it was at a board meeting. I'm saying that it was at - -
-

THE COMMISSIONER: No, I reject it.

MR PETROULIAS: So if I came to you in the board, is that what you're talking about?

20 THE COMMISSIONER: I reject - - -

MR PETROULIAS: Is that a possibility?

THE COMMISSIONER: I reject - - -

MR PETROULIAS: Please tell me what I've got to do.

THE COMMISSIONER: Mr Petroulias, put your next question.

30 MR PETROULIAS: Okay. Can, can I take you to MFI 33, page 53.

THE COMMISSIONER: Page again? Page again?

MR PETROULIAS: 33, page 53. Oh, sorry, 37. Sorry, I'm very sorry. Page 37. Now, you recognise your signature on this document?---Yes.

Can I suggest to you that at the board meeting on 8 April I spoke about that document?---Yes, you did.

40 Okay. Can I take you to MFI 33, page 53. This is about a board meeting that's coming on 7 June and I said, at that board meeting on 7 June I spoke about that advice letter.---Can't recall that you spoke, but probably did.

Okay.---If it says it in the minutes.

At, can I show you MFI 33, page 71. Can I suggest to you that I spoke to the board about the minister's, the agreement we had with the minister using that document?---Yes, you did.

Okay. Now, I'm not going to board everyone, keep going, but can I have MFI 33, page 19. If you look at the signatures at the back, 20, 21. Do you recognise your signature?---Yes.

Do you recognise - - -

THE COMMISSIONER: Who prepared this document, Mr Petroulias?

10 MR PETROULIAS: Sorry?

THE COMMISSIONER: Who prepared this one?

MR PETROULIAS: Well, joint.

THE COMMISSIONER: I didn't hear you.

MR PETROULIAS: Commissioner, am I giving evidence halfway through?
20

THE COMMISSIONER: No, you're answering my question. Who prepared this document?

MR PETROULIAS: I'm happy to accept authorship but I would always prepare some version. Ms Bakis would add, add, add hers. Now, who did which portion, I can't - - -

THE COMMISSIONER: You don't know?

30 MR PETROULIAS: I can't possibly remember but I'm taking authorship for it.

THE COMMISSIONER: You say it's either you or Ms Bakis?

MR PETROULIAS: No, I'm saying it's usually both.

THE COMMISSIONER: Both.

MR PETROULIAS: But I would certainly do, more prolific of the two.
40 Now, so where are we? Back to, so, Ms Dates, do you remember I explained this document before you signed it?---Can't recall but it probably was.

Okay. Enough of that. Now, you know that, I just want to understand, get to know what you understand me to be doing. From May 2015 I say to you that I wanted to develop United Land Councils further. Do you agree with that?---Yes.

And the consortium is going to become United Land Councils.---Yes.

That Richard is the founding father.---Yes.

And Awabakal will be the first member.---Yeah.

And that I was going to invest my time and what money I could get from Gows into United Land Councils.---Yes, you did, yeah.

10 Okay. You thought United Land Councils was a good idea?---I thought it was a great idea.

And you took me to two Land Councils to introduce me to them?---Yep, I did.

Can you name them?---Worimi Land Council and Mindaribba.

Thank you. And when you came back on the board in January, 2016, I was,
20 Gows was no longer in any agreement with anybody or with Awabakal at least, is that how you understood it?---Yeah, they weren't there, no one - - -

MR CHEN: I think, again, I mean, I keep repeating, in fairness to the witness, she needs to be taken through what is this agreement, and so far, despite my suggestions to Mr Petroulias that he do so and he do so directly so that this witness has a fair opportunity to understand what it is in fact he's attempting to elicit from her and what she is apparently agreeing to is done in a proper way, and it's not being done and it should be done, in my submission, Commissioner, and it should have been done and it should be done now.

30

MR PETROULIAS: I'm not going to pursue the Gows further, Commissioner.

THE COMMISSIONER: Mr Petroulias, you're putting a lot of propositions to this witness about things said and things done. You never put any context around them. You never assisted the witness in being able to apply her mind to any particular occasion. The evidence in those circumstances may be worthless for all I know but, you know, unless you do what Counsel Assisting or I have tried to get you to do, then that'll just continue, it'll be
40 unfair to the witness, she won't be able to work out what occasion you're talking about and so on. It's going to obviously be valueless anyway because the answers given will be almost worthless, unless you put to her the specifics of an agreement, of the occasion - - -

MR PETROULIAS: Commissioner, I'm not talking about agreements anymore.

THE COMMISSIONER: - - - what was said.

MR PETROULIAS: I'm talking about a very narrow - - -

THE COMMISSIONER: Yeah, I'm not going to argue with you. If you don't do what is required, then it's just a series of objections to your questions one after the other. You know what's required, you've been told more than once today. You continue. Next question.

10 MR PETROULIAS: Okay. Sorry, yes, I'm just focussing now on, on, on - - -

THE COMMISSIONER: Next question, please.

MR PETROULIAS: - - - my role.

THE COMMISSIONER: No speeches.

MR PETROULIAS: Okay. You remember a new board was elected in
20 July, 2016?

THE COMMISSIONER: A new board of what?

MR PETROULIAS: New board of Awabakal.---Yeah, a new Land Council board, yeah.

New Land Council board, whatever you, yeah. And you were part of the new board?---Yes.

30 And can I show you MFI 33, page 94. And do you recognise this as part of the briefing paper to the, to the new board, of which you were one?

THE COMMISSIONER: Well, do you know whether it is part of the briefing paper, can you tell from that screen or not?---Probably was but I, I, I can't - - -

MR PETROULIAS: Okay. Do you want to see the front page?---Yes. That's all I need.

40 Okay. So it's 10 pages. Do you recognise it now?---I remember it being at the board, at a board level yep.

Okay. So if we go back to 94. See how we're trying to, we're laying out for the new board what United Land Councils is, who Richard is?

THE COMMISSIONER: I reject that. Put a question.

MR PETROULIAS: Do you remember, for example, that we had set up a, the First Peoples Advancement Charity Trust that's going to own United Land Councils?

MR O'BRIEN: I object.

THE COMMISSIONER: Mr Petroulias, how on earth does this go to any affirmative case you want to present?

10 MR PETROULIAS: No, I - - -

THE COMMISSIONER: No, no. Answer that question.

MR PETROULIAS: Okay. I'm going to ask her once we've gone, just a few of these clauses, that in fact, my interests and Awabakal interests at the time were aligned.

20 THE COMMISSIONER: Well, I know you're saying that, you're asserting that. She won't be able to help you prove the fact but - - -

MR PETROULIAS: My representations.

THE COMMISSIONER: Your representations are worthless in proving the fact. That's what I've been trying to tell you all day.

MR PETROULIAS: Well, all, all - - -

30 THE COMMISSIONER: She might say, yes, I heard you say it 12 times, but that doesn't prove anything. All it says is you uttered words. Doesn't prove the substance of any assertion you're making in the words. See the difference?

MR PETROULIAS: Actually, I don't.

THE COMMISSIONER: You don't?

MR PETROULIAS: No, and I, and I, this is the best I've, I've ever been - - -

40 THE COMMISSIONER: Well, I'm afraid you're in trouble if you can't see the difference because you'll be putting questions on the wrong premise all the time. See, the fact that you said something to her doesn't prove the truth of the assertion. You might say, "I drive a red car." Doesn't prove that your car is red. It proves only that you said it was a red car. Does that simple example help convey the concept that I'm - - -

MR PETROULIAS: Well, can I at least confirm that this was disclosed - - -

THE COMMISSIONER: Anyway, how does all this go to your interests in this inquiry? This is what I said. Remember at the outset I tried to provide some sort of framework of reference for your consideration.

MR PETROULIAS: Yes. That's right.

THE COMMISSIONER: Well, how on earth does this - - -

MR PETROULIAS: Okay, very - - -

10

THE COMMISSIONER: How does this improve your position in this inquiry?

MR PETROULIAS: Because the documents - - -

THE COMMISSIONER: See, you could ask that, put the question in those terms, and if it doesn't add up to a row of beans, why are you spending your valuable cross-examination time dealing with an issue if it doesn't help you?

20

MR PETROULIAS: Let me put it to you very squarely. The documents will show that after, and the financial flows will show that after 22 December I am, have no longer any financial stake, subject to any potential deal with (not transcribable) potential stake in any of the Awabakal lands. During this period I have no pecuniary interest. We're hoping somehow to get Awabakal and United Land Councils aligned, so at this point in time all the transactions that followed after that are not motivated, or I'm saying the Awabakal interest and United Land Council overlap. I'm not motivated by any ill will.

30

THE COMMISSIONER: I can't see how that's going to help you. Anyway, you go on. If you want to use your time pursuing this question, you keep going. I'm trying to help you just focus on the issues that might be of relevance to your situation – and relevant to the inquiry, I might add – but you keep going.

MR PETROULIAS: Okay. But do you agree that these disclosures were made to the board?---Yes.

40

Now, we'll leave that, then. Can I, now, in talking about developers and proposals that would come up from time to time, do you remember me identifying on whiteboards what can go wrong and what, in different ways, in different proposals?---Yes.

Now, you've been in this inquiry for a little while. You've seen a lot of transactions. Is there any transaction that I recommended to you, or a decision that you've made that I recommended, that you now think shouldn't be made?

THE COMMISSIONER: I reject that.

MR PETROULIAS: Have you seen anything that identifies something that I've done that's, you don't agree with?

THE COMMISSIONER: I reject that.

MR PETROULIAS: Why?

10 THE COMMISSIONER: You take her to the transactions. Don't just leave it in the broad talking about unspecified transactions. What transactions? You've moved from the United Land Councils area, have you, or not? Which transactions are you talking about?

MR PETROULIAS: She's been taken to a whole series of transactions. She's been saying that - - -

THE COMMISSIONER: Well, you go through each one with her. If you want to suggest that you gave her a full explanation about any - - -
20

MR PETROULIAS: No - - -

THE COMMISSIONER: - - - particular transaction and the agreement in particular, you put it to her.

MR PETROULIAS: No, I'm asking, of anything she's seen so far, is there something that alarms her, concerns her?

THE COMMISSIONER: Seen so far where?
30

MR PETROULIAS: In this inquiry.

THE COMMISSIONER: No, no. Can't have it that broadly.

MR PETROULIAS: She's been put a whole stack of documents.

THE COMMISSIONER: No, no, I won't allow it in that form.

MR PETROULIAS: Now, you knew I had a background as a lawyer?
40 ---Yes.

But you knew that I was not practising and not Awabakal's lawyer. Not practising as a solicitor and not Awabakal's lawyer.---No, I thought you was a lawyer.

Yeah, but wasn't Ms Bakis the solicitor?---Yes, she was our solicitor.

And when, and wasn't I an agent by United Land Councils to help you, Awabakal?

THE COMMISSIONER: I reject that question. How would she know?

MR PETROULIAS: That was our, the agreement, that I said to you that I am - - -

THE COMMISSIONER: Next question.

10

MR PETROULIAS: - - - what United Land Councils provides to you. ---I thought you were the solicitor for United Land Councils.

Oh, okay, rightio.---I thought you was the solicitor.

Right. For United Land Councils. Right. Now, did, before you talk about that, the question of solicitors, you, you, you had other lawyers running around the same time as well, concurrently?---Where at?

20

Can I suggest that at the same time that you've been dealing with me since December 2004 till the end, you had other lawyers working from time to time at the same period. For example, Nicholas Dan.---Yeah, Nicholas Dan, Ian Sheriff.

Right. And you had a personal relationship with Peter Jackson?---Yes.

Because you remember he did Gary's, your friend, Gary's - - -?---Public Trustee, yeah.

30

Yeah. And you had a direct relationship with him?---Yes.

And you knew that Richard had a direct relationship with him for his personal custody matter?---Yes.

And did, you had, you could have approached them any time if you felt that something was smelly?---Approached?

Nicholas Dan - - -?---Oh, yeah, any time.

40

- - - Peter Jackson, ring them up and say, yeah?---Yes.

Okay. And I say to you that Despina had definitely told you many, many times that you should get second opinions, get an independent view. ---Always, yes.

Right. Now, just in case there's confusion of what I was doing, can I show you MFI 50. Sorry, MFI 33, page 50. Do you recognise the signature? ---Yes.

Can you have a quick look at that and see if that refreshes your memory that, that we spoke about these matters?---Probably, yeah, but I can't recall, no.

Okay. Can I take you to in particular the last paragraph where we, we talk about that Richard's friend, Rob Sutherland from Whitehaven Coal warned him about me and my history. Do you remember something like that?

---Yes, I do.

10

And is, wasn't that criminal-related stuff?---I didn't ask about that.

Okay, fair enough. Do you remember that Jaye was particularly interested in my history because it had infamy?---Yes.

And we discussed it with her, I did, Despina did?

MR CHEN: Well, does that include the witness?

20

MR PETROULIAS: No. Well, you saw me discuss it with Jaye because she showed an interest?

MR CHEN: Well, no. I think seeing it makes a difference. I think with respect if she's going to involve the witness in a discussion with Jaye and Ms Bakis about a topic you should ask her.

THE COMMISSIONER: Yes.

30

MR PETROULIAS: Who? Sorry, I thought I did. What am I doing wrong?

THE COMMISSIONER: I think we'll take an adjournment.

MR PETROULIAS: No, Commissioner, that was my last question.

THE COMMISSIONER: Sorry?

MR PETROULIAS: That's my last question.

40

THE COMMISSIONER: All right.

MR PETROULIAS: And then if you could just tell me - - -

THE COMMISSIONER: That completes your examination?

MR PETROULIAS: No, just, what, what is it that I've got to ask, because then I'm done.

THE COMMISSIONER: All right. Perhaps you might clarify for Mr Petroulias the position, what you just said so that he gets the point.

MR CHEN: I'll do that, Commissioner. The witness has assented to the proposition that discussions were had with Jaye Quinlan, Ms Dates's sister, Ms Bakis and Mr Petroulias, and presumably the subject matter was that which was raised in earlier questions, but I don't think she's ever accepted the proposition that she was involved in those conversations. And I was asking Mr Petroulias to make that clear for the witness as to whether she was or wasn't, and he said, "Did you see us being involved," and I suggest it does not matter whether she's seen anything or not.

THE COMMISSIONER: All right. Well, Mr Petroulias, you should deal with that.

MR PETROULIAS: No, that's right, but all, all you can, all what I'm asking you to do is confirm that Jaye was interested and I was telling her about my history - - -

20 MR CHEN: Well, again, I object, Commissioner.

MR PETROULIAS: - - - not that you listened to it?

THE COMMISSIONER: Yes. I reject it in that form. Yes. Any other questions?

MR PETROULIAS: Yeah. When you just gave evidence that you recall me speaking to Jaye, what did you, what, what did you mean?

30 MR CHEN: About what?

THE COMMISSIONER: Yes.

MR PETROULIAS: About my history.---I heard youse have a conversation but I just walked away.

Fair enough. Okay. Thank you.

40 THE COMMISSIONER: All right. Yes, Mr Lonergan, you want to ask some questions?

MR LONERGAN: Yes, Commissioner.

THE COMMISSIONER: How long will you be?

MR LONERGAN: No more than 10 minutes.

THE COMMISSIONER: Sorry?

MR LONERGAN: No more than 10 minutes. There was just one issue that arose.

THE COMMISSIONER: All right. Well we'll deal with that at 2 o'clock and then we'll have the next witness available, is that right?

10 MR CHEN: Yes, well, I think Mr O'Brien may wish to consider whether he wants to ask some questions and I want to contemplate whether I need to re-examine Ms Dates as well.

THE COMMISSIONER: All right. We'll see what happens at 2 o'clock then. I'll adjourn.

LUNCHEON ADJOURNMENT

[1.02pm]