

SKYLINEPUB03600
09/05/2019

SKYLINE
pp 03600-03656

PUBLIC
HEARING

COPYRIGHT

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 THURSDAY 9 MAY, 2019

AT 2.00PM

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

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

THE COMMISSIONER: Yes, thank you, Mr Green. Yes, Mr Petroulias.

MR PETROULIAS: Sorry, I'm just trying to collect my thoughts a bit. Okay. Mr Green, in about November last year, 2008 [sic] - - -

THE COMMISSIONER: Two thousand?

10

MR PETROULIAS: And 8, last year.

THE COMMISSIONER: 2018?

MR PETROULIAS: 18.

THE COMMISSIONER: Yes.

MR PETROULIAS: My head's not there. Can't think straight. Did you, didn't, didn't you meet, didn't you and Mr McGrady meet me to engage in a proposal with the Taree Land Council?---Yes, we did.

20

And didn't you also approach me about being involved in a, or at least buying a lot in, proposal development in Maitland?---Oh, Mr McGrady might have, not me.

No, no, in December this year that I was supposed to be involved with. In December of last year.---Can't recall that.

One that involves Hussein or myself. You don't know about a development in Maitland at all?---Oh, no, that's, that's you and us, nothing to do with me and Mr McGrady.

30

Yeah, no, this is a separate proposal, that's right.---Yeah.

And you wanted to be in on that proposal as well?---Well, I asked for work, yeah.

Right. So, and just so we're clear, part of the business, part of the things you wanted me to do for, on your behalf is write proposals for you, for obtaining your finance in your business, your current business now, Murriss United?---Yes, I did, but that never went anywhere.

40

In, in, in December two thousand, last year?---Yeah, I need help from somewhere, but that didn't go anywhere.

Okay. Now, are you, are you familiar with Andrew Margi?---Andrew Margi?

Can I suggest to you, you met Andrew Margi in November and December 2014 in relation to financing for Awabakal or the acquisition or - - -?
---Acquisition?

In North Sydney.---Andrew, the guy over at North Sydney?

Yes.---Yeah, I remember you taking me there.

10 Yes. Do you remember a Garry Lloyd?---Garry Lloyd?

Yes.---Refresh my memory a little bit.

Did Mr Lloyd, OYA Equities, it's a financing company involved that we met regarding, several times regarding the acquisition or potential acquisition of the Awabakal Warners Bay properties?---Oh, where did we meet him?

20 Several times in his offices and a Korean restaurant in, in Strathfield.---A Korean restaurant in Ashfield?

Strathfield.---Strathfield. Was he, there was two, an older guy and a younger guy?

Yes. Garry Lloyd, bald hair, does that help you?---I can't remember.

30 Do you remember he had a mud map, little pictures of how financing was supposed to work?---Yeah, but as far as I know, that had nothing to do with Awabakal.

Okay, well I'll take you to some documents later.---It was, it was something to do with coal.

Okay. Do you remember a gentleman, a large gentleman called William, involved in scaffolding, who wanted to build houses for Awabakal?---Yeah, I know William. I, I met William through you, yes.

40 Through me or did you know him previously?---I sort of met him, yeah, I didn't really know him but I met him, yeah.

Previously to me?---Yeah, previously to you.

And his surname is Tofilau?---Yeah, could be.

THE COMMISSIONER: Mr Petroulias, where is this taking us to?

MR PETROULIAS: Oh, no, because these are, the, the, these are establishing the conditions that then formed part of agreements which he is, is going to be shown and he can - - -

THE COMMISSIONER: I think you're losing perspective, with respect, on what the issues are in this inquiry.

MR PETROULIAS: I'm trying to establish the fact on the agreements.

10 THE COMMISSIONER: You're dealing with - - -

MR PETROULIAS: But, okay - - -

THE COMMISSIONER: You're dealing with a number of so-called transactions, Sunshine, Solstice and Advantage.

MR PETROULIAS: Yes. Do we have a list yet?

20 THE COMMISSIONER: We are concerned to know about your acquisition and alleged interest in the Awabakal land. We're interested to know how the circumstances led to the creation of what purported to be a series of agreements in relation to each of these transactions and such like matters. Now, you're dealing with, in this last question, William about scaffolding, it's a long way from any of the issues that we're interested in in this inquiry. We just simply don't have time to indulge our interest in side issues that don't assist in resolving and determining issues. You see, that's why I intervene because it might be all very interesting to hear about William and scaffolding and that sort of thing, but it's got nothing to do with the issues that we're concerned with, and that is the matters I referred to, the matters
30 of the board's decision making in relation to it, the board's knowledge of relevant matters, how they came to know if they did, who acted on behalf of the board or purported to act on behalf of the board. So these are all the issues concerning authority, approvals, consent, instructions, advice tendered and so on. I outlined all of this to you, I think it was yesterday, to try and give you some sort of sense of structure within which we could all determine what is relevant and what is certainly not relevant, and at the moment I've just allowed you some licence to ask the questions you have since we resumed after lunch to see whether it would be taking us in a direction that could be relevant to the sort of issues I've just outlined, and at
40 the moment I cannot see how any of the matters you've raised so far have anything to do with any issue that's involved in this inquiry which falls to a decision or investigation.

MR PETROULIAS: Commissioner, these are the names that appear in the cost agreement that, that, that was signed simultaneously with the creation of the first agreement.

THE COMMISSIONER: So what?

MR PETROULIAS: You, you, well, I'm establishing a knowledge of the facts. His, his evidence denied them in the first, in the first inquiry, now he says the opposite.

THE COMMISSIONER: All right. I'm not going to let you ask any more questions about Andrew Margi or Garry Lloyd or William the scaffolder.

10 MR PETROULIAS: Okay. Can we turn to Bakis volume C, page 309. Mr Green, do you recognise your signature?---Yeah, I do.

Did I offer you money to put your signature on that?---No.

Did I offer you an inducement to put your signature on that?---No.

By signing that document, did you intend to, that the community be disclosed certain matters?---Say that again.

20 By signing a document - - -

THE COMMISSIONER: Just a moment. Before you ask - - -

MR PETROULIAS: - - - that says community disclosure statement - - -

THE COMMISSIONER: Just before that, did you read the document before you signed it?---No.

30 Did anyone explain to you what was in the document before you signed it?
---No.

Did anyone read the document to you?---No.

MR PETROULIAS: How do you know that if you haven't seen it, if you haven't looked through the document? How do you know whether you've read it if you haven't looked through it?---Well, you didn't ask me that. You asked me was my signature on it.

40 No, no. The Commissioner just asked you if you'd read it. How do you know that you've read it or not?

THE COMMISSIONER: It's obvious. It's a community disclosure statement, that's what it says, and it's in relation to a proposal for an approval, et cetera, of a land dealing.

MR PETROULIAS: But - - -

THE COMMISSIONER: You can identify the document from what's on the screen.

MR PETROULIAS: But he denied not reading it, and I want to say how does he know that he didn't read it if he hasn't seen it? I mean, you haven't flicked through it. Have you flicked through it, do you know?

THE COMMISSIONER: Yes, Mr Lonergan?

MR LONERGAN: Someone's increased the size of my microphone here. It's fantastic.

10

THE COMMISSIONER: Sorry?

MR LONERGAN: My microphone is higher. I'm very grateful. No, my objection, Commissioner, is that Mr Petroulias's question is based on a presumption that he's never seen the document before. Counsel Assisting put the document to Mr Green I believe.

THE COMMISSIONER: Well, that is the point.

20 MR PETROULIAS: Did he?

THE COMMISSIONER: He's never read what's in the document but it's put before him now as a community disclosure statement, and asked, "Have you ever read that document?" and he says, "No, I've never read it."

MR PETROULIAS: Okay. Mr Green, this - - -

30 MR CHEN: I'm not sure I - I'm sorry, I'm not sure that I took the witness to this document. I'm not saying I did or I didn't. I certainly didn't recently. Whether I did last year escapes me. I don't want anyone to think that I've, by not saying anything, I did or I didn't. I can't remember.

THE COMMISSIONER: Well, just in case there's some confusion here, just do you mind scrolling through to the first page of this document? Just have a look at it. Now, from what you've seen on the screen so far, are you able to say whether you've ever seen and read that document?---I haven't read it.

40 MR PETROULIAS: Okay. If we go to the front page, 309, it's - - -

THE COMMISSIONER: And did anyone read it to you?---No.

Purporting to be a community disclosure statement, 20 July, 2016?---So, community disclosure statement, so what does that mean?

In any event, did anyone read it to you?---No.

Yes. What's the next issue?

MR PETROULIAS: So you do understand the word disclosure?

THE COMMISSIONER: Mr Petroulias, move on, please, to another topic.

MR PETROULIAS: Well, can't I say why he signed something that says disclosure and not read it?

10 THE COMMISSIONER: You can ask him why he put his signature on the document.

MR PETROULIAS: Yeah. In a document that involves disclosing to the community with Awabakal Local Aboriginal Land Council, why did you sign it, something that's supposed to be disclosing something to the community?

20 THE COMMISSIONER: Now, I won't allow it in that form. Put it in this form. You're being asked about this document and why you've signed it. You see that on the screen?---Yeah.

Simply ask, "Why did you sign it?"

MR PETROULIAS: Yeah, why did you sign that document?

THE COMMISSIONER: No, don't – why did you sign it if you didn't read it and you didn't have it read to you, and no explanation was given to you? ---Maybe because, maybe because you put it in front of me. I - - -

30 What's that?---I, I, I'm not saying that I've signed a lot of this stuff because a lot of these signatures on these, on these papers, they seem to be the same signature. Now, lots of times when I sign a document or piece of paper, I never sign them the same way.

MR PETROULIAS: Can I tell you it's, is it - - -

THE COMMISSIONER: Just please don't interrupt.

MR PETROULIAS: There's an original available?

40 THE COMMISSIONER: Please don't interrupt him, Mr Petroulias. You know you shouldn't interrupt a witness when he's giving an answer. Yes. Go on. Continue.

THE WITNESS: Yeah, and a lot of these signature, like, they look similar to a, to a, and like I say, they're, a signature is, is different, I always sign things different.

THE COMMISSIONER: All right. Well, can I ask you this. Do you have an actual recollection of putting a signature onto this document you see on the screen under the words, "community disclosure statement?"---No, I, I can't remember whether, whether I did it or I didn't.

Yes, Mr Petroulias.

MR PETROULIAS: If there's an original of that, would that assist you?
---Yeah, if there's original, yeah.

10

Would you like to see the original?---If you got it.

Do we have the original, Commissioner?

THE COMMISSIONER: Well, have you put counsel on notice that, did you advise, ask for this document to be brought up?

MR PETROULIAS: No, he wants to see the original.

20

THE COMMISSIONER: Yes, I know, but you haven't given notice so we'll quarantine that for the moment and you move on to the next topic - - -

MR PETROULIAS: Yes, of course.

THE COMMISSIONER: - - - and when you get the original you can come back to this topic.

MR PETROULIAS: Yes.

30

THE WITNESS: I'd actually like to see a lot of the originals.

THE COMMISSIONER: Sorry, just a moment, we might have it.

MR PETROULIAS: Commissioner, can the originals be made available for him to see?

THE COMMISSIONER: Well, we're going to see if we've got it.

MR PETROULIAS: Well, I've made a note that most of the originals - - -

40

THE COMMISSIONER: Don't talk, please.

THE WITNESS: You know, Mr Commissioner, my men, seven of my men had seven days off work this week because I'm not there.

THE COMMISSIONER: All right. Well - - -

THE WITNESS: And we're not getting money.

THE COMMISSIONER: We're trying to get through it as soon as we can, Mr Green, I can assure you. So we've found the original agreement, so have a look at that, Mr Green, and see if that helps you. That's the original of the community disclosure statement, 20 July, 2016.---Yeah, that's my signature. Thank you.

MR PETROULIAS: Are you identifying - - -

10 THE COMMISSIONER: What are you saying, is that your signature, do you say, or are you saying it looks like your signature or what?---It looks like my signature.

Well, do you accept that it in fact is your signature?---No, I don't accept it.

MR PETROULIAS: Is there a reason why you don't accept it?---Because I've never seen this document before.

20 Well, hold on. Before the Commissioner asked you the question you said it was your signature. What made you say that it was and why are you saying it's not?---As I've been going through all these signatures that I'm supposed to have signed, like I said, I said it before, a lot of them seem to be similar and there's so many documents that, that, that I've signed.

Is there a particular document that you found particularly unreliable that we can locate for you?---All of them.

30 THE COMMISSIONER: All right. Mr Petroulias. Next question. Now, perhaps before you go on we'll have the folder recovered from Mr Green. Thank you.

MR PETROULIAS: Can I suggest that we met around August 2014 and in, in the Wollombi camp where you were representing Mr Jimmy Wright in relation to Yarnteen?---It had nothing to do with the Awabakal.

No, that's right. But do you agree that that, that that is when we met and that is where we met?---That's, that's true.

40 And, and that at that time I told you, I mentioned Cyril Gabey?---Well, I can't remember you mentioning Cyril Gabey.

Okay. Are you denying that I mentioned it or you simply don't remember? ---I don't remember. I just said I don't remember.

Okay. Now, you remember that I was interested in purchasing the camp and potentially all of the Yarnteen corporation?---Yeah, especially um, the camp, yep.

And you remember that Greg Griffiths was asked some time later to make representations to buy the entire corporation?---Yes.

And that it involved ports and various other matters, ports and warehouses and all sorts of properties.---Yes, yes.

Okay, now at that meeting in August 2014, Ms Bakis was there?---Oh, in Yarnteen?

10 Wollombi.---Yamuloong, yeah, yeah.

Okay.---Yeah.

Do you agree we walked around, talked a lot of issues about common issues involving Aboriginal land and economic development?---Yeah, and a rehabilitation centre.

Yeah, and it took, say, an hour and a half because it was a large property. ---Yeah.

20

And then we went to a pub.---Cessnock.

That's where it was. Okay, good. And at that pub we had lunch with a number of Aboriginal gentlemen. I can't remember them all but - - -? ---Yeah, I think there was two.

30 One of them was Owen Carriage, who had some property that he had bought from a land council in Batemans Bay area.---Oh, I don't think it was Owen Carriage, I think it was, might have been, I'm not sure. Owen and the guy that brang the keys out to get into the property.

This is a guy that has a caravan park in Batemans Bay next to a land council.---Oh, his last name is Gordon but he, he got the keys off Mr Wright to open the gate, and I can't remember if Owen Carriage was there.

Do you remember that Cyril Gabey was there?---No, Cyril Gabey wasn't there.

40 Okay. Now, we, at that lunch we talked about certain native title issues that Despina and Trevor Close and the Githabul Nation worked on.

THE COMMISSIONER: Mr Petroulias, this is all very interesting, but it's irrelevant.

MR PETROULIAS: I'm trying to refresh his memory as to the key relation
- - -

THE COMMISSIONER: Well, don't refresh his memory about irrelevancies, please.

MR PETROULIAS: I'm going to suggest to you that, that I informed you that Cyril and I were partners and his role was to introduce me to the Aboriginal community and you're his introduction.---No.

What, you don't remember or that didn't happen?---Didn't happen.

10 And over the next month or two we continued to build a relationship and met a number of people to help finance - - -

THE COMMISSIONER: I reject that question.

MR PETROULIAS: We then had a number of meetings and conversations pertaining to Aboriginal land and its economic development.---Yeah, we did have a lot of meetings.

20 Now, by, by 31 October, 2014, Cyril had made his presentation to the Awabakal Board and you were on that board.---Yes, I remember that.

And you saw his presentation?---Yeah.

You read through it and looked through it?---No, just heard it.

You didn't see the document that was presented there?---No.

30 Did, you gave evidence that Cyril was a fisherman with a boat needing of repair, on your evidence.---Yeah, yeah.

Did you, as a board member, expect him to be able to fund the purchase of the land?---No, I knew he didn't, he couldn't have any money. There was a little guy with him. I think his name was Omar.

And did you think Omar was going to put up the money?---Well, that, that was, that was the talk.

40 So it was suggested that other people would be putting up the money? ---Yeah.

And, but it wasn't clear who was putting up the money?---Definitely wasn't Cyril.

Okay. I put it to you that there is some evidence to suggest that, and Mr, Mr Gabey spoke in collective language in terms of, in terms of United Aboriginal Communities and indeed that some, at least one person thought he, he was from NSWALC.

THE COMMISSIONER: I reject that question.

MR PETROULIAS: Do you recall him speaking in a collective language about representing Aboriginal groups and uniting them?---Who?

Cyril, at that meeting in the boardroom, that we was speaking in a collective manner, that he would represent a collection, collective.

THE COMMISSIONER: What do you mean collective manner?

10

MR PETROULIAS: That he represented a, a, he represented bringing together, the bringing together of a number of Aboriginal communities?

THE COMMISSIONER: I reject that question. If you assert that he said something, put what he said.

MR PETROULIAS: That he represented, he, his purpose in coming was he, the unifying of - - -

20

THE COMMISSIONER: Sorry, are you now putting what you alleged was said?

MR PETROULIAS: Yes.

THE COMMISSIONER: You'd better make that clear.

MR PETROULIAS: I'm suggesting to you that he said that he represented, in effect, that he was from a collective or a group or, of Aboriginal, wanting Aboriginal communities?

30

MR CHEN: I mean, Commissioner, to the extent that could be of possible assistance, may I just make these following observations. One is, I think the evidence of Mr Gabey is he did not do the presenting at all and secondly - - -

THE COMMISSIONER: Sorry, that he did not?

MR CHEN: He did not do the presenting. He certainly may have said some words but he didn't, but there was no examination at all of the subject matter of what I assume is being - - -

40

THE COMMISSIONER: To suggest this.

MR CHEN: To affirmatively put this at all, that Mr Gabey, nor to any of the other board members that have given evidence before the Commissioner. But anyway, I just ask Mr Petroulias to take that on board.

THE COMMISSIONER: Do you understand the point Mr Petroulias? You have not put this to the prior witnesses, including Mr Gabey himself.

MR PETROULIAS: With respect, I actually put it to, to John Hancock.

THE COMMISSIONER: Yes, what about Mr Gabey?

MR PETROULIAS: Well, Commissioner, I don't know what's relevant. It seems to be changing.

10

THE COMMISSIONER: I'm just putting to you, if you had a proposition to put to Mr Gabey, the time to put it was when he was in the witness box and you didn't, this particular proposition you're now advancing about a statement he made.

MR PETROULIAS: Commissioner, I'm struggling to understand what's relevant and even your words right now.

20

THE COMMISSIONER: No, no. We're not talking about relevancy now, we're talking about another proposition. We're talking about your failure, your omission - - -

MR PETROULIAS: Why is it an omission - - -

30

THE COMMISSIONER: Please don't interrupt me. We are talking about your failure or omission to put what you're now putting to this witness to the person you are claiming said these words, namely Mr Gabey. He was here, you had the opportunity of putting this to him either directly or through Senior Counsel, whoever was representing you at the time, and it was not done.

MR PETROULIAS: It was me representing me and - - -

THE COMMISSIONER: Well, you did not do it.

MR PETROULIAS: Well, the evidence led by counsel was, from him, was that we were partners and my, and his job was introduction, my job was doing everything else.

40

THE COMMISSIONER: No, no. Just stay with my point.

MR PETROULIAS: Well, on that - - -

THE COMMISSIONER: You did not suggest to Mr Gabey that he said anything like what you're now putting to this witness, did you?

MR PETROULIAS: Actually, I think I did.

THE COMMISSIONER: Mr Petroulias, don't waste your time looking for it because it's not there.

MR PETROULIAS: Actually - - -

THE COMMISSIONER: So I suggest you perhaps move to another topic.

MR PETROULIAS: He said, his, his evidence was - - -

10 THE COMMISSIONER: Mr Petroulias, would you hear me? Move to your next topic or next question.

MR PETROULIAS: Okay, okay. Can I suggest to you, I put to you the following, the following, you do, you have seen the heads of agreement that was with your, that your counsel referred to, where I signed in pencil and you had signed in pen, the original Gows agreement, 15 December, 2014? ---I can't remember that.

20 Your barrister asked certain questions of Ms Bakis, particularly, about why it was - - -

THE COMMISSIONER: He said he can't remember, Mr Petroulias.

THE WITNESS: I can't remember pen and pencil.

MR PETROULIAS: Commissioner, we were, they were going to have list of transactions that were their exhibit references. Are we closer to getting that?

30 MR CHEN: No. What I did say to Mr Petroulias is if he identifies what he wishes us to refer to.

MR PETROULIAS: Okay, Gows 1. The Gows heads of agreement, December, two of them, 15 December, 2014, the Solstice agreements, not Solstice, the Sunshine agreements and the Advantage agreements.

THE COMMISSIONER: You make out your list.

40 MR PETROULIAS: That was it. That's it.

THE COMMISSIONER: You make out your list, give it to Commission officers and they will get the documents. That was the arrangement we spelt out to you again today. You do that.

MR PETROULIAS: I just did.

THE COMMISSIONER: We will get the documents and then when they're available, they'll be given to you. Now, I suggest, in the meantime, you move to something else whilst you make up your list and - - -

MR PETROULIAS: That is the list. I'm not going to do any more, that was it.

THE COMMISSIONER: All right. Well, in due course - - -

10 MR PETROULIAS: Okay. Okay. Thank you.

THE COMMISSIONER: - - - we'll do our best to find those documents and we'll let you know when they've been found.

MR PETROULIAS: Can I suggest to you the following, Mr Green, that the presentation of Mr Gabey was that proposals needed to, sorry, the proposal needed to be follow [sic] up by entering into a series of agreements?

20 MR CHEN: I don't know what's been put. Is it put that that was the structure of the arrangement in the material at the meeting? I'm just - - -

MR PETROULIAS: Yeah, sorry, the proposal at the meeting.

THE COMMISSIONER: By whom?

MR PETROULIAS: By Cyril Gabey (not transcribable)

30 THE COMMISSIONER: Well, you just tell us whether it's, is it in his written presentation?

MR PETROULIAS: In his presentation.

THE COMMISSIONER: In his written presentation?

MR PETROULIAS: In his written presentation.

THE COMMISSIONER: Whereabouts is it?

40 MR PETROULIAS: The last few pages.

THE COMMISSIONER: Well, where, what page?

MR PETROULIAS: Well, I can see it on the screen, can I pull it up, please.

THE COMMISSIONER: Mr Petroulias, do you have a copy of his presentation?

MR PETROULIAS: I - - -

THE COMMISSIONER: Mr Gabey's presentation?

MR PETROULIAS: I have, I have a version in Ms Bakis's file, but that's the one that I prepared.

THE COMMISSIONER: I can't hear you.

10 MR PETROULIAS: I certainly have a version of it, yes.

THE COMMISSIONER: Okay, well, you use that document.

MR PETROULIAS: Well - - -

THE COMMISSIONER: Take us to the page, what page is it?

MR PETROULIAS: Well, it's the last page in this document.

20 MR CHEN: We put it on the screen, Commissioner, it's volume 2, page 67.

THE COMMISSIONER: Okay.

MR PETROULIAS: Do you recognise that document on the screen?

THE COMMISSIONER: No, don't worry about talking to the witness at the moment, I'm just asking you to locate in this document the page where you say that Mr Gabey makes it clear that the proposals will need to be followed up by certain agreements.

30 MR PETROULIAS: Can we scroll down - - -

THE COMMISSIONER: Whereabouts in the presentation, where is it?

MR PETROULIAS: - - - towards the second, second-last page, please.

THE COMMISSIONER: I can't hear you.

40 MR PETROULIAS: Can we scroll down to the second-last page. Okay. Okay. So there's a summary. Do you see number 4, there's going to be a, number 2, there's going to be a draft MOU and then contracts - - -?---Yeah, I can see that.

- - - those things that need to happen?---I can see that.

Documentation stage. Now, you see number, number 4, "Purchase of lands tenants in common"?---Yeah.

Do you understand that means that there will be more than one purchaser?
---No, I don't understand that.

Okay. Then if we go to the next page. Do you see that it has, there's a process by which other parties will join in to participating in that project?

THE COMMISSIONER: Where?

10 MR PETROULIAS: The letter of intent to the manager of IBU.

THE COMMISSIONER: Where?

MR PETROULIAS: Yeah, the letter of intent.

THE COMMISSIONER: Where? Where in the letter of intent?

20 MR PETROULIAS: It says, then it says, I will be entering an agreement with IBU, and then, and where the money will go. And could we go to the next page. Oh, sorry, the investment will, see, the investment documentation will be in this name, so the investor, what, what, what name they want the investment to be in. Can we go to the next page. And there's an invitation for more communication, and for, for opinions to be given to whoever this document is distributed.

THE COMMISSIONER: None of those references support what you're putting a moment ago, that Mr Gabey's presentation specified that the agreement, the presentation would be followed up by - - -

30 MR PETROULIAS: Implementation by - - -

THE COMMISSIONER: Okay. If that's the best you can do, Mr Petroulias, well - - -

MR PETROULIAS: It says, "Implementation, MOU, contract." What does that mean?

THE COMMISSIONER: Memorandum of understanding, not a binding contract at all.

40 MR PETROULIAS: And then contract. It says the words, "MOU and then contract."

THE COMMISSIONER: Not within a country mile, Mr Petroulias, of the Gows Heat agreements or anything else or the, not the Gows Heat, the Sunshine transactions or anything like that.

MR PETROULIAS: Well, Sunshine doesn't exist. Isn't it relevant - - -

THE COMMISSIONER: Anyway, what else do you want to put to the witness?

MR PETROULIAS: Okay, that you were the endorsed representative to follow up on the proposal.---Oh, no, no, no.

THE COMMISSIONER: Mr Petroulias, is that a question?

10 MR PETROULIAS: That's a proposition, that you were the endorsed - - -?
---No. No.

THE COMMISSIONER: No, you're not allowed to put propositions.

MR PETROULIAS: Can I put to him that he was - - -

THE COMMISSIONER: You can put questions.

20 MR PETROULIAS: Oh, can't I say to him, put to him that he was the endorsed representative?

THE COMMISSIONER: You may put a question provided it's properly put.

MR PETROULIAS: Okay. That of the board members you were selected to follow up - - -

THE COMMISSIONER: I reject that question.

30 MR PETROULIAS: That you, that you were endorsed by the board - - -

THE COMMISSIONER: I reject that question. Put it in proper form.

MR PETROULIAS: Can you give me an assistance, Commissioner, please? An example. What is a proper - - -

THE COMMISSIONER: Well, was this written down? Was it spoken? How was this proposal - - -

40 MR PETROULIAS: How - - -

THE COMMISSIONER: How was it put, do you allege? By whom? When?

MR PETROULIAS: Okay. Can I suggest, Mr Green, that you have indicated to me that you were the person who was to follow up on the proposal?

THE COMMISSIONER: No, I reject it in that, no, I reject it in that form.

MR PETROULIAS: Well, how do you want me – please help me. Give me an example. I am struggling here to understand what you’re saying.

THE COMMISSIONER: Mr Petroulias, you are contending that certain things happened at this presentation by Mr Gabey.

MR PETROULIAS: Yes.

10 THE COMMISSIONER: And you are trying to get the witness to adopt either written or oral statements or representations made by Mr Cyril Gabey about what was to follow the presentation.

MR PETROULIAS: Or what the board - - -

THE COMMISSIONER: Now, all you have to do is to formulate a question which says, “Mr Gabey said to you X, Y and Z” or “Mr Gabey in his presentation wrote after this presentation the following will happen,” something along those lines.

20

MR PETROULIAS: Thank you.

THE COMMISSIONER: I can’t help you any more than that.

MR PETROULIAS: Okay. I put it to you that Mr Gabey said that follow, that someone had to follow up on the proposal from Awabakal.---No, Mr Gabey never said that.

30 That the board indicated that someone had to follow up on the proposal.
---Oh, I can’t remember that.

How, how do you remember this proposal was to be followed up if it was resolved?

THE COMMISSIONER: That’s not - - -

MR PETROULIAS: What is your recollection of how the board intended to proceed with this proposal?

40 THE COMMISSIONER: I reject that question. There’s no evidence that the board did decide to proceed with the proposal or even entertain doing so.

MR PETROULIAS: It unanimously resolved to, to enter into it.

THE COMMISSIONER: Sorry, what are you referring to?

MR PETROULIAS: The board resolved unanimously to enter into this agreement with IBU, the IBU proposal, and I'm trying to say how do they propose that, what is, what is the next step from resolving to enter into it?

THE COMMISSIONER: There was no deal done with Mr Gabey, was there?

MR PETROULIAS: Well, I'm saying there was.

10 THE COMMISSIONER: Well, you might say that there was.

MR PETROULIAS: And my, my position - - -

THE COMMISSIONER: But what deal was done, do you say, with Mr Gabey or his company?

MR PETROULIAS: Standard commercial practice is that you, you nominate the entity that's going to actually conclude agreements.

20 THE COMMISSIONER: What followed from Mr Cyril's presentation? Was the board in raptures about what they heard and said, "Yes, look, we're going to do business with this man" or did they say, "Well, look, we might or we may not" or did they say, "Not interested"? What's your contention? What will be your submission?

MR PETROULIAS: My contention is the board wanted to follow up on the proposal. It resolved unanimously - - -

30 THE COMMISSIONER: Follow up in what sense?

MR PETROULIAS: To have it implemented and, and documented.

THE COMMISSIONER: To have it implemented?

MR PETROULIAS: To have it documented and implemented, yes.

THE COMMISSIONER: Both documented and implemented?

40 MR PETROULIAS: Well, you can't implement it without documenting it, but, yes.

THE COMMISSIONER: What was to be implemented?

MR PETROULIAS: The acquisition of the five Warners Bay properties as per the resolution.

THE COMMISSIONER: And developed?

MR PETROULIAS: The acquisition, the sale.

THE COMMISSIONER: Is that what you're saying?

MR PETROULIAS: The sale (not transcribable)

THE COMMISSIONER: So you say after the presentation by Mr Gabey, the board, what, there and then resolved to go ahead and buy the, to sell the land?

10

MR PETROULIAS: That's correct.

THE COMMISSIONER: I see. The same day? Or - - -

MR PETROULIAS: That's right.

THE COMMISSIONER: The very same day?

MR PETROULIAS: On the conclusion, on 31 October, yes.

20

THE COMMISSIONER: On 31 October?

MR PETROULIAS: Yes.

THE COMMISSIONER: And how did they, how did, you say the board did that. What did it say and do?

MR PETROULIAS: Well, we have a, we have the minutes. We've been talking to them throughout the inquiry.

30

THE COMMISSIONER: This is the minutes that were altered to substitute Gows for IBU or which minute are you talking about?

MR PETROULIAS: Those minutes, yes. Not the altered ones, whatever you like, whatever version you think are the right ones.

THE COMMISSIONER: Well, Dr Chen - - -

MR PETROULIAS: Let's go with, let's go with version 1, version 2.

40

THE COMMISSIONER: Dr Chen, what do you say about this?

MR CHEN: Well, there are minutes, Commissioner, and there is some evidence from a number of witnesses associated with the IBU proposal who gave evidence about what they believed happened thereafter, so Mr Petroulias is obviously right, that there was a proposed – I withdraw that – there was a resolution by the board on 31 October, 2014, and there's also

been a good deal of evidence about the various actors and about what they had understood occurred subsequently.

THE COMMISSIONER: So you're referring to the minutes in which recorded a proposal to proceed with IBU?

MR CHEN: That's so, Commissioner.

10 THE COMMISSIONER: That's right. And that's the contentious, that leads then to the contentious minutes which have IBU deleted and Gows inserted.

MR CHEN: That's so.

THE COMMISSIONER: All right.

MR PETROULIAS: So we agree therefore that, that there had to be subsequent negotiations and documentations to implement the proposal?
---(No Audible Reply)

20

Mr Green?---Pardon?

MR LONERGAN: Commissioner, can I object? Mr Green's being asked about, I presume he's being asked, I'm not entirely sure, but I presume he's being asked about the proposal and the board resolution. Now, there is obviously contention as to which board resolution actually is the real one and which one's not, but the witness would be, and I think everyone would be greatly assisted if the actual resolution was up and Mr Petroulias directed his questions at the resolution and put to the witness in relation to the resolutions what he's trying to assert, and then we may all understand a little bit better. I don't propose to tell Mr Petroulias how to do his job, but I think the witness is at a disadvantage here without that.

30

THE COMMISSIONER: Mr Petroulias, what are you trying to get at? Are you trying to get at something that was said at this meeting where the presentation was made, or that something was put forward at that meeting or are you saying that something happened after the meeting which dealt with the question of follow-up et cetera?

40

MR PETROULIAS: That it was decided at that meeting to go ahead.

THE COMMISSIONER: When Mr Gabey was there?

MR PETROULIAS: When Mr Gabey was there.

THE COMMISSIONER: Okay. Well, now, let's deal with that. Do you say it was something said by who?

MR PETROULIAS: Well, the written minutes, the first version without the corrections said that it resolved to sell.

THE COMMISSIONER: No, no, no, no.

MR PETROULIAS: How does it proceed from there?

THE COMMISSIONER: Are you talking about something that was said at this meeting?

10

MR PETROULIAS: No, this is a resolution of the board.

THE COMMISSIONER: So you're relying on the, which resolution?

MR PETROULIAS: The resolution before the amendments that it be sold, that - - -

THE COMMISSIONER: That it be sold to Gows or be sold to IBU?

20

MR PETROULIAS: Let's go with that, sold to IBU.

THE COMMISSIONER: Ah hmm.

MR PETROULIAS: It follows, doesn't it, that, that something must happen other than just making resolutions in thin air?

THE COMMISSIONER: Well, the resolution, if you rely on the resolution as to the terms of the decision the document will speak for itself. Nothing

30

he can say can add or subtract from what the resolution of the board was. So you've got that there, subject to the very large issue as to whether the minutes had been altered. Now, how can he then help you in terms of what you call follow-up? We've got the document, so you've got that there, that's all in evidence, there's two documents which are inconsistent, but nonetheless they're there, so what do you want from this witness? You can't - - -

MR PETROULIAS: Commissioner, I want to - - -

40

THE COMMISSIONER: - - - get the document to, you have the documentary evidence which will speak for itself.

MR PETROULIAS: I'm entitled to follow up on the common sense commercial practice of what follows from a resolution to its implementation and I'm trying to discuss with this witness the steps that would normally follow which are contemplated and what did follow to get to that, and including the altered minutes.

THE COMMISSIONER: Well, I think you should first, before you go down this path, ask him whether he understood what would be the process that would be followed - - -

MR PETROULIAS: Thank you.

THE COMMISSIONER: - - - or if he was told what the process was followed, who said what to him.

10 MR PETROULIAS: What did you understand the process would – what did you understand would be the process that would follow from the resolution to sell the properties?---Well, there was no resolution to sell the properties, it wasn't about selling the properties.

So the resolution in the minutes is unreliable?---Well, I don't know how, how that sort of talk got into the, the resolution.

Oh, can, can we have the – then this has become very important. Can we have a copy of the, copy of the resolution brought up as it was originally
20 before it was amended.

MR LONERGAN: Volume 2, page 55 and 66.

THE WITNESS: I can't remember the minutes clearly. I, I - - -

MR PETROULIAS: Did you say you can't remember the minutes at all?

MR CHEN: Sorry, does he want the minutes or the resolution? This is the resolution. Does Mr Petroulias want the minutes or the resolution?
30

MR PETROULIAS: Yeah, propose a contract – well, let's start with this one. "Propose a contract for sale to IBU and include all these other agreements and then put forward to members." What do you understand follows from a sale to IBU and being put forward to members. Something has to be put forward to members and there has to be a contract. What do you think are the steps that follow immediately after this?---Well, I think it should go to the members.

But it has to be contracted first in some form before it goes to the members,
40 right?---I'm not sure, I don't understand it.

What, do the members, do, do the members not need to know what terms they're going to resolve? Doesn't there have to be a document that sets out the terms on, of the sale?---Oh, well, you'd, it goes to the, to the members to approve it and then the solicitor of the Land Council do all the negotiations because we, we as people haven't got the skills.

So you would rely on a solicitor to draft the agreement to go to the members?---Exactly.

Okay. So an agreement, there has to be negotiation of what the terms will be and an agreement of what the terms will be before the members see it?

---Well that's the, I'd, I'd say that's the normal process.

And who did you understand was going to make those negotiations and draw up those terms?---I have no idea.

10

Did the board resolve that you do it, that you follow up what the negotiation and the terms would be?---I can't do it.

You can't go and, you, you can't go and tell a solicitor what, that you want an agreement?---No, no. I can't do that. I, I, I'd bring the solicitor back to the, back to the table.

But isn't that what you do every day in your Gomeroi capacity, negotiate contracts on behalf of the Gamilaroi people?---Yeah, but not to sell land.

20

Well, mining rights, mining leases, isn't that the same thing?---No, I don't do that.

You don't do that, you don't negotiate with mining companies for contracts?---I, they mine the land. I work the land.

Yeah, but you enter into contracts with mining companies?---Yeah, but it's got nothing to do with what you're talking about.

30

So the, but you do know how to accept terms of an agreement?---Hang on. This is what I do. They give me the piece of paper what they need me to do and then I give the piece of paper to my nephew and then what he does, he estimates the time that it's going to take and the workers, how long they're going to do it, if there's seven workers, he works out wages for a month and the machinery, the wages for the machinery for a month. We have nothing to do with - - -

40 So can I understand suggest to you that, that you wanting me to do what you just described for your nephew would be consistent with that? In other words, you'd get me to go and lay out the terms with the solicitor?

MR CHEN: What's he talking about, Commissioner? Well, you're talking - - -

MR PETROULIAS: No, he's saying that the way he works - - -

MR CHEN: Well, just a moment - - -

MR PETROULIAS: - - - is that he gets someone else to, to, to, to put, specify the terms to, to the solicitor.

MR CHEN: It's not clear whether he's talking about his work now, at some other point in time or work he's in fact, he's - - -

MR PETROULIAS: Well, whatever you were just talking about.

MR CHEN: I see. With Whitehaven, is it?

10

MR PETROULIAS: Yeah. You get someone else to set the terms out for you.---You know, I don't Whitehaven mentioned in these, these inquiries. It's, it's, it's not good for my work. It's not, it's not good.

I, I don't want to mention, you mentioned it.---It's just, it's just not good.

20

Sorry, you did - - -?---You know, no, no, just let me say something. Here, talking about Whitehaven and my employment with Whitehaven, I employ a lot of Aboriginal people, and, and, and people like Whitehaven don't like stuff in courts being spoken about them. So can you please, please, they're very good men, they create a lot of employment for us, so please don't mention Whitehaven because Whitehaven has got nothing to do with this, and, and, you know, someone should be objecting. This is what I'm thinking, you know, with this stuff.

30

All right. No intention of doing that. Do you agree that I came to you to discuss Awabakal and understand the nature of the law, how it worked, the community expectations and these matters, that I came and discussed these with you at least in November 2015, '14?---I can't remember. I can't remember.

Do you remember you gave me, we sat down with Ms Dates and you showed me the Community Business Plans and what you - - -?---Well, it was there, it's been there sitting on the table in the boardroom every bloody meeting.

Okay.---The, the, they - - -

40

So you don't deny that we could have had these discussions?---No, I don't deny that.

And then I have taken you to meet Ms Bakis a few times and we discussed with her what, what Awabakal wanted to achieve.---I, I, I'm not really sure.

Okay. You, you don't deny that because you did introduce Ms Bakis to, to Awabakal, didn't you?---Yeah, through you.

Yeah, but you did then – I'm not Awabakal. You did introduce her - - -?
---No, through you.

Yes, yes, through me.---Yeah.

But you introduced Ms Bakis to Awabakal.---Yes, I did.

Okay, so to have done that you must have met her a few times.---Yeah, I did.

10

And you must, well, you must have discussed what Awabakal sought to achieve.---Oh, not to a great length, I don't think. I just, it's just that they were getting rid of the solicitor at that time and we needed one.

No, that's, that was a bit later, but at the time you, you just, you met with Ms Bakis in 2014 to discuss what Awabakal wanted to achieve at that time.
---Yeah, I probably did.

20

And the only thing that Awabakal wanted to achieve, well, a few things, but, is the Community Business Plan and the implementation of that agreement, of that resolution.---I can't really say that.

Well, what else would you, did you want to discuss with Ms Bakis?---Well - - -

What else was going on in Awabakal that you wanted to discuss with Ms Bakis as a lawyer to implement?---Nick, Nick, Nick, I sit down and discuss a lot of things about land councils, about Aboriginal in general.

30

Yes.---I do it all the time. That's my life. Right?

I agree. And I'm saying that that's what we did.---We probably did.

Okay, fine. And can I say to you, can the witness be shown MFI 33, page 3, please. MFI 33, page 3. Is that your signature?---Doesn't look like my signature.

40

Do you want to see the original?---Oh, probably was discussed it in something.

Okay.---I never read this document.

Well, they're your initials on the side as well, aren't they?---Yeah. Still never read the document, never read the stuff up top.

So you signed a document saying agreed, did you, without reading it?
---Yeah, because you used to peel the paper back just enough to sign it.

So, so, so let me understand this. So you didn't see anything above the, above, from, did you see the all agreed?---No, I never seen (not transcribable) above. I seen a little bit.

So hold on, you're saying it was bent over?---I seen a little bit down but I - -

No, no, let's work on this - - -?--- - - - never read it.

10 Okay. We got that.---Yeah.

Now, so it was peeled back. You keep using these words and let's, let's understand what they mean. Are you saying that there must be a fold under the words, "all agreed," for you to sign, and, and I, and you were just shown the fold. Is that what your contention is?---(No Audible Reply)

Just the folded little bit at the end was put in front of you and you were signing, and you signed it?---This is, this - - -

20 No, no, because it's easy.---This is getting out of hand.

The original's here and we can see if it's folded, that's all.---You know, you should be ashamed of yourself.

No, hold on, Mr Green.---Standing up there cross-examining me.

30 You said peeled back, you've used the words peeled back. Let's just understand what peeled back means. I don't understand them. Please explain what peeled back means.---Well, can I have a couple of pieces of paper, please?

THE COMMISSIONER: Yes.

THE WITNESS: If you don't mind.

THE COMMISSIONER: Would you give the witness a couple of blank pieces of paper?

40 THE WITNESS: Thank you. Just two pieces of paper. And you used to hold the document in your hand all the time.

MR PETROULIAS: Okay.

MR LONERGAN: Commissioner, while we're waiting for the bits of paper, can I just foreshadow that I'll be making a section 112 application in relation to Mr Petroulias, sorry, Mr Petroulias, Mr Green's employer that was on the transcript around 2.56. Agreed?

THE COMMISSIONER: All right. We'll deal with that before we adjourn.

THE WITNESS: Right.

THE COMMISSIONER: Now, you've got two pieces of paper in your left hand.---Well, if this was a - - -

In your right, in both hands.---Right. He'd fold it back like this to sign, like this to sign, like this to sign.

10

MR PETROULIAS: Oh, no, so you're talking about initials, are you?

THE COMMISSIONER: Just wait a minute – just hold your horses. Yes.---And that's how we used to sign them and he would hold them in his hand and never let them go.

So what you're demonstrating there is, you're holding pieces of paper in front of you and you seem to be turning up the bottom, is it the bottom part or the top part of the document?---Well, say we had to sign there.

20

Yes. So you say there, at the bottom of the page.---Yeah.

And you're folding back each of the pages - - -?---He'd just fold them back like that.

- - - about to the halfway mark.---Not even halfway mark.

Or not even halfway.---Yeah.

30 Okay. All right. Thank you. Is that sufficient description for the record?

MR CHEN: I think so, Commissioner.

THE COMMISSIONER: All right. Well, okay.

THE WITNESS: We'd never, we, we, would never, we never read anything.

40 MR PETROULIAS: Now, are you saying that that was always the situation in all documents or is it some documents?---Well, you know very well, Nick, we never read them.

No, no, I'm not, I know very well nothing.---You know that.

Do you tell me, are you saying that it's on every single document?
---Just about.

Okay. Now, so therefore this one here, this is, this is one page, are you saying that was held back as well? How does that work? Just one page. How exactly does one fold one page or peel back or whatever the hell description you want to use?---Well, I'm not sure.

No, no, no, show me, please, I want a physical demonstration of one page that's, whether there's any truth in what you say.

10 THE COMMISSIONER: He's just given a demonstration, that's enough.

MR PETROULIAS: No, but this is one page, Commissioner, how do you do it on a one-page document? Can you explain, Mr Green?---Well, you could have had other papers in front of that, this piece of paper and just folded it back. You know, you've got to think a bit deeper than you're thinking, and it made me a bit deeper than I've been thinking since this inquiry's been over how you've been doing this stuff to us people, you know.

20 Oh, what stuff is that, Mr Green?---This signing these, these documents and all that stuff.

So the document signing is a problem, is it?---You know, just what I just said to you, mate, you know, you're here cross-examining me and, and trying to implement [sic] me and Debbie into a lot of this crap. We haven't done nothing. We haven't done anything.

Okay. So - - -?---And you're here cross-examining me.

30 Let me explain this. So when there was a group of people other than me, like, like Mr Zong, Mr Sayed, on 23 October, 2015 when we came to Awabakal, did they witness any such peeling back?

MR LONERGAN: Objection, Commissioner - - -

THE WITNESS: Well, I don't know what deals you done with them, I never, ever knew - - -

THE COMMISSIONER: I won't allow that - - -

40 MR PETROULIAS: No, but you were there and, and signed - - -

MR LONERGAN: Commissioner, I object.

THE COMMISSIONER: Mr Petroulias, I won't allow that question because he doesn't know what they saw.

MR PETROULIAS: No, when, the - you explain to us what happened on 23 October, 2014, with Mr Sayed, Mr Zong and how you came to sign these

documents. '15.---Well, on that day, Nick, I, I sort of don't remember much about that day. I, I signed documents with, with, with Mr Zong. Like I keep saying - - -

No, no, hold on. Were documents passed around the table, where different people and different parts were sitting down and they were moved from one person to another?---Yeah, but it wasn't to, to sell land.

10 No, no. But documents were passed from one person to another, is that what you're saying?---Yeah, there, there was.

And then someone signs and the other person signs?---Yeah, but I didn't read them.

No, no. Fine. No, no. We're dealing with peeling back right now. Are you, are you saying that I, what, stood in front of the documents and obscured them so you couldn't see what they were each, for each person as it went through?---Well, we signed them but we didn't read them.

20 No. We're dealing with - - -?---Because they went around the table and I think - - -

We're dealing with peeled back, we're dealing with peeled back, all right? ---They went around the table and you, you grabbed them, is that right?

Let's deal with peeled back for a second. We're talking about how it, how it went. So it was presented in front of you, you, Mr Zong signed it, you signed it, it was given to you and there's a hell of a lot of them. Now what do you say happened, that I stood in front of you, held a gun to your head?
30 ---No, no, no, no.

Covered them, what are you saying happened here?---No, no. I never, I'm not saying that. You're saying that.

How, explain, peel back, you've got a document that, you know, it's been handed to you. I'm sitting down, Mr Zong's present, Mr Sayed is present. Did they, did, are you saying that I somehow obscured your vision?---Can I ask him a question?

40 No, no, no, no, no.

THE COMMISSIONER: No, no, just - - -

MR PETROULIAS: Just, just explain.

THE COMMISSIONER: Just respond as best you can to the question.

MR PETROULIAS: Can you, did I obscure your vision when you signed the document?---No, you probably didn't.

Okay. So that - - -?---But did you, did you read the document to us?

And so, hold on, hold on.---No.

So there's one - - -

10 THE COMMISSIONER: Mr Petroulias, just wait a minute.

THE WITNESS: Did you read the document to us or the piece of paper before we signed them?

MR PETROULIAS: You'd better believe it. We were in the Kent Hotel. ---You never read them.

20 THE COMMISSIONER: Mr Petroulias. This has degenerated into a dialogue between you and the witness. I think you've squeezed the lemon dry on this issue. Now is there something else you want to ask him about it before you move on to the next topic?

MR PETROULIAS: Yes, yes. No worries. Yes. Can, can, can I suggest, I want to put the proposition to you that that summary is exactly what happened? We went and we met Ms Bakis and I said to, and I said to her, "This is what I understand," with you present, that we want to implement, we want to implement Awabakal's business plan, community and business plan and we want to implement the, the resolution? And this is what my, and I explained what my understand was. "My understanding is that what is
30 happening is a" – do you agree so far?

MR LONERGAN: Sorry, Commissioner, I object to that.

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

MR PETROULIAS: Sorry. Can I put to him what I say is the - - -

THE COMMISSIONER: Just put another question.

40 MR PETROULIAS: Yeah, Commissioner, can I put, can I put to the witness what, what I say happened or my version?

THE COMMISSIONER: No, no. You just ask him a question. Ask him a question. You can put a proposition to him and ask him whether he agrees with it or he doesn't agree.

MR PETROULIAS: Okay. Mr Green, this, the proposition I put to you, we went and met Ms Bakis together?

MR LONERGAN: Sorry, Commissioner, I object again. The particulars around the meeting or whatever it is that is going on, need to be established so that Mr Green isn't dealing in the ether of what is being proposed.

MR PETROULIAS: Okay.

THE COMMISSIONER: Yes, I agree.

10 MR PETROULIAS: Yeah, Mr Green - - -

THE COMMISSIONER: Did you hear what Mr Lonergan just said?

MR PETROULIAS: Yeah. That, that on - - -

THE COMMISSIONER: Did you hear what Mr Lonergan just said?

MR PETROULIAS: He wanted the particulars established around the agreement.

20

THE COMMISSIONER: Yeah, that's right.

MR PETROULIAS: I don't quite know that means other than we walked in to a room where Ms Bakis was present.

THE COMMISSIONER: No, no, no. You've got to say where, when, who is present - - -

30

MR PETROULIAS: We're talking - - -

THE COMMISSIONER: What the occasion was and then the witness has got half a chance of understand what meeting you're talking about.

MR PETROULIAS: Okay. So on 12 December, 2014 - - -?---Long time ago.

40

We went, you and I, and we met Ms Bakis in her office and we – and, and I put to you that I, we discussed what Awabakal wanted to achieve at that point in time, in other words to implement the resolution, number 1?---I can't recall that.

You can't recall it?---No.

So, okay, that we, that, that we wanted to implement the Community Business Plan.---I think I remember talking about the business plan.

Okay. That, that we wanted to pursue more land claims and speed up the process.---I don't know whether it was in Despina's office. I think we had the Community Plan at the Land Council office sitting on the table.

Fine. I'm saying that we discussed it with her then. Whether we had it on the, whether you had another version at the office, I don't care. That we discussed, discussed the Community Plan with her as in the objectives of the community.---Yeah, we have talked about that, but where and when and what place, I can't - - -

10

That, that amongst one of the objectives you told her was the pursuit of speeding up the land claims.---I've said that to a lot of people.

But to Ms Bakis with me - - -?---I may have.

- - - on 12 December, 2014?---I may have.

Right. Do you remember taking me to Glebe, to Mr Wright's office?---No, actually, I didn't take you to Glebe to Mr Wright's office.

20

That we went together and you introduced, we had a look around. You - - - ?---It was a CCTV camera there.

Yeah?---I'd like to know what day it was and when it was.

But you, you know where the office is in Glebe.---No, I don't.

Okay. I say to you that at that meeting - - -?---No, hang on, hang on. I know it's at the, I know where it's supposed to be situated but I haven't been there.

30

I going to suggest that we did go and you went to make an appointment with Mr Wright. He wasn't there. I had a look around and we noticed what, what the register looked like.---I don't recall that.

And I remember it was - - -?---And I'd say there'd be a CCT camera there and go back to that date that we went there and look at the CCT camera.
(Speaks Aboriginal language)

40 Okay. I say to you that at that meeting with Ms Bakis on the 2nd, on the 12th of December, 2014, I said to you that, in her presence, that Cyril is a joint venture partner with me and in agreement with what I'm proposing.---I didn't hear that, Nick. I didn't hear that, you saying that.

Do you remember me telling you that we wanted a very simple agreement for the community to consider?

THE COMMISSIONER: When was this? When was this?

MR PETROULIAS: 12 December, 2014.

THE WITNESS: I can't remember. I can't remember.

MR PETROULIAS: Okay.

10 THE COMMISSIONER: Mr Petroulias, as there's a little calmness and a gap, I notice the time, it's quarter past 3.00. You've been going with this witness most of the day. I've been looking through your list of issues that you identified for cross-examination. There's 12, 10 in number. I won't go through them all. It appears now that you should focus on any of those issues that you've identified in the time that's now available between 3.15 and 4 o'clock.

MR PETROULIAS: Okay. Um - - -

20 THE COMMISSIONER: Because, Mr Green, you'll appreciate, we've got to put time limits on at some stage, and I'm suggesting now that you use the time wisely between now and 4 o'clock so that you can deal with any issues that you want to raise within the scope of the issues you've identified with the witness.

MR PETROULIAS: Okay.

THE COMMISSIONER: Cut your cloth accordingly.

30 MR PETROULIAS: Mr Green, let's, let's, let's understand that you were, you mentioned Dyldam.---Yes.

And you mentioned them as a company in which you had discussions with for the development and acquisition of Awabakal land.---I think you did too.

I did too. But you agree that you did?---Oh, they, they, they were a, they were people that came up and looked at it, yeah.

And then you introduced me to them, but, as well.---I think you brought them up here, didn't you?

40 No. Completely independent from me.---Yeah.

And that one of the things you didn't like is that they used the word land bank.---Land bank?

That you don't like the idea of land banking.---No, well, I don't think anybody does. I've been told not to land bank.

Okay.---By my old Aboriginal uncle.

Now, you independently had discussions with a guy called Josh Chan of CHHS [sic] Law, he's in Macquarie, Martin Place Tower.---Martin Place.

He's a lawyer, Chinese lawyer and fund manager and you talked to him about doing work with Awabakal.---Who, who is he?

Josh Chan.---Josh Chan.

10 Yes, a Chinese guy in Martin Place, MLC Centre.---Did he have anybody with him.

You're, you're the one who told me that, Mr Green. I'm putting to you, you told me about this, about having him as being the lawyer and fund manager for developing Awabakal's land, that you had approached him and you were interested in pursuing it.---No, hang on, hang on. Our solicitor for our native title claim, his name's Sam Hegarty. I've been dealing with him for the last 10 years. He was the guy, he came down to work here in Sydney, he comes down to work with them and he told me about that guy.

20

So you then went and met him?---So I went and met him. He lined up a, a, a meeting with him and it wasn't about, it had something to do with Awabakal but it was mainly to do with the mining and the native title claim.

THE COMMISSIONER: All right. Well, leave it at that point. Thank you.

MR PETROULIAS: So you also approached many other land councils, even independently of ULC, such as La Perouse, to do developments?

30 ---Well, you see, that's what was supposed to happen with, with, with the companies that we were running around trying to do, trying to get Aboriginal land councils up and running because all these investors that had the millions and millions of dollars what you was telling me would, would get their land rezoned, they'd put money in trust accounts to do all this stuff and talk to council about rezoning the land and all this and all that crap and, and I, I started going around, I thought it was a good idea, it would benefit Aboriginal people, I thought this was the breakthrough, because we've got overseas investors coming in and the government won't give us any money to rezone our land, they keep us tied down all the time because if Aboriginal people did a breakthrough in this government, there'll be trouble. But see, 40 that's why I was doing all this stuff with you, Nick, and trying to do the right thing.

I'm not saying you didn't, I'm saying you did do the right thing.

THE COMMISSIONER: You were saying these ventures that you were sounding out or sussing out, you and Mr Petroulias were doing, making these inquiries or doing this research et cetera. Is that right?---No, no, no,

there, there was, there was a couple of other, there was about another three people that Nick employed - - -

I see.--- - - - to go and do all this stuff.

I see.---You know, to go to independent land councils.

10 How many councils do you think this group with Mr Petroulias and yourself were approached? How many land councils would you say, and if you can name them, name them.---Well, Derek, Derek was based in the Wollongong Land Council, he done all the south coast, right, and I done a few out west, I done a few up the, up the north coast, I done a few down the south coast, Kempsey and, and Forster and all them other places.

And what role was Mr Petroulias playing in all of this?---Oh, he was paying us wages to do all this stuff. There was, there was, there was no, there was, there was no partnerships, there, we didn't get any money for doing, doing anything special, we just got wages and - - -

20 Wages paid by?---By, by Nick. I don't know what bank account it came from because he, he told me that he already had money and we need to do, you know, do stuff. And I thought when Mr Zong gave him money and he put it into a trust account to, to help us get all this land rezoned, and I didn't know how it ran, that's why I set up all the bank accounts with him and, and, and thought it would work properly because I didn't want to touch anything, any money, that's why I didn't go into the bank accounts.

All right. Well, thank you for that. That's enough I think. Thank you.
---Mmm.

30 MR PETROULIAS: Now, you had access to other lawyers, Ian Sheriff, Nicholas Dan and even Peter Jackson.

THE COMMISSIONER: When?

MR PETROULIAS: Well, Nicholas Dan and Ian Sheriff, before you met me.

THE COMMISSIONER: When?

40 MR PETROULIAS: In 2014 and 2015 and 2016.---Hang on. Just hang on a minute.

Yeah.---Nicholas Dan and Ian Sheriff. Ian Sheriff was the guy that done the land dealing with Olney Road. Now, Olney Road, this was before my time in the Land Council.

Mmm.---Now, Olney Road, Debbie didn't remember yesterday, but Olney Road they sold it to develop an old people's home of about 80 units, right? This is what I've heard. And Ian Sheriff was the solicitor when they sold all the land on the foreshore of Newcastle.

THE COMMISSIONER: But I think, Mr Green, Mr Petroulias is asking you something a bit different, about having access to other lawyers. I think he's wanting to, in effect, explore with you - - -?---No, I never, I never had access to them. Not me.

10

MR PETROULIAS: What, you, you, you couldn't speak to Ian Sheriff if you wanted to?---Oh, I spoke to Ian Sheriff a couple of times but then the board just wanted to, they wanted to get rid of him and, and, and what's the other guy?

Nicholas Dan.---Nicholas Dan is Debbie Dates and Kelvin Dates, which has passed away. He's a lifetime friend of them.

20 Yeah, but if you wanted to make a phone call to him, you could.---Well, I could if I wanted to, yeah, probably.

Yeah. And - - -?---Just like any lawyer.

And, and, and Peter Jackson, you met him. You used him for your personal matters.---Peter Jackson here in Sydney?

Yes.---Yeah.

30 You, and you used him for your personal matters?---Yes, I did.

Right. So you could call him any time you felt like it?---Yeah.

Now, this is the issue. If you, were, were you unhappy with the peeling back that you keep saying? Were you unhappy with having to sign things that apparently you haven't - - -?---Well, you know, see, now I am, but then we was rushing and doing stuff pretty quick.

40 No, and I totally understand maybe the first one. The second time I'm peeling back something, didn't that occur to you as being odd?---Oh, not really.

What about the third peel-back?---Oh, fuck.

How many peel-backs? Is it, like, on the hundredth peel-back? Did that cause you to be concerned?---Oh, wouldn't be 100 peel-backs, mate.

Well, let's call them 50 peel-backs.---Wouldn't even be 50.

Pick a, pick a number.---Wouldn't even be 50.

Pick a number that you're comfortable at which point you would think to yourself I am unhappy. I want to find out what the hell's been peeled back. ---I wish to crikey you would stop blaming people.

I'm not blaming you, you're the one who's saying that you - - -?---You're the one criticising me.

10 THE COMMISSIONER: All right.

MR PETROULIAS: Did you ever ask - - -

THE COMMISSIONER: Just calm it down. Wait a minute, Mr Petroulias. You've got 35 minutes left.

MR PETROULIAS: Yeah, yeah.

20 THE COMMISSIONER: So use the time very wisely - - -

MR PETROULIAS: Okay.

THE COMMISSIONER: - - - because that's the limit on your cross-examination.

MR PETROULIAS: Have you, have you ever said to me, assuming I've peeled back something, "I'm unhappy with this peeling back. I would like to read it"?---No. You know very well we never read anything.

30 No - - -?---You know very well we never read nothing.

If you are unhappy, whether it's the first peel-back, the second peel-back or the thirtieth peel-back, at some point you may have been displeased with not reading it and wanting to read it. So at any point in time when you were so displeased, did you say, "Nick I want to read the document. What are those things you got me to sign?"---Let me just say something to you, Nick.

No, no, can you answer the question and then go for it?---You, you, you - - -

40 Just answer. Did you ever say that you're unhappy and you wanted to read the document?---No, I didn't say that. See - - -

THE COMMISSIONER: All right. You've answered the question. Do you want to - - -

THE WITNESS: No, I, I didn't say I was unhappy and I wanted to read the document because I couldn't read the document. For Christ's sake.

MR PETROULIAS: Okay. Do you - - -?---Did you ever read it to me? You're the educated man. You're the big solicitor.

Someone's making you sign things that, that, that you don't know, that you don't know what they are. Did you ever ask, "I would like a copy of that document so that I can get someone else to read it to me, or my nephew or another solicitor or anyone else"?---Did you leave them in the Land Council so we can read them?

10 Definitely were in the Land Council.---Where?

In the CEO's office, on the bottom shelf in blue folders.

THE COMMISSIONER: Mr Petroulias, we're not engaging in a conversation here.

MR PETROULIAS: Do you deny that?

20 THE COMMISSIONER: You are meant to be putting questions.

MR PETROULIAS: Do you deny any of that, Mr Green?

MR LONERGAN: Objection, Commissioner. He's being asked to stand in the position of the CEO in the CEO's office.

MR PETROULIAS: Did you know that there were signed agreements interview he CEO's office that you could pursue?---No, unless you left them there when I left or something.

30 Did you take home the board papers and have them read by anybody?---No because we used to go through the board, the minutes of the meeting before we would have our meeting, someone that could read them properly to us.

I see. So - - -?---What, what was it is? Previous meetings to be approved.

So the 8 April minutes which referred to Gows, did, did you not read, wasn't that, wasn't that the one that was read back?---I don't think they were there.

40 Really? Do you know which version was read?---No.

Do you have any recollection?---I don't recall.

Okay. Now, do you remember a meeting at Gloria Jean's with Mr Zong, where I was screaming at him?---Yeah, and I walked out.

And then you came back, didn't you?---Yeah, and the meeting was over.

No, no. But I offered him, I gave him back some cheques and said - - -?---I didn't see that.

And said, "Go away"?---I don't know.

And that's why the screaming started?---I don't know.

Do you know why the screaming started?---No.

10

What, you just, hello and start screaming?---Well, practically.

THE COMMISSIONER: Mr Petroulias, stop. Move on to something else.

MR PETROULIAS: Okay.

MS GOODWIN: Commissioner, I wonder, by consent, having discussed those course without Mr Petroulias previously, whether I might interpose some cross-examination given that I won't be here tomorrow?

20

THE COMMISSIONER: Yes. How long will you be?

MS GOODWIN: Somewhere between 15 minutes and half an hour, I assume.

THE COMMISSIONER: Yes, very well. Well, Mr Petroulias - - -

MS GOODWIN: It may be - - -

30 THE COMMISSIONER: Are you happy with that, Mr Petroulias?

MR PETROULIAS: Yes, yes.

THE COMMISSIONER: Yes, all right. Yes, you go ahead then.

MS GOODWIN: Yes, thank you, sir. Mr Green, I'm going to take you back to 2014, and principally my questions will be about your interactions with Ms Bakis so far as she's concerned. So firstly, do you recall a meeting where you, Ms Bakis, Mr Petroulias and Debbie Dates were present at a café in Hamilton in December, 2014?---Which café?

40

I can't tell you which one but a café in Hamilton. Any café in Hamilton, do you remember a meeting?---I've met people in the cafés at Hamilton for 40 years.

Well, I mean, particularly, when Ms Bakis, Ms Dates, yourself and Mr Petroulias were present?---Yeah, could have happened.

And at that meeting, did you talk about the Gow heads of agreement in whatever form, a draft form or whatever?---I can't remember Gows agreements.

10 Perhaps I'll just have a version of that put up for you. I believe there's one in volume 3, page 123. Just in case you see the document and the layout or whatever, or a word jumps out at you and you can recognise it, okay?---I've seen these, these documents plenty of times but, you know, I'm starting to see them in my sleep.

So can you see that one, it's got on it General Heads of Agreement, date 15 December, 2014, Knightsbridge North Lawyers? And we'll perhaps just flick through it. All right, Now, I'm going to propose some suggestions to you and you can agree or disagree or if you don't remember, you can say you don't remember or don't know to whatever the case may be, okay? ---Yep.

20 Can I suggest to you that that agreement, not necessarily signed, but that agreement was discussed with you and shown to you at that meeting, that is a meeting held in Hamilton in a café when Ms Bakis was present, Ms Dates was present, you were present and Mr Petroulias was present.---I can't remember.

All right. And I apologise, can I withdraw that question. I've put something inaccurately to you.---I can't remember.

30 All right. Well, perhaps I'll replace the suggestion. Can I suggest to you that the terms of that agreement were talked about? You may not have been shown a copy, but the terms of it were talked about. The terms of an agreement about Gows were discussed.---No, I, I can't remember Gows being discussed at all. I can't remember.

Can I suggest to you that a future costs agreement with Ms Bakis was also discussed, as in a lawyer's cost agreement, the Knightsbridge, Knightsbridge Lawyers.---What document is it? Another one or this one or - - -

40 I'm just saying there was some conversation about a costs agreement for the Land Council to use Ms Bakis as their lawyer, in layman's terms.---Yeah, but wasn't for \$80,000.

Well, maybe \$80,000 a year, but not a month.---Is that the one, is that the one you're talking about?

No, I'm just talking about the, a costs agreement upfront. Can you tell me, can you remember it?---Well, Despina - - -

If you say it wasn't for \$80,000, what do you remember?---Despina would have, would have had to have been paid to do legal work.

Yes. Yes.---I, I, and it would have been passed at the board for her to do that.

10 Yes. So do you remember some discussion about an agreement for her to do legal work?---Well, we would have discussed it but I can't, I can't really remember.

And you said but it wasn't for \$80,000. What, did you mean it wasn't for \$80,000 a month?---I don't know.

Is that what you meant?---I might have seen a figure here yesterday for \$80,000. I don't know.

20 And you're saying that wasn't discussed, \$80,000, or at least – what was that figure that you saw yesterday? Was that - - -?---Well, I, I can't understand. I just brought that up just then.

Do you remember any conversation you had with Despina about an agreement for her to be your lawyer? And that is the Land Council's lawyer when I say that.

MR LONERGAN: Commissioner, can I ask my friend to specify, are we still talking about the same meeting here or are we talking - - -

30 MS GOODWIN: Still the same, at the café in Hamilton, at that same meeting.

THE COMMISSIONER: Yes, I understood it was the same meeting.

THE WITNESS: Oh, I can't recall it. I can't recall it. It's been that long ago.

40 MS GOODWIN: And just so we're clear, when you say you can't recall, you're allowing for the possibility, aren't you, that it could have happened but you don't remember it?---Yeah, it could have happened but I, I can't remember it. Like I said, it's been a long time ago. Lots went on in my head over that period.

THE COMMISSIONER: Ms Goodwin, before you move on to another topic, I might just - - -

MS GOODWIN: I'm moving on right now, Commissioner.

THE COMMISSIONER: No, no, no. I'm not pressing you. I'm just going to ask you a question.

MS GOODWIN: Certainly.

THE COMMISSIONER: And you may not necessarily have to deal with it now, but as we've touched on this question of entering into an agreement with your client to act for the Awabakal Land Council, I'm interested to know how there could have been any discussion of that topic at all in the sense that to enter into an agreement with the Awabakal Land Council in the circumstances would have been a clear conflict of interests. How, the question is, could any solicitor in those circumstances have proceeded with presenting a costs agreement for her to act on behalf of the Awabakal Land Council in circumstances when Gows was alleged to have been the purchaser?

MS GOODWIN: Yes. I can understand why the Commission would wish to know that from Ms Bakis. If we are able to have an answer ready for you – my client having heard that question being raised – prior to the end of today's proceedings, Commissioner, we'll pass it on. Otherwise, as you know, I won't be here tomorrow but Ms Bakis I understand will be giving further evidence and she's heard the question. She's aware that that will be something asked of her.

THE COMMISSIONER: All right. You continue.

MS GOODWIN: No doubt we'll have some time to properly consider it. Certainly. Mr Green, can I perhaps show you, if it can be brought up on the screen, please, MFI 33, page 10, which is a letter dated 23 September, 2015. You've been shown this before too, right?---Yeah.

Do you recognise that at all, a letter signed, purportedly signed by you to Ms Bakis?---(No Audible Reply)

MR CHEN: I think my learned friend would know that her predecessor asked specific questions directed to this letter. I just ask my friend to take that into account.

MS GOODWIN: She did. Yes, I'm hoping not to traverse precisely the same areas that she did, and I'm grateful to my friend for reminding me.

THE COMMISSIONER: Well, in those circumstances, what do you want to ask the witness about the document, if he's already been taken to it?

MS GOODWIN: Firstly, sir, that's your signature, isn't?---It looks like it.

Do I understand, though, that you would – well, I withdraw that. When you signed it you understood, didn't you, that that letter that you either had

someone help you draft or draft for you or, well, firstly I'll put that to you. Is that something that you drafted or you had something, someone help you draft or - - -?---Me draft it?

You had someone draft it for you?---No.

All right. Did you have someone type it up and you signed it?---Well, someone must have typed it up, that's what - - -

10 You don't have any recall of that, though, do you, no memory of asking someone to type that up for you or - - -?---No way.

THE COMMISSIONER: I think what we're trying to find out is, in effect were you the author of this letter, either by writing it yourself or having somebody write it for you?---No way.

So can you explain the existence of that letter?---No, I can't.

20 MS GOODWIN: Did you understand that it was going to be sent to Ms Bakis?

MR CHEN: I don't think he's accepted that - - -

THE WITNESS: I don't, I haven't seen it.

MS GOODWIN: Okay, I apologise.---I haven't read it, I haven't read it, I haven't - - -

30 All right. Well, when you - - -?---Yeah.

Do you remember signing it at all?---No, I can't remember signing it.

All right. You can't remember anything about it?---No, I can't remember. If I'd have seen some big figures like, like here - - -

Yeah.---What is it, 30, 33,000 is it?

40 It says 33,000, if that's the figure you're looking at.---And I think there's a, there's a, 1.6 million, is it? No, 12.6 million.

THE COMMISSIONER: Yes.

THE WITNESS: And there's 11.1 million.

THE COMMISSIONER: Anyway, you still say you haven't seen the letter before?---No.

And - - -?---I might have seen it but I didn't read it.

Can you explain how your signature would be on the document then in those circumstances?---No, I can't explain why I would sign a thing like that anyway.

Right.

MS GOODWIN: Can you recall at all ever being asked to sign a letter to do with Gows Heat, the Gows Heat agreement being taken over by Sunshine?
10 ---No, no.

Can you remember talking to anyone about that topic where the need for you to write a letter or to sign a letter to Ms Bakis was raised?---No.

Do you remember having conversations at all with Ms Bakis about Sunshine Property taking over the Gows Heat agreement?---No, no, no.

Do you allow for the possibility that that happened, that she did talk to you about the Gows Heat agreement being taken over by Sunshine Property?
20

MR CHEN: I just with – sorry, I withdraw that. I'll just ask my friend to be specific. I mean we all know as lawyers what possibility means. I mean most things are possible, and if there's a concrete proposition, plainly my learned friend would know.

MS GOODWIN: Okay, I can put it to him in more concrete terms. All right. Remember before when I said I'm going to suggest to you something and you can agree or disagree or if you can't remember you can say that or if you don't know you can say that?---Yeah.
30

All right. What I'm going to suggest to you is that you had conversations with Ms Bakis about Sunshine taking over the Gows Heat agreement.
---I can't remember that. I can't remember it.

And you understand that by saying that answer, that indicates that it could have happened, but if it did, you don't remember it, don't you?

MR LONERGAN: Commissioner, I object to that. That's putting words in the witness's mouth.
40

MS GOODWIN: I'm sorry, I was trying to be - - -

MR LONERGAN: If she wants to ask that question she can ask it in open term in terms of what do you mean by that.

MS GOODWIN: I can do that.

MR CHEN: Or put a date. I mean, perhaps I didn't make myself clear but presumably her client knows, if there's a date, by all means put it to the witness that that's the date. And I'm not clear whether it's sought to be linked to the document on the screen. We'll take it off, if it's not.

MS GOODWIN: The document on the screen can go. It's not necessarily linked to that but certainly at some time prior to that letter, which was dated 23 September, 2015, you had discussion with Despina about Sunshine Property taking over the Gows Heat agreement, didn't you?---No, not that I
10 can remember. No, no.

When you say not - - -?---I've had a lot of conversations with Despina.

And is it the case that you can't remember them all?---Like I said, it's been a long time ago.

Is it the case that you can't remember whether or not you talked to Despina at any time about Sunshine property taking over the Gows heat agreement?

20 MR CHEN: I think that's ambiguous, that question because it admits to - - -

MS GOODWIN: It can hardly be more ambiguous, in my respectful submission.

MR CHEN: Well, that's the point actually.

MS GOODWIN: Less ambiguous, sorry, I withdraw that, less ambiguous, in my respectful submission, Commissioner.

30 THE COMMISSIONER: I think we'll leave it as it is, Dr Chen. We'll see if you might have a right of trying to clarify it later perhaps.

MS GOODWIN: And can I just be clear, in opposition to that objection, what I meant to say was less ambiguous.

THE COMMISSIONER: All right.

MS GOODWIN: Is it the case that you can't recall at all whether you had conversations with Despina about the Gows Heat agreement?---Well, I, I, I
40 can't remember. I can't remember. You know, what café?

Now, we're talking about any time. Any time, any place. If there's anything you can remember about conversations or if you are absolutely unable to say that never happened, you can say that.---Well, not about Gows.

MR LONERGAN: Commissioner, sorry, I object. I mean, the import of that question moves across time to the present day, through the hearing of

the Commission, back to, well, I don't know some time in 2014. So, I mean, of course conversations may have occurred post the inception of this Commission in relation to Gows Heat. Gows Heat is a name that is now obviously synonymous with this investigation. So even if that question was relevant, it has no value in terms of the inquiry.

THE COMMISSIONER: Ms Goodwin, I think you've taken it as far as you can, quite frankly.

10 MS GOODWIN: Yes, I was beginning to think that myself.

THE COMMISSIONER: The witness has said, and it's hardly surprising, that he can't remember. Now that could be for at least two reasons, nobody ever told him, he had no understanding of who Gows was or what its role was, or alleged role, or that there was some mentioned which may or may not have had any meaning to him and he's forgotten.

MS GOODWIN: Yes.

20 THE COMMISSIONER: I mean, I don't think you can take it any further than that.

MS GOODWIN: No, I'm ready to move on, Commissioner. Sir, I'm going to have another document brought up on the screen. It's MFI 62, page 358. Mr Green, do you recognise that document at all?---(No Audible Reply)

Have you been shown this in the Commission, that you can remember?---I think I have been, I'm not sure. Not sure.

30 Is that your signature down the bottom of it, with the date, 3 December, 2015?---It looks like it.

Do you remember signing that document on 3 December, 2015?---No.

Do you remember a discussion at all about money being paid to Gows Heat from a bank account that had something to do with Despina, and the conversation happening around December 2015?---Money being transferred?

40 Yes, in effect money being transferred from a bank account that Despina had some control over.---To Gows?

Yes, well, firstly, do you remember at all any conversation – we'll come down to the detail, we'll drill down to the detail in a minute – but first of all do you remember any conversation with anyone around December 2015 about money being transferred from a bank account that Despina had some control over?---So is this, is that 400,000?

Yes, that is 400,000.---And 312,000?

Yes. And we'll come into that detail, but - - -?---No, I don't remember these conversations.

All right. Well - - -?---No way. No, no, no.

10 All right. Well, my question was, first of all, do you remember any conversation around this time – that is December 2015 – about money being transferred from a bank account controlled by Despina?---No. No, no, no.

Getting down to the detail of what this document says, can you see that where that 400 is written, underneath that there's a typed 712? Can you see that? So it looks like it started off as being 712,000 and it's been crossed out and 400,000 is put there.---By jeez, if I'd have seen that figure, I'd have said give me some.

Yes?---Yeah.

20 THE COMMISSIONER: It's a nice round sum.

MS GOODWIN: Can you see that that started as 712 and then someone's crossed it out and put 400?---Yes. It definitely wasn't me.

No? And then can you see then that above your signature there's a handwritten paragraph and it talks about 312,000?---Yes.

So 400 plus 312,000 would be 712,000, wouldn't it?---Yeah.

30 So what you've signed under is some handwritten notations that says, "312,000 to be held on trust pending rezoning approval and then to be reviewed in light of the densities achieved." Do you remember signing a document with that written on it?---Oh, I can't remember.

THE COMMISSIONER: What's that mean? I don't even understand it. "Then to be reviewed in light of the densities achieved," what's that mean?

MS GOODWIN: Well - - -

40 THE COMMISSIONER: No, no. I'm asking you.

MS GOODWIN: Well, I'll have - - -

THE COMMISSIONER: No, I'm asking - - -

MS GOODWIN: I'll put a possible interpretation to the witness.

THE COMMISSIONER: No, well, do you have a, you say that carries a meaning, does it?

MS GOODWIN: Yes. That I'll - - -

THE COMMISSIONER: All right. You put it to him.

MS GOODWIN: - - - put to him if it helps him recollect it at all. Do you remember being in an office at Park Street – I withdraw that. Do you
10 remember being in an office where Despina and Nick and you and Tony Zong were talking about money? Because that's what this has to do with (not transcribable) I'll drill down to it. Oh, sorry, not an office. At Gloria Jean's, sorry.---Only person that I went to Gloria Jean's office, café, whatever it is, is with Nick.

Was Despina and Tony there?---No. Tony Zong was there but Despina wasn't there.

All right. Tony was there?---Yeah, Tony was there.
20

And at that meeting, did you - - -?---That's the meeting that I walked out on.

All right. At that meeting - - -?---That's the only meeting.

Yes. At that meeting was there money discussed, like 400,000 and 312,000, like you see written on this document?---Well, how would I know? Because Tony Zong and Nick had a blue and I walked out because I didn't want to be involved in it, and I went away, and I decided to come back maybe 15,
30 20 minutes after and Mr Zong was gone and Nick came out and we went our different ways. So I didn't hear any discussion over any money.

THE COMMISSIONER: Mr Green, did the board of the Land Council or any directors of the Land Council authorise you to authorise the payment of \$400,000 belonging to the Land Council to anyone at the time of this, 3 December, '15?---Belonging to the Land Council, belonging to the Land Council?

Yes, that they have an interest or ownership of. Did you ever have any authority to pay third parties on behalf of - - -?---No.
40

- - - the Awabakal Land Council?---No way.

Did Ms Bakis ever inquire with you as to whether you had any authority to authorise her to use moneys that could be said to be moneys of the Land Council?---No, not 400,000, no, no. How did – may I ask the question, how did the Land Council get \$400,000?

MS GOODWIN: All right. Well, maybe I might be able to fill in some gaps for you and see if this jogs your memory about that meeting. Can I suggest to you that, that the total amount, the 712,000 had come from Tony Zong.---Tony Zong.

I'm not saying it's, I'm not going to say its Land Council money at this stage, it had come from Tony Zong.

10 THE COMMISSIONER: Well, it's been placed in a trust account for the Awabakal Council, so there must have been some sense of entitlement.

MS GOODWIN: A trust account for Gows.

THE COMMISSIONER: A trust account for Gows.

MS GOODWIN: We'll come to that, though.

20 THE WITNESS: I didn't even know, Mr Commissioner, I didn't even know there was money until now. I didn't even know there was money was supposed to go to the Awabakal Land Council.

MS GOODWIN: No, no, I'm not suggesting to you it was, I'm just suggesting that there was this discussion at Gloria Jean's where there was 712,000 had been put into an account by Tony Zong first of all, and there was a discussion about some of that being transferred out to Gows.---No, no, no, no. Tony Zong was there, Nick was there, I was there. No, I wasn't there, sorry. I left. I went there and I left.

30 But didn't - - -?---Mr Petroulias knows that.

After that paragraph was handwritten in that says 312,000 to be held pending rezoning, and I'm just paraphrasing it, but after that was written in, didn't you sign it just to acknowledge that you knew that that was happening?---No, I didn't know it was happening. That's what I was talking about before, about the rezoning of the land and the trust account was supposed to be set up.

40 Yes. So wasn't that 312,000 to be held waiting to see if the zoning approval was given and then that was also going to be released to Gows?---No, I can't agree with that, can't agree with it.

All right. Well, has all of these questions jogged your memory a bit about why you might have signed under that paragraph?---No, no.

Under that handwritten paragraph?---No, no.

THE COMMISSIONER: Ms Goodman, what's your client's contention as to the need for Mr Green to have signed off on this trust account disbursement instruction sheet?

MS GOODWIN: Not that it was a legal need per se, but just that it was - - -

THE COMMISSIONER: Like a matter of courtesy?

10 MS GOODWIN: - - - something done to acknowledge that he was aware that that was what was happening to the money.

THE COMMISSIONER: But why would that be necessary if the entitlement was all in Gows?

MS GOODWIN: Not necessarily necessary, Commissioner, just to be safe and clear that the proposal was out in the open and that what was happening to the money was - - -

20 THE COMMISSIONER: I don't quite see the - - -

MS GOODWIN: That the money was being dealt with in a transparent way.

THE COMMISSIONER: I don't see the force of that at the moment, but maybe you might be able to persuade me eventually.

MS GOODWIN: Well, I'm just indicating my instructions.

30 THE COMMISSIONER: This is all Gows' business, it's Gows' money, it's Gows' money, the solicitor at this time acting for the other side of the transaction, Gows, was also acting for the landowner. It's a very unusual situation, isn't it.

MS GOODWIN: I'm not suggesting it's a preferred practice, Commissioner. All my questions are directed to - - -

THE COMMISSIONER: Well, it's a prohibited practice I would have thought - - -

40 MS GOODWIN: Yes.

THE COMMISSIONER: - - - by the Law Society.

MS GOODWIN: Commissioner, all my questions are directed to at this stage is this witness's understanding or recollection as to what happened at that meeting and the purpose of why he's signed the document.

THE COMMISSIONER: I understand that, I'm just simply trying to ascertain what the affirmative case is that your client's going to put as to why it was necessary to consult with Mr Green and get his signature on this document.

MS GOODWIN: As I understand my client's case, Commissioner, it's not that it was legally necessary, it was that it was done so that he could, so that it was acknowledged in writing and on paper - - -

10 THE COMMISSIONER: Just to be clear, yes.

MS GOODWIN: - - - that that is what was happening to the money because Gows was the one that was always going to be paid out first, if these Sunshine agreements proceeded and went ahead and was fulfilled.

THE COMMISSIONER: In normal circumstances it might be.

MS GOODWIN: Prior to the Land Council getting money, that is.

20 THE COMMISSIONER: But these are abnormal circumstances because all of this is about money coming from the property, the solicitors acting for both parties, Mr Petroulias is pulling the strings of Gows. So you've got Gows, Mr Petroulias, Ms Bakis, the Land Council's land interests being sold off. The only party that seems to be not doing well out of this form of transaction – the solicitor doing the legal work – is the Awabakal Land Council.

MS GOODWIN: Well, at that stage, they didn't receive anything.

30 THE COMMISSIONER: No and they never have.

MS GOODWIN: Because, as I understand the agreement, was that Gows, as the, for want of a better term, agent or an organisation from whom – sorry, an organisation whom would derive commission from the deal, as I understand my instructions, was that they would get their commission, for want of better terms, prior to Awabakal receiving profits or money under the agreement. And of course Awabakal thereafter wasn't going to stand to make any money until the deal was authorised and enabled to proceed. But that's as I understand my instructions, Commissioner.

40

THE COMMISSIONER: Yes, all right. Thank you.

MS GOODWIN: If that assists, and in fact, perhaps if I can just ask one more question, it might assist the witness's memory. Sir, do you remember at all, any conversation about Gows receiving some sort of commission for facilitating or for trying to facilitate or facilitating the purchase of Land Council property?---No, I don't remember that, no.

Sir, I only have one topic area left to cover with you. I note the time, Commissioner. Sir, do you recall signing the affidavit in June 2017, which was prepared for Ms Bakis's claim against the Land Council for unpaid fees?---Which Land Council?

10 Sorry, against the administrator for the Land Council. Do you remember – I'm just changing to a different topic. Do you remember there was this claim that Ms Bakis lodged in court to try to get her fees paid by the administrator in 2016? Do you remember – oh, I apologise, it was 2017, sorry. In 2017.---Yeah, I think, I think I do, I'm not sure.

She went up to your place at Newcastle and she got you to sign an affidavit or she was there for you to sign an affidavit?---Was that the day her and Nick came up and Nick presented it to me?

Yes.---That was the day I was having a lot of problems with my autism son.

20 Oh, you might have, were you?---Yes, I was and I, I, I remember Despina trying to tell me something and Nick told me something and I, I didn't really know whether it was the state Land Council or Awabakal Land Council because at that time I was very upset with the state Land Council because of what they, what they did to me.

Are you saying you were distracted by your son, were you, during your conversations?---Yeah. Well, there was a big blue just before they got there because he has meltdowns, he goes crazy.

30 Because wasn't it the case that Despina was taking you through the document and she was trying to explain it to you before you signed it?

MR CHEN: I think the witness should be shown it (not transcribable)

MS GOODWIN: I apologise. I don't have a reference number.

THE WITNESS: I'm busting to go to the toilet, guys. I'm drinking all this water. Sorry.

40 MS GOODWIN: We'll make it as quick as possible because Counsel Assisting thinks it might assist your memory. Fair enough. It was an affidavit, as I understand, dated 16 June, 2017.

THE COMMISSIONER: Do you remember it being shown to you, anybody, before you signed it?---Yeah, I, I remember something like that.

MS GOODWIN: That she was trying to take you through it and explain it to you.---Yeah, something, something like that. Yeah, but I, I was, I was in a hurry.

You mightn't have paid full attention?---No, I, I, I didn't.

Fair enough.---I don't, I don't, you know - - -

THE COMMISSIONER: All right.

10 MS GOODWIN: Might just ask one more question, Commissioner, briefly. Haven't you told Despina that that's one of the things you liked about her as a lawyer, that she took time to try to explain stuff to you?---Well, you know, Despina, like I said in my other evidence, Despina helped us a lot. She took a lot of pressure off us in the Awabakal Land Council, you know, and, and she used to try to, try to explain a lot of stuff to us but people used to just, just start arguing and fighting and it just blew out of proportions and people went their own way.

THE COMMISSIONER: All right.

20 MS GOODWIN: Sometimes you might have been distracted?---Distracted all the time.

THE COMMISSIONER: All right, well, now, yes, Mr Lonergan?

MS GOODWIN: That's it. Thank you, Commissioner.

MR LONERGAN: Commissioner, just briefly. I foreshadowed making an application under section 112 in relation to - - -

30 THE COMMISSIONER: Yes, I might just let Mr Green go. Now, Mr Green, I regret you'll need to be back here tomorrow, 10 o'clock. But, now, Mr Petroulias, I think you were deprived of the last 20 minutes of the time I had allotted because Ms Goodwin by my leave intervened, so how much longer will you be in the morning with Mr Green?

MR PETROULIAS: Depends on how he answers.

THE COMMISSIONER: Well, you originally had 20 minutes up your sleeve this afternoon. How much do you need in the morning.

40 MR PETROULIAS: No more than an hour.

THE COMMISSIONER: All right. Well, we'll see how you go. I'm prepared to allow you 30 minutes and we'll just reassess it after 30 minutes as to whether you should have any further time, but you're on notice that you should use that 30 minutes wisely. Mr Green, I'll let you go. You may leave and be back here, if you would, at 10 o'clock. It sounds like we'll be able to get you away during the course of tomorrow. I just can't tell you exactly when.---Thank you.

THE WITNESS STOOD DOWN

[4.03pm]

THE COMMISSIONER: Yes, very well. Now, I'm sorry, Mr Lonergan, this is a 112 direction in relation to, again?

10 MR LONERGAN: It was the employer or the company that is currently contracting Mr Green and his companies. Whitehaven Coal is the name of the company.

THE COMMISSIONER: What's the evidence you want suppressed?

MR LONERGAN: Just the name of Whitehaven Coal. Both around 2.56pm this afternoon.

THE COMMISSIONER: Why do you want it suppressed?

20 MR LONERGAN: Well, Commissioner, Whitehaven Coal is not involved in these proceedings and there was, you know, I guess a drawing of inference between Mr Green's conduct with Whitehaven Coal, and therefore paralleling that to his conduct in relation to dealings in and around the Awabakal Land Council.

THE COMMISSIONER: But there was nothing, was there, that was particularly adverse to either Whitehaven or Mr Green himself in terms of reputation or anything, any other interest?

30 MR LONERGAN: Well, Commissioner, my submission would be that, you know, I mean, the fact of, you know, Whitehaven Coal's name being brought into the Commission where Mr Green is under cross-examination in relation to potential corruption, that the use of a company that is unrelated to these proceedings in that context, and drawing across the references to Awabakal, that there is a prejudice or a potential effect on the reputation of Whitehaven Coal by that mention, and that would be in the public interest to suppress the name, merely the name of Whitehaven Coal in the evidence.

40 THE COMMISSIONER: But, Mr Lonergan, as you appreciate, I only have the power available under section 112 if on consideration it is in the public interest necessary or desirable.

MR LONERGAN: Yes.

THE COMMISSIONER: Now, this is a public hearing. That's part of the process under the Act. People get mentioned in despatches. I think the 112 power can't be used just to suppress anybody's name who's happened to be mentioned on the way through. There's nothing said about Whitehaven that

I recall that could be said to adversely impact on its reputation or that could adversely affect it in any way at all. The fact that it's been mentioned in a hearing of a body like this I don't see that gives me sufficient basis to exercise the power. I mean, I can't just hand out suppression order like confetti. I've got to do it responsibly. Having regard to the fact that the statute does authorise a public inquiry, which means an inquiry in public, unless there's good reason to which does amount to a public interest question, then I regret I don't see it that way.

10 MR LONERGAN: Please the Commission. They're my submissions.

THE COMMISSIONER: Is there anything else?

MR CHEN: No, there's not, Commissioner.

THE COMMISSIONER: Then I'll adjourn till 10.00am.

AT 4.06PM THE MATTER WAS ADJOURNED ACCORDINGLY

20

[4.06pm]