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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER HALL QC  
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION SKYLINE

Reference: Operation E17/0549

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 17 AUGUST, 2018

AT 2.00PM

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

10 THE COMMISSIONER: Just a couple of management matters. The hearings in this public inquiry will be continued in the two weeks commencing 17 September next. Secondly, Mr Petroulias, arrangements are being made for you to have a computer supplied to you so that you'll have all the material you need. Just exactly when that'll happen, I'm not sure but I'm told it's likely to be soon. Accordingly, insofar as the resumed hearing is concerned, you will need to be in a position, if you are to cross-examine Ms Bakis, to do so and it's likely that you will also be called to give evidence in that segment of the hearings. I understand you've made a request for access to various materials. That request will be considered and you'll be advised as to the outcome of that consideration as soon as possible. They're the only matters that this stage, that I want to raise.

MR CHEN: Commissioner, does that as well - - -

20 THE COMMISSIONER: Sorry, Mr Petroulias is – I'm sorry.

MR CHEN: Sorry.

MR PETROULIAS: There's, there's a major issue with health, mental health.

THE COMMISSIONER: I can't hear you.

30 MR PETROULIAS: There's a major issue with mental health. I have not even remotely gone near a specialist in the last, I mean a psychiatrist in the last - - -

THE COMMISSIONER: Sorry, I just missed that.

MR PETROULIAS: In my current state I have not been able to have access to any professional. I'm on a list several places, but it could take months.

THE COMMISSIONER: I'm sorry, you're talking about medical - - -

40 MR PETROULIAS: Yeah.

THE COMMISSIONER: All right. Well - - -

MR PETROULIAS: So that's really - - -

THE COMMISSIONER: Well, Mr Petroulias, Corrective Services are responsible for ensuring that medical services are available and provided and I'm not in a position to direct them what to do but - - -

MR PETROULIAS: Well, that's - - -

THE COMMISSIONER: - - - there is an entity, Justice Health, as you'd be probably aware of, heard of - - -

MR PETROULIAS: Yes.

10 THE COMMISSIONER: - - - which is intended to be there to supply medical and other related needs, so if you haven't already made a request to them of course then you should obviously do so.

MR PETROULIAS: Yeah, I have, I have.

THE COMMISSIONER: All right.

MR PETROULIAS: I'm on a list and need to be - - -

THE COMMISSIONER: All right. Anything else?

20 MR PETROULIAS: Well, that, that would impact on the timetable.

THE COMMISSIONER: Well, Mr Petroulias, I'm presenting on the basis at the moment that you will be required to be ready once you've got your computer to prepare for whatever you want to participate in this investigation in. It's about a month's time from today, commencing 17 September. And as to what you do and what assistance you have in the meantime, I'm afraid I can't assist you any further other than I know Mr Broad has been making inquiries and liaising with Corrective Services to try and facilitate your situation as much as possible but I'm afraid we can't  
30 do any more at the moment than that.

MR PETROULIAS: Yeah, either can I.

THE COMMISSIONER: All right. Yes, Mr Lonergan.

MR LONERGAN: Commissioner, with that timetabling and the calling of Mr Petroulias to give evidence, Mr Petroulias has raised on a previous occasion the existence of tapes and the like. Now, if - - -

40 THE COMMISSIONER: Sorry, he's raised what?

MR LONERGAN: Issues of phone conversations that have been taped, purported to have been taped between Mr Green and Mr Petroulias. If Mr Green is - sorry, if Mr Petroulias is seeking to rely on that I'd like some notice and certainly would be prepared, would be seeking to prepare submissions in relation to why that should not be allowed if they indeed exist.

THE COMMISSIONER: What material are you raising now, and you want access to it too do you?

MR LONERGAN: Well, I don't want access to it.

THE COMMISSIONER: This is what material precisely?

MR LONERGAN: Mr Petroulias in the Commission on a previous occasion, I believe it was when Mr Green was here and there was a  
10 discussion between them, raised that he had telephone conversations that he had taped between himself and Mr Green.

THE COMMISSIONER: Oh, yes, that Mr Petroulias had raised, yes. I'm sorry. Yes, I understand.

MR PETROULIAS: Not, not telephone. No, not telephone.

MR LONERGAN: Oh, okay. Well, whatever the nature of the recordings were. So I'm just merely raising, now that Mr Petroulias is going or  
20 potentially going to give evidence, that if such material was sought by Mr Petroulias to be adduced that I'd seek the opportunity to, well, deal with that and most likely raise objection to its use.

THE COMMISSIONER: Yes. All right. Thank you. Well, Mr Petroulias, you've heard that I had indicated on the last day that you raised it that if you wanted to deploy any recorded conversations I'd need to be satisfied about whether they, the circumstances in which they were created and determine their lawfulness. I've heard no more about it. I don't know whether you  
30 intend to pursue that but if you do, as Mr Lonergan correctly says, the matter has got to be dealt with well before 17 September so it's up to you to decide whether you want to pursue that line so far as Mr Green is concerned or not.

MR PETROULIAS: As with, as with the medical issue, there's not a hell of a lot I can do. In fact, there's nothing I can do about it. I can't take this matter any further in my current circumstances.

THE COMMISSIONER: All right. Well - - -

40 MR PETROULIAS: And it's not possible. It's just simply - - -

THE COMMISSIONER: Do you intend in other words to pursue or not pursue that line of cross-examination?

MR PETROULIAS: In, in, in the proper, in the proper functioning, not in custody, then I would certainly pursue it but right now there's absolutely nothing I can do.

THE COMMISSIONER: All right. Well, if anything changes and you decide that you do want to rely upon that, then you should give Counsel Assisting or Mr Broad notice of your intention to do so, so that arrangements can be made well in advance for me to determine what use, if any, they can be put to and - - -

MR PETROULIAS: I think I might be misleading you a little bit, Commissioner. Let me just make it perfectly clear. I am in segro. I mean, I speak to nobody. I get very limited phone access, if, if at all on most occasions and that was part of my complaint, that, that, that the conditions are, are punitive and intolerable. So, I mean, a lot of conversation is wasted here because there's simply nothing I can do.

THE COMMISSIONER: All right. I'll have Mr Broad make some enquiries about that and I'll take that on board. But, Mr Petroulias, insofar as the next segment of hearing dates is concerned, as I understand it you'll want the opportunity to cross-examine Mr Green?

MR PETROULIAS: Yes.

THE COMMISSIONER: All right. Then he'll be here and then there's a question as to whether you wish to and are entitled to cross-examine Ms Bakis, and that's another issue. And the third issue is that you will be called at some point to give evidence yourself. So, those are the matters that will be programmed into that two-week segment. All right.

MR CHEN: Commissioner, can I raise two things? One, Mr Broad has told me that Mr Petroulias was advised, even before he went into custody, that if indeed he wished to deploy any kind of recordings that he has made, he would need to do so by giving evidence and the steps that he would need to take to bring that to the attention of the Commission, that is to give evidence in an appropriate way. Mr Broad thought that important, as do I, Commissioner, to put that on the record. The second matter is, as I understood, Ms Nolan had an application – perhaps she doesn't – that Mr Petroulias not be permitted to cross-examine Ms Bakis. I don't know what her position is in relation to that but that's another application that, if she proposes to bring, it should be done forthwith, not immediately but in the short term, Commissioner, in my submission.

THE COMMISSIONER: Very well, thank you. Well, Ms Nolan, if you want to pursue that, if you would let Mr Broad have some written submissions about it so that I can deal with it on the papers and if you could do that – is a period of 10 days sufficient?

MS NOLAN: Suitable, thank you.

THE COMMISSIONER: All right, thank you. Yes. Thank you, Ms - - -

MR CHEN: It would also need to be served I think, Commissioner, as I presently stand here, on Mr Petroulias because what I assume - - -

THE COMMISSIONER: Yes, yes, yes. You would need to supply a copy to Mr Petroulias obviously.

MS NOLAN: Oh, certainly. I would do that. I would probably need to prevail upon the Commission to assist me in that regard because I, as a barrister, am probably not in a position to be able to do that.

10

THE COMMISSIONER: All right.

MS NOLAN: But I can, I mean - - -

THE COMMISSIONER: Well, again, if you speak to Mr Broad about that.

MS NOLAN: I shall.

THE COMMISSIONER: Thank you. Thank you, Ms Dates. We'll have you back.

20

MR CHEN: Now, Ms Dates, just before the break, I was asking you some questions about these trust account disbursement instructions which were contained within Exhibit 57. Do you remember me asking you questions about those documents?---Yep.

And this is the position, is it not, is that you're unable to say whether in fact you did put your signature upon these documents at any point in time. Is that the position?---Yes.

30

And to the extent that the Commission might find that your signature was in fact put upon those documents by you, is it your evidence that, to the extent you were asked to do such a thing, it would have been by Mr Petroulias? ---Yes.

And it's the case, is it, that he from time to time did present documents to you to sign, is that right?---Yes.

And as I understood your evidence from before the break, on no occasion did Mr Petroulias provide you with any advice about the proper meaning or effect of the documents you were being asked to sign, is that the case? ---Yes.

40

And you do also accept that in relation to a number of documents that I did take you to before the break, that having read them, of course, you can now see that they do deal with matters involving land, do they not?---Yes.

And they do deal with payments of money to parties such as Gows, do they not?---Yes.

So, Ms Dates, is this the position? That if Mr Petroulias put a document in front of you, you would accept that it's something that you should, in your capacity as chairperson, simply sign without more. Is that your evidence?  
---Yes.

10 And of course that is a potentially perilous path to take, is it not, Ms Dates?  
---Yes.

It's a path that is fraught with great risk that the documents may contain provisions that you, as a chairperson, would not agree to. Is that right?  
---Yes.

20 And so by signing documents that are simply presented to you, you have a choice to make, do you not, as to whether you choose to read it or you seek some other verification about what the contents of it are. Is that a fair summation?---Yeah, should have, yeah.

But what I understand you to say is that you took neither approach. Namely, you just signed it without reading it and without seeking or having the assurance from anyone about what the content of those documents was. Is that fair?---Yeah.

And you would accept, Ms Dates, that that's not an acceptable way to conduct the business of the board of the Land Council, would you not?  
---No.

30 I'm sorry?---I thought, what I was signing, I thought it was moving the Land Council, forward, so, yeah.

But, Ms Dates, surely you would know that without knowing what is in something, you're simply unable to say whether it does or does not move the Land Council forward.---That's what needed to do. The Land Council needed to move forward.

40 THE COMMISSIONER: Sorry, I can't hear.---I said the Land Council needed to move forward.

MR CHEN: And is that your explanation, is it, that it just needs to move forward and therefore you just sign things?---That's what I thought I was signing for, to move the Land Council forward.

But, please, Ms Dates, could you explain how you could possibly come to that state of mind without knowing yourself by reading the documents or seeking some explanation by somebody as to what you were signing?  
---Well, maybe I should have. Don't know.

There's no doubt about it. That's exactly what you should have done, isn't it, Ms Dates?---Yes.

And it was seriously remiss of you not to do so, isn't that right?---Yeah.

THE COMMISSIONER: Signing these documents could be taking the Land Council backwards, not forwards. Did that ever occur to you?---No. That's what I thought I was doing, taking it forward.

10

But without knowing what's in – what's that?---That's what I thought I was doing, by signing and taking it forward.

Yes, but you wouldn't know until you read the documents whether that would be the case. It could be going backwards for all you knew because you didn't know what you were signing.---Should have been explained to me.

20

Pardon?---It should have been explained to me what I was signing.

But even so, you wouldn't sign the documents without knowing what you're doing.---I wouldn't have signed them. I wouldn't have signed them.

30

No, but this doesn't make sense, that you say you were a conscientious director and yet all you're doing is signing documents that are put in front of you by somebody, Mr Petroulias. That doesn't make sense to me that you would do that thing without being sure that you knew what you were doing. And you could only be sure if you knew what was in those documents, isn't that right?---Yes.

So if it doesn't make sense, what's the explanation as to why you did it, when you didn't even know whether the documents are going to take the Council forward or backwards or anywhere else?---I don't know why I done it. I don't know why.

Well, there must be some reason. You wouldn't do it for no reason.---Like I say, I done it thinking the Land Council's going to get moved forward, like - -

40

Did somebody encourage you to that view?---No.

No?---No. I was just told to sign it and it's going to be a good thing for the Land Council.

Since this Commission has been investigating, commenced to investigate this matter, have you spoken to Mr Petroulias about this matter or has he spoken to you?---Yeah, we spoke.

When was that?---I can't recommend [sic] when, but - - -

Well, how many times have you had a conversation with him about, well, had a conversation with him?---Months ago.

A month?---No, it wouldn't have been a month.

Well, when did you say?---Four/five months ago.

10 And how did that come about, that conversation?---I can't recall, I can't remember.

Well, did he ring you, did you ring him or did he approach you or did you approach him?---I can't remember, I can't recall.

Well, you did talk to him?---Yeah.

20 Yes. And what was that discussion about? Tell me in detail.---I think it was just asking me how, how I was, how I am.

Yes. And what else?---Just mainly how I was and how, how's things been and, just mainly about me, like, asking me how I was.

And he discussed with you the investigations being carried out here and the Awabakal Land Council?---I can't recall.

Are you being truthful when you say that?---He might have been speaking about it. I don't know. I can't recall.

30 It's not all that long ago, is it?---A few months ago.

Yes.---I've had two deaths in my family in the last week, so I can't recall.

Yes, yes. You keep saying that but I'm talking about recalling a conversation you had a few months ago with Mr Petroulias. I'm asking you, firstly, was the subject of this investigation discussed or the subject matter? ---It could, it could have been. I don't know. I can't remember.

40 Thinking about it, was it?---It could have been.

And what, if it could have been, was the subject that you discussed? What was said by Mr Petroulias?---I can't remember, I can't recall.

Are you obstructing this Commission?---No.

Are you being evasive?---No.

You're not?---No.

Well, I can't believe you can't remember what the conversation was about when it only took place a few months ago. So, are you prepared to tell this Commission?---I'm going back, I'm going back about three/four months ago.

That's not long ago, is it?---And I, I've had deaths in my family, so I can't recall.

10 And when you've been in Sydney, here for the Commission, are you booked into a motel or a hotel somewhere overnight?---Yes.

And was that the same hotel or motel that Mr Petroulias booked into?  
---Yes, I think so.

And you saw him at the motel?---Yes.

Which hotel was it, or motel?---I can't remember the name.

20 Where was it?---Just around the corner.

And did you come to talk to him?---Yes.

And what did you discuss on that occasion when you saw him at the hotel?  
---Just spoke about how I, how I, how I was and how are things going.

Yes. And about the investigation?---I, I can't remember if we spoke about that.

30 Discussed matters concerning the Awabakal Land Council?---We might have. I can't recall.

Did you?---I don't, I can't recall.

Ms Dates, I'm finding it very hard to accept your evidence is truthful when you say you can't even recall what you discussed with him and whether it related to the subject matter of this investigation. I'm finding it very difficult.---Well, I can't recall because, like I say, I've had two deaths in the last, in the one week.

40

Yes. You keep saying that but I'm trying to tell you, by you saying, "I can't remember," all the time, raises a very large question mark as to whether you are obstructing this Commission in the investigation deliberately to conceal information. That's the impression it could create. I'm telling you so that you can do something about it before it's too late.---That's all right.

Now, what did you discuss with Mr Petroulias when you were staying at the hotel?---I can't, I can't remember. We might have spoke about the Awabakal Land Council, I don't know. I just can't remember, can't recall.

MR CHEN: Who else was at the hotel with you that you've just mentioned to the motel?---Warren Towers.

That's your husband, is it?---Yes.

10 And who else with Mr Petroulias, if anyone?---Just, just himself.

I see. I think you said that you spoke to Mr Petroulias four to five months ago was your evidence. Is that right?---Could have been, yeah, or longer. I don't know.

Have you met with him at all other than when you met him at the hotel?---I could have met, I could have met, I might have met with him at my first hearing, when I've come down for my first hearing.

20 So you think you met with Mr Petroulias earlier in the year, did you?  
---Yeah.

THE COMMISSIONER: Well, you did meet with him before what you call the first hearing, didn't you?---Yes.

Tell us about that. What was discussed?---Oh, he just gave me some documents to give my solicitor.

30 Where did you meet him on that occasion?---At a coffee shop. At a coffee shop.

How did you come to meet him there?---He rang me.

What did he say?---Could we, could we meet up for coffee because he had some paperwork to give my solicitor that might help him.

MR CHEN: What did he provide to you?---A document.

40 Which is what?---A folder.

I'm sorry?---A folder.

Of what?---Just paperwork.

And what sort of paperwork was it? Relating to the Land Council?---Yes.

Relating to the documents that are the subject of this investigation?---I don't know. I never, I gave it to my solicitor.

You never opened the folder?---No.

Not at all?---No.

And what did you say to him when he gave you this folder?---Nothing. He just said give it to your solicitor.

10 What else did he say, Ms Dates? Surely there must have been more to it.  
---No.

I'm sorry?---No. He just gave me the folder and said can you give this to your solicitor and I did.

You don't need to meet in a coffee shop for that, do you? You just meet on the street, hand it over and go.---No, we just met at a coffee shop.

And what, you sat down together, did you?---Yeah.

20 And what else did you discuss?---Nothing else, no.

Just handing over the folder and that's it?---Yeah.

This is a thirty-second sit down conversation, is it?---Probably that, yeah.

THE COMMISSIONER: Did you tell him why you were in Sydney?---I can't recall.

30 How did he know you were in Sydney to meet up with at the coffee shop?  
---I don't know. He rang me.

MR CHEN: What, out of the blue?---No, he just rang me and said, "Are you in Sydney?" and I said yes.

THE COMMISSIONER: And did you tell him why you were in Sydney?  
---I think he already knew.

Did you tell him?---No.

40 How do you know he already knew?---Don't know. He just gave me the, he, I'm just saying he probably already knew because he's the one that wanted to meet up and give me the folder.

Why did he want to give you the folder?---I think he said to help, to help my case.

To help you - - -?---To give it to my solicitor.

I'm sorry?---To help my case and give to my solicitor. So I did.

What case?---I don't know. He must have knew I was going to court.

Which court are you talking about now?---My first hearing.

Are you talking about here or in some - - -?---Yes, here.

10 This is not a court. You mean the Commission?---Commission, yeah. I  
don't know - - -

So he brought documents to give to you so that you could use them to  
prepare yourself for coming here. Is that right?---Yes.

Right.---I told my solicitor about it.

You did?---Yes.

20 But how did he know you were coming here?---I don't know.

You told him?---No, I never.

Well, how did he find out?---I don't know. Don't know how he found out.

And did he discuss how this folder of documents might help you?---No.

Mmm?---No.

30 No?---No. He just gave them to me and I gave them to, we spoke for about  
10, 10 minutes and then we just got up, not even 10 minutes, five minutes  
and we got up and left.

Did you discuss anything about the investigation?---No.

Anything about the Awabakal Land Council?---No. Just the folder, he gave  
me the folder.

40 MR CHEN: Have you met him on any other occasions other than the time  
prior to your first hearing four to five months ago at the same hotel?---No.

Are you sure of that?---Yeah.

Never had any other contact with him?---No. Can't recall.

What about Ms Bakis? Have you met with her at all?---Yeah, I have met  
with Despina.

When have you met Ms Bakis?---I think it was about a couple of months before I went to court and I have to, I called into her office and asked her did she still have the, all the files for the Awabakal Land Council. She said yes. And I said, "I'm going out to the hospital to see my, my nephew, and when I come back is it okay to grab them so I can drop them off at the Land Council?" And she said yes, but I didn't bother about going back and grabbing them.

10 Why would you need to ring her about the files for the Land Council? And why would you need to drop them off if there's an administrator appointed to run it?---Because the administrator wouldn't do the right thing and go and get them. So I was just going to show the administrator that these are (not transcribable) document papers that belong to the Land Council. They need to be taken back there.

So what documents were you after?---No, they were just all personal documents that belong to the Land Council.

20 Such as what?---Despina shouldn't have been, they shouldn't still be at her office and they still are.

Such as what?---Don't know. It's just files. Files on the Awabakal Land Council.

Well, as I understood what you said is you wanted to get from her or grab off her the files that belong to the Land Council.---Yeah, two boxes.

30 But what's in them?---I don't know. But they needed to go back to the Land Council.

So who's asked you to do this?---No-one. I did it myself.

So just out of the blue you've contacted Ms Bakis saying you want to pick up a couple of boxes of folders so you can drop them off presumably to show Mr Lawler, is that right?---To show Terry Lawler. Yeah.

But despite making that contact, you didn't do that.---No, because my nephew got very ill so I didn't go back.

40 So have you actually met with Ms Bakis at all any time during 2017 and '18 or not?---No.

Never gone to her office?---I told you I went there but I don't know what, what, when.

You haven't told anybody you went there?---I said I was going. I went to her office because I haven't got her phone number so I called into her office to say could I pick up the boxes.

And just out of the blue, did you? You didn't ring her beforehand?---No. No, can't remember, but no.

And so you drove all the way down to Sydney to say, "Can I pick up these documents?" and never actually bothered picking them up?---No, because my nephew got very sick.

10 So, what, you got in the car straightaway and drove back, did you?---Yeah.

The same day?---I, I think I stayed down there for the night.

You did?---Not in Sydney. At the hospital. Can't recall.

THE COMMISSIONER: Why didn't you take the boxes back with you?  
---No, I just didn't worry about the boxes.

20 Why didn't you?---Maybe I should have went back over and got them, but I didn't.

You came down to Sydney to get them, didn't you?---Come down to Sydney to see my nephew, so I just didn't worry.

MR CHEN: And is that the only time that you've had contact with Ms Bakis and the only time you've gone to her office?---Yes.

THE COMMISSIONER: Have you spoken to her on the phone this year?  
---No. Haven't got her phone number.

30 MR CHEN: You see, are you, Ms Dates, when you say that Mr Petroulias would present things to you and you'd just sign them, really only trying to help out him rather than the Land Council?---No.

And the only person that you were really serving to move things forward was Mr Petroulias, not the Land Council.---No.

40 Well, you have seen some things here, haven't you, before the Commission, Ms Dates, that must cause you some cause for great concern in terms of documents that apparently have your signature on them and matters of that kind?---Yes.

And I take it you're quite disturbed by some of the things that have emerged during the course of this investigation?---Of course I am.

And you'd be pretty surprised as well about a number of things that have emerged in terms of apparent agreements that have been documented, signed, and matters of that kind?---Yes.

And these are all things that have occurred when you're the chairperson of this board of the Land Council, isn't that right?---Yes.

When you're saying, "I'm only trying to move things forward."---Yep, yes.

THE COMMISSIONER: You know there have been Supreme Court cases brought about this Awabakal land transactions?---No.

You don't know?---No.

10

That the Land Council itself is being sued in the Supreme Court? Do you know that?---No.

You see, all of this is arising out of, or has arisen out of the Awabakal land transactions and you were at the centre of it.---But I knew - - -

You were there signing documents.---I knew the Awabakal Land Council was getting sued, yes, yes.

20

Well, you were right in the thick of this.---Yeah, I know that. I'm the chairperson.

Your name is all over the place.---Yeah. I don't know.

MR CHEN: Well, you've seen quite a few documents with your signatures on them, some of which I take it you contest you signed, but some of them you plainly did, Ms Dates.---But like I told you when you asked me them questions, that I never seen them documents before.

30

Well, Ms Dates, I know that in relation to the trust account disbursements that's what you've said. But let's be clear, Ms Dates, I've put to you in clear terms that the documents on 23 October, 2015 – the heads of agreement, the variation agreement and the surrender and release agreement – were signed by you on that day, and the contracts for sale.---I don't know. I haven't seen them. You've showed them to me but I've never seen them.

I'm suggesting, Ms Dates, that you did see them and you saw them on 23 October, 2015, because you signed them.---I never seen them.

40

THE COMMISSIONER: See, what's being put to you for your consideration is that you were willingly working with and assisting Mr Petroulias in whatever he wanted to achieve about these Awabakal land transactions.---No, I wasn't.

Well, there were proposals put before the board, weren't there, by you seeking the board to pass motions in favour of the proposals, wasn't there, concerning the land transactions?---Yes, I think so.

And was it you who drafted the proposals or did somebody else draft them for you and ask you to put them before the board?---I, I wouldn't know how to draft a proposal.

So, somebody else did draft – you know what I'm talking about?---Yes.

Proposals that were put before the board.---Yeah, I wouldn't have a clue how you - - -

10 With you on the record as the proposer and then the board is recorded as having passed the motion in favour of the proposal. You say you wouldn't have drafted the proposals that were put up before the board about the Awabakal land transactions?---No.

Who did?---I don't know.

Well, you must have known. You were putting it before the board.---I blame Nick, Nick.

20 Well, why do you blame him?---I don't know, because I wouldn't think of anyone else.

Well, is it your belief that he drafted the motion and asked you to put them before the board, these Awabakal land transaction proposals?---I don't know.

Well, how did you get to put them before the board? If you say you didn't do it of your own initiative, was it his? Did he ask you to do it?---I can't remember.

30 Well, why would you put a motion before the board that was not drafted by you, but it was drafted by somebody else?---I don't know who drafted them. I know I didn't.

MR CHEN: Ms Dates, would you have a look, please, at this clipped bundle of contracts and I took you before the break to a number of contracts or contracts for the sale of land in relation to the five lots of land. Do you recall that?---Yep.

40 And I asked you whether your signature appeared on those draft contracts for 14 Vermont Place, Warners Bay, 110 Bayview Street, Warners Bay, 291 and 295 Hillsborough Road, Warners Bay, as well as Lot 3, 79 Clarence Road, Waratah West, did I not?---Yes.

And I asked you to identify your signature, did I not?---Yes.

And you did identify it, didn't you?---Yeah.

And what I've put in front of you are in fact the originals of those documents, are they not?---Yes.

And so it's clear, on each of those contracts for the sale of land for those five lots I've identified appears your original signature, isn't that so?---Yes.

Commissioner, I tender those original contracts for the sale of land.

10 THE COMMISSIONER: Yes. The original contracts for the land, the signature of Ms Dates on them, be admitted, become Exhibit 111.

**#EXH-111 – ORIGINAL SIGNED CONTRACTS INCLUDING COVER NOTE DATED 26 SEPTEMBER 2017**

20 MR CHEN: Commissioner, I should say that they're held together with a bulldog clip and there's a handwritten note on the front of it, which I'll obviously leave as is, which appears to be from Ms Bakis to the solicitor from K&L Gates.

THE COMMISSIONER: Right. Thank you. Mr O'Brien, before we go any further, could you take instructions about that folder of documents that was said to have been handed by the witness to, she said, "her solicitor"?

MR O'BRIEN: Well, I only came into this matter at the beginning of last week, so the solicitor was certainly not me, if that's the query. But, sorry, Commissioner, I'm lost otherwise.

30 THE COMMISSIONER: All right. Well, if you would just take instructions so that we could locate the file?

MR O'BRIEN: Most certainly.

THE COMMISSIONER: Yes. Ms Dates, just on that question, you said that you obtained a folder of documents from Mr Petroulias and gave it to your solicitor, remember that?---Yeah.

40 What was the name of your solicitor?---Matthew Tyson.

Matthew - - ?---Tyson.

Tyson.---Yeah.

And where is his office?---Martin's Place.

Martin Place. Do you know the number?---No.

Do you have his contact details written down somewhere?

MR CHEN: I think he's a barrister, Commissioner. I think he's a barrister.

THE COMMISSIONER: I see.

MR CHEN: I think he's the barrister that formerly appeared for Ms Dates.

THE COMMISSIONER: All right.

10

MR CHEN: If you permit me, I can just ask the witness who I believe the solicitor was.

THE COMMISSIONER: Yes.

MR CHEN: Was the solicitor you're referring to Nicholas Dan?---No.

All right. Anyway. So the folder you think has been given to the barrister, do you?---Yeah, Matthew Tyson.

20

You see, Ms Dates, it is clear, if you accept that these signatures were appended to that document on 23 October, 2015, that in fact what occurred was not, can I suggest to you, any presentation or proposal by Mr Zong and his company but rather a meeting of you, Mr Green, Mr Say, Mr Zong and Mr Petroulias to execute and only execute all of these agreements that I've drawn your attention to, isn't that right?---No.

And there was never, Ms Dates, at all a proposal or meeting to discuss, as you've suggested, by the board of this Land Council what Mr Zong had come to the Land Council to do on 23 October, 2015, isn't that right?---No, he come to a board meeting.

30

Well, Ms Dates, if you assume for the moment or accept for the moment that there's no record at all of a board meeting of the kind that you suggest occurred on that day or indeed around that time by Mr Zong, are you able to offer any explanation as to what you think you were doing on that day?---I was at a board meeting.

Well, just accept for the moment there's some other evidence that's to the contrary of the position that you take. Do you want to take this opportunity now to offer an explanation as to what you think may have been occurring if you're wrong?---No.

40

Because if you are, Ms Dates, wrong then your purpose for attending on 23 October, 2015 would seem to be confined to executing the documents and meeting Mr Zong for that purpose, would it not?---No.

Well, can you think of any other reason, again accepting that there was no board meeting, of what was occurring on that day?---Yeah, there was a board meeting.

Just pardon me for a moment, Ms Dates, Commissioner. I'll just - - -

THE COMMISSIONER: Yes, certainly.

10 MR CHEN: Commissioner, could I have access to Exhibit 50 if it's in the hearing, Exhibit 50 if it's in the hearing room.

THE COMMISSIONER: Yes. Exhibit 50.

MR CHEN: I might proceed on, Commissioner, if that's - - -

THE COMMISSIONER: Yes.

20 MR CHEN: Now, Ms Dates, I think I asked you before the break whether you had any understanding of what the term ratified might mean. Do you remember me asking you those questions?---Yes.

And I think you said that you did not know what that meant.---No.

Is that right?---No.

You're agreeing you didn't know what it meant, the term?---No, I don't know, don't know what it means.

30 And so if somebody is asking you to ratify something you don't know what that means. Is that fair?---You just asked that question. Yeah.

And if the board is proposing to ratify something I take it, again consistent with what you've said, you wouldn't know what in effect you're intending to achieve by ratifying something. Is that right?---Yes.

40 All right. Now, Ms Dates, there is some evidence that on 11 January Mr Green attended a meeting of the board – I'm sorry, 11 January, 2016 that Mr Green attended a meeting of the board and proposed a resolution to ratify the appointment of Knightsbridge North Lawyers. Do you recall anything along those lines, Ms Dates?---Yes.

And do you remember him reading a resolution seeking for that to be achieved?---I can't remember it, but if it happened - - -

And the board resolved, did it not, to do that very thing?---I think so, yes.

Would you like to see the minutes?---Yes.

All right. So just have a look at this if you would. It's volume 10, page 7. So do you recognise that on the screen now as the minutes of the meeting of the board on 11 January, 2016?---Yes.

And you can see that you attended, can you not?---Yeah.

And if you scroll down, please, to the next page you will see there are a number of motions moved under the heading 5 Other Business. Do you see that?---Yeah.

10

And if you look partway down that page at about the middle you can see that Richard Green "read a board resolution that Awabakal Local Aboriginal Land Council formally ratifies the appointment of Knightsbridge North Lawyers to act for Awabakal LALC". Do you see that?---Yeah.

And that's what you remember occurring. Is that right?---Yes.

And is that the extent to which that motion was dealt with by the board on that day?---Yes.

20

Was there any further discussion by either you or Mr Green about why that resolution was necessary?---No.

Was anything tabled before the board so far as you can recall?---No.

Because what you say is consistent with the practice that you had adopted as the chairperson is that if anything is tabled before the board it should be noted in the minutes. Isn't that right?---Yeah.

30

Because that way you get a true and accurate record of what the board has discussed.---Yeah.

You see, after this meeting, Ms Dates, you then signed, did you not, a document, namely a cost disclosure agreement from Knightsbridge North Lawyers. Do you remember that?---No.

If you have a look, please, at Exhibit 42, folder 1, page 1. Sorry, page 162. Just pardon me. So this is Exhibit 43, page 1. Now, do you see in front of you, Ms Dates, a letter dated 28 November, 2014 from Knightsbridge North Lawyers directed to the directors of the Land Council?---Yeah.

40

And you can see there's a heading apparently what it relates to, namely, acquisition, joint venture, et cetera. Do you see that?---Yeah.

And do you see down the bottom on the right-hand side you can see some handwritten notations?---Yeah.

Is that your handwriting?---No.

Do you know whose handwriting it is?---No.

Is that your signature that appears there?---It looks like it but I can't tell.

Do you recall ever signing or initialing a document dated 28 November, 2014 or a cost disclosure agreement by Knightsbridge North Lawyers?  
---No, can't recall.

10 Would you have a look at page 2 and page 3. Does that assist at all in your recollection, Ms Dates, about whether you've seen such a document?---No.

If you have a look, then, please, at page 4 you can see again something described as a cost disclosure statement and client services agreement. Do you see that?---Yeah.

Have you ever seen that before?---No.

20 Have a look, please, if you would at page 12 and you can see that that appears to have been signed by, can I suggest, Mr Green. Do you see that?  
---I don't know his signature.

Just accept for me, Ms Dates, that that is his signature.---But I don't know if it is.

That's why I've asked you to accept it for the moment, Ms Dates. Do you understand?---(No Audible Reply)

30 Just accept for me that's his signature. Did you know he had signed this document?---No.

Did he ever tell you that he had entered into any discussions with Knightsbridge North Lawyers to appoint them?---No.

So is the first time that you've seen this document, what, now when I've shown it to you?---I haven't seen it before.

40 Now, Ms Dates, you would accept, would you not, that it was not for Mr Green to enter into a fee agreement with that firm without board approval, wouldn't you?---Yeah.

That's something that plainly should be discussed by the board, is that right?---Yes.

And the subject of a resolution by the board?---Yes.

And that had never been the subject at any time, the appointment of Knightsbridge North Lawyers, until this resolution on 11 January, 2016, isn't that right?---Yes.

Now, Ms Dates, will you also have a look, please, at another fee agreement, the 27 November, 2015 fee agreement, which is at Exhibit 42, folder 1, page 162. Ms Dates, have you ever seen that letter before?---No.

10 I'll just ask you to have a look at the next page if you would, please. You can see that's also described as a Cost Disclosure Statement and Client Services Agreement, dated 27 November, 2015.---Yeah.

Have you ever seen that before?---No.

And I'll just show you the end of it, if I can, where Mr Green has signed it. I want you to accept for the moment that that's Mr Green's signature, Ms Dates. Do you understand that?---Yeah, but I can't do that because I don't know his signature (not transcribable)

20 I know. That's fine. Just proceed on the basis, if you would, that that's his signature.---No.

He didn't have authority to sign this, did he?---No.

Again, that's something that should have been before the board but was not, correct?---Correct.

30 Now, Ms Dates, I want to just show you another document, which is contained within a folder that has been produced by K&L Gates, and on the side of the blue folder it's got A3, and within it is a copy of the letter of 11 January, 2016. And stapled to it is the deed of acknowledgment and guarantee. Now, I'm going to show you this again, Ms Dates, because the copying seems to be a bit better. Could you just have a look at it, please? Now, do you see the front page of the document called Deed of Acknowledgment and Guarantee?---Yeah.

And can you see in the bottom right-hand corner there's that handwriting that wasn't clear on the version I showed you before?---Yeah.

40 And can you see the handwriting now?---Yeah.

Is that your handwriting?---No.

Do you know whose it is?---No.

Does your signature appear on that page?---No.

Do you know whose signature it is?---No.

Would you have a look. You can see as well, Ms Dates, pages 2, 3, 4 and 5 also contain what appears to be handwriting?---Yeah.

Is any of it yours?---No.

You can see on each of those pages, that is 2 to 5 inclusive, appear to be signatures. Do you see that?---Yeah.

10 Is that your signature on any of those pages?---No.

You're sure of that?---Doesn't look like it, no.

Do you know whose signature it is?---No.

Thank you. Could that be returned?

20 Commissioner, I tender the copy of the letter of 11 January, 2016 from, apparently recorded as being Debbie Dates to Despina Bakis, dated 11 January, 2016, plus all the documents that have been stapled to it, which I will identify, which is the deed of acknowledgement and guarantee, trust account disbursement signed by Mr Zong, Mr Green and somebody else, as well as trust account disbursement material in line with that letter, Commissioner.

THE COMMISSIONER: Yes. The copy of the letter of 11 January 2016 from Ms Debbie Dates to Despina Bakis, together with all attachments, will together become one exhibit, Exhibit 112.

30 MR CHEN: Commissioner, it's been suggested, and I think it was good sense, that perhaps I should tender the whole folder, in fact, rather than simply the documents that I propose, otherwise the file would need to be dismantled. I apologise.

THE COMMISSIONER: All right. Well, the copy of the letter, together with all documents in the folder with that letter will become Exhibit 112.

40 **#EXH-112 – FOLDER OF DOCUMENTS INCLUDING LETTER FROM DEBBIE DATES TO DESPINA BAKIS DATED 11 JANUARY 2016, DEED OF ACKNOWLEDGMENT AND GUARANTEE, AND TRUST ACCOUNT DISBURSEMENT MATERIAL**

MR CHEN: Thank you, Commissioner.

MR LONERGAN: Sorry, Commissioner, can I just ask, is that document or the documents contained therein originals or are they copies of - - -

THE COMMISSIONER: I haven't seen them. What - - -

MR CHEN: The answer to that is they do not appear to be originals. I haven't – the trust account material from Westpac for example, I do not know whether that's an original document or not. But in terms of signatures, if that assists my friend, I don't believe any of the signatures are originals but I'd invite my friend to have a look at it.

10 THE COMMISSIONER: Yes, Mr Lonergan, they're available to be seen.

MR LONERGAN: Thank you, Commissioner.

THE COMMISSIONER: That's all right. Thank you.

MR CHEN: Now, Ms Dates, you would accept of course that those two fee agreements that I've just drawn your attention to, the one dated November 2014 and November 2015, have never been before the board at any stage, isn't that right?---What, what were they? What I just looked at?

20

The two costs agreements that I drew your attention to. Would you like to see them again?---Yeah.

So, I'll show you the 2014 one first. Now, so in front of you, Ms Dates, is the letter of 28 November 2014 and the cost disclosure agreement of the same date.---Yep.

30

And you accept, don't you, that that document has never been put before the board of the Land Council at any stage, at least so far as you know?---Can you go back to the front of it? I, I think (not transcribable) I can't recall.

Well you can see within it, for example, on the covering letter, it refers to costs of, or potential costs of \$80,000 plus GST plus disbursements on a monthly basis. Do you see that?---What's that mean?

Well, it just means that potentially, in line with what's been disclosed, that the fees may well be \$80,000 per month plus other expenses plus GST.---I don't know. I could have been.

40

I'm just asking whether you see it at the moment.---I don't, I don't, I don't know. I can't recall it, I don't remember seeing that letter.

Well, let's have a look at the later one, Ms Dates, the one of 27 November, 2015. Do you see that now, Ms Dates?---Yeah.

And we'll show you the next page, which shows you the cost disclosure statement. Again, I think you said you'd never seen this before.---Yeah.

And so the proposition I put to you, Ms Dates, was that these two documents that you'd never seen before have never been put before the board of the Land Council at any time. Do you agree?---Yeah, agree.

Now, do you remember, Ms Dates, that there was a meeting in March of 2016 when one of the issues raised was whether or not there should be a general ratification resolution?---Can't recall. If it's in the board minutes - -  
-

10 I'm sorry, I didn't hear that.---I said if it's in a board meeting.

Well, I'll take you to the minutes. It's volume 10, page 100. Do you recognise those as the minutes of the board of the Land Council, dated 8 March, 2016?---Yeah.

And if you go to the next page, which is page 100 of volume 10, you can see, can't you, that there's a number of resolutions by the board beside point 6.---Yeah.

20 And you can see the third one was dealing with ratification and regularisation of decisions of the board. Do you see that?---Yeah.

And do you recall that motion being proposed?---I couldn't remember. Can't remember that far back.

Well, do you remember there being any concern about issues that have been raised by Mr Kenney that required the board to effect a resolution to ratify and regularise decisions that had been made in the past?---Can't remember.

30 Do you recall in fact receiving the draft of these resolutions from Knightsbridge North Lawyers before this meeting?---No.

Would you have a look, Ms Dates, at Exhibit 54, page 1. I apologise. It's volume 54. Now, do you see down the bottom there's an email that's directed perhaps not to your email address but certainly it's directed to Ms Steadman, yourself and Mr Green, apparently sent from Knightsbridge North Lawyers on 1 March, 2016?---Yeah.

40 Do you remember this communication at all, Ms Dates?---Yes.

And you recall, don't you, that you had some discussions with Mr Green about the proposed draft resolutions, did you not?---Can't recall.

Well, just have a look initially at page 3, if you would, and you can see the proposed resolutions and I really want to draw your attention to number 3. Do you see that?---I can see it. I can't read it.

Well, do you recall having some discussions with Mr Green about these or not?---Yes. Yes.

And what did you discuss with him about this resolution, Ms Dates?---I can't recall.

10 All right. Well, just have a look at page 4, if you would, of volume 54 and you can see there that it's referring to you and Richard wanting to trim down the resolutions or a resolution. Do you see that?---That should be, if that's like that it should be in a board meeting.

Well, we'll get to that but does this assist you in recalling what you were discussing with Mr Green or not?---No.

All right. Well, if you have a look then at page 5 you can see that this appears to cover and deal with the concerns that you and Richard had. Do you see that revised resolution?---I can't remember but - - -

20 Do you know what this resolution is designed to achieve, Ms Dates, at all? ---Is that at a board meeting?

Well, that resolution was passed. I'll show you again if you like. So it's volume 10, page 100. Actually page 101, please. Do you know what that's trying to achieve, Ms Dates?---No.

30 Was it commonplace for you as the chairperson to liaise with Ms Bakis and/or Mr Petroulias about what resolutions should or should not be put before the board?---It might be with Ms Bakis, Despina, because she was our solicitor.

Well, was it a regular occurrence for you to speak with her or not about proposed resolutions that would be put before the board?---I can't recall.

Is this of your initiation, Ms Dates, or not?---What's that, what does that mean?

Were you the person behind why this resolution came about or not?---I can see the investigator's name there, Kelvin Kenney.

40 I'm just asking you - - -?---But that, that would be at a board level so, no, it's not me. It'd be the board.

But do you know what ultimately this is designed to achieve or what it's trying to cure?---No.

You don't know anything about it?---No.

So if you're supporting such a resolution being passed, you're not able to say for what purpose you're supporting it. Is that the point?---What do you mean?

Well, if you don't know what it's designed to do, that surely wouldn't be a way for you as a chairperson to resolve to support, would it?---No.

10 And having read it now, are you able to explain what you mean or what the resolution means in terms of board ratifying and regularising decisions?---I know, I can't, it's got something to do with Kelvin Kenney, the investigator.

Now, thank you, Ms Dates. Do you know whether some of the board members, in particular Mr Larry Slee, may have objected to this resolution being passed?---Larry Slee had a big problem with me because Steven Slee was his son. So, every time something was said, he had a problem with it.

So, consistent with that, you think he would have opposed this, would you? ---I don't know.

20 Do you know whether, or what the letter of 20 January, 2016 dealt with?---It might have been – no, I don't. It might have been for Despina to reply back to Kelvin Kenney, the investigator, I don't know.

Anyway, you don't know, is that the position?---Yeah.

Now, Ms Dates, did you know that there were some proposed agreements with an entity called Solstice that had been circulated in November of 2015?---Didn't we already speak about them or are we going back to them?

30 It's coming back to them to a point, Ms Dates, but - - -?---So what was that question?

The question was, did you know in November of 2015 that there was draft agreements circulated with an entity called Solstice?---No.

Has you ever seen any documents purporting to record draft terms of agreements involving the Land Council and that entity?---Entity with who?

40 Solstice.---No.

Have you ever heard of that name?---Did they do a proposal at the Land Council? Because we had a few developers.

Well, I don't believe they did, Ms Dates, but - - -?---I think they did.

You think they did, do you?---Should be in the minutes. Yeah. There was a few. There was, like I said, there was about seven to seven to eight/nine developers that come through. So, that said, it probably did.

Anyway, it'll be in the minutes, will it, if they did a presentation?---Yeah.

All right. And if it's not, you'd accept your recollection is wrong?---Yep.

Now, have a look if you would please at - - -?---But I've heard the name.

- - - volume 8, page 22, and you can see there, a document that's described as a Heads of Agreement, can you?---Yep.

10

And if you turn and look at page 23, you can see, can you not, that it involves three entities, Solstice, the Land Council and the company Gows Heat? Do you see that?---Yep.

And if you look at volume 8, page 28, it appears to be signed by you and Mr Green. Do you see that?---Yep.

Do you remember signing that at all, Ms Dates?---No.

20

Do you know anything about Solstice or any proposed draft agreement with them?---No.

Did anybody ever take instructions from you to enable a document such as this to be prepared?---No.

Do you know anything about, at all, the preparation of this document, Ms Dates?---No.

30

Did Mr Green ever raise with you that he was involved, say, with giving instructions to have this document prepared?---No.

But certainly this document had never been put before the board of the Land Council, had it?---I don't know. You'd have to go through the – if Sultan [sic] went through the board, I don't, I can't remember.

40

Well, I'm going to suggest to you there's no record at all – at this time or at any time – of Solstice presenting a proposal to the board, Ms Dates. So accepting that fact if you would for the moment, this agreement's never been before the board, has it?---I'm not going to answer that because acting CEO threw away a hell of a lot of paperwork out of that Land Council and we don't know what she threw away.

Well, we'll come to that, Ms Dates, but let's just focus on your evidence. You say you haven't signed it, correct? Is that right or not?---Yeah. My signature is there.

Right. Well, you don't believe you've signed this document, do you?---No.

So on that footing, Ms Dates, you're not going to take a copy of that away with you and put it in the Land Council records, are you?---No.

And so far as you know, this document's never been before the board of the Land Council, isn't that right?---I don't know. I don't know. Because - - -

Well, you're the chairperson, Ms Dates. Surely you've got some inkling as to whether or not this document that you say - - -?---But I'm saying - - -

10 Please. That you've not signed has been before the board or not.---But I'm saying Sultan [sic] might have went through.

I'm asking you about this document. You understand?---Yes.

All right. My question to you is, this document has never been before the board.---I don't know because, like I say, I remember the name going through and doing a presentation to the board, so I can't answer that.

20 And you're not suggesting that somehow you held a copy of this document, are you, Ms Dates?---No.

And nobody's spoken to you about Solstice at all, have they?---I can recall the name.

But what about documenting an agreement?---No, not document agreement but I remember the name at a board, board level.

30 Can I suggest to you that the only time that that name came before the board at a board level, or the first time, was on 8 April, 2016?---I don't know what date.

Well, I'll show you in a moment, Ms Dates, but are you contending for a different date or not?---No, you've got the, you've got the dates. I don't know. I've got the right name but, yeah.

40 So at least on your evidence, Ms Dates, you can't provide any reason why this document would be before the board of the, sorry, in the records of the Land Council at all, can you? Because you say you've never signed it and don't know anything of it.---I can't say that because I know I've heard the name Sultan [sic] and I can recall they come to the board and done their proposal.

So you think it's called "Sultan" do you?---Well, the name that you - I can't pronounce names very well.

Right. And who was the person that came to the Land Council, Ms Dates, from this entity?---Can't remember. Can't remember.

Well, was it a man or a lady or was there one or more people?---A couple.

All right. Well - - -?---If I, if I, if it get it, if I think it's the right people. It could have been Chinese, I don't know.

All right.---Don't know.

10 So there's two Chinese people. Is that who you think they are?---I, I, I'm, I'm not saying. I'm just saying could be, could have been. I can't remember. But I know there was two to three people that come for a presentation in that name.

And you're unable to say what the date of this presentation was. Is that your evidence?---Yeah, it should be in the minutes, yeah.

Well, can I suggest to you that you're simply wrong, Ms Dates, and there was no such presentation by them? What do you say to that?---I say that's wrong. There was, there was - - -

20 I say that your recollection and your evidence is wrong.---No, there was a presentation done by that company.

Now, Ms Dates, were you aware that other agreements involving Solstice, revised proposed agreements had been circulated in early April of 2016? ---No.

30 Would you have a look, please, at volume 10, page 138. Do you see there's a document called the Collaboration Agreement for an Unincorporated Venture?---Yeah.

Have you ever seen that before?---No.

Would you have a look, please, at volume 10, page 160 and you can see a document described as a Surrender Agreement and Release between Gows Heat and Solstice. Do you see that?---Yeah.

Have you ever seen that before?---No.

40 In relation to these two documents I've just shown you, did you give instructions for anybody to prepare them?---No.

Are you sure of that?---Yes.

Would you have a look, please, at volume 10, page 162. Do you see there's a document called the Deed of Rescission and Acknowledgement?---Yes.

Have you ever seen that document before?---No.

Did you give any instructions for it to be prepared?---No.

Do you know anybody that did?---No.

Would you have a look, please, at volume 10, page 165. Do you see there is a document called the Call Option Agreement?---Yeah.

Have you ever seen that agreement before?---No.

10 Did you give instructions for it to be prepared?---No.

Do you know who did?---No.

Do you know who gave instructions for the collaboration agreement to be prepared?---No.

What about the surrender agreement and release?---What's that?

20 Well, that was the other document I drew your attention to. I'll show you again if you like.---Yeah.

Volume 10, page 160. Do you know who gave instructions for that to be prepared?---No.

And just, Ms Dates, having a look again at the call option agreement, in particular at page 172 and following. Do you know who gave instructions to identify the properties that were the subject of this proposed agreement?  
---No.

30 As at this date, Ms Dates, there had been no resolution of the board at all for this kind of discussion to take place between it and Solstice. Isn't that right?---I'm not going to answer that because they done a proposal to the board.

Would you have a look, please, at volume 10, page 246. Have you ever seen that document before, the project management agreement, Ms Dates?  
---No.

40 Did you give instructions for it to be prepared?---No.

Do you know who did?---No.

Now, Ms Dates, on 8 April, 2016 the board of the Land Council met to discuss, did it not, a number of matters including land proposals. Isn't that right?---Can you say that again.

On 8 April the board of the Land Council met to discuss a number of matters including land proposals. Isn't that right?---Have you got the minutes there?

I'm just asking you - - -?---I don't know. If you have the minutes there. I don't know.

10 All right. Do you have a recollection of attending a meeting, Ms Dates, when the board met to approve Solstice, for example, as a party with whom the Land Council would endeavour to enter into a land transaction?---No, I don't. I, I do know the name because they come and done a presentation but I couldn't tell you what date.

Have a look, if you would, at volume 11, page 312. And do you recognise those as the minutes of the board of the Land Council of 8 April, 2016?  
---Yeah.

And you can see you've attended as the chair.---Yeah.

20 And you can see under point 2 that Nick Pearson and Ms Bakis, recorded as both from Knightsbridge North Lawyers, attended. Do you see that?  
---Yeah.

Who invited them to attend?---I can't recall.

Was it you?---No.

30 What's the practice, if any, that the Land Council board had in relation to who could invite people to attend board meetings?---They're put on, on, on the agenda, I think.

But who was in power to do it? Was it only you? Was it only the deputy chair? Or could any board member do it?---Any board member. The CEO.

Well, was it Mr Green who suggested that they attend, do you know?  
---Could have been.

40 Well, could they have just turned up unannounced and - - -?---No, you can't, they can't do that.

Well, could you try and narrow it down as to who it might be?---Oh, Richard Green.

So I want to ask you some questions, Ms Dates, about the minutes of that day. In particular, point 5, which is at page 314. Now, before you read it, Ms Dates, I want to ask you these questions. Do you remember what was discussed on that day in relation to these land proposals?---No.

You don't have any recollection at all?---None.

Completely blank, are you?---Yeah.

Can't assist at all, in any way, about what was discussed?---No, not right now.

10 Well, have a read of some of it, at least the first bit. You can see it's, according to record, that the board on 14 November, 2014 had resolved unanimously to sell most, if not all, of the land to IBU, et cetera, and its consortium partners such as Gows. Do you see that?---Yes.

Well, I just want to ask you some questions about that. The board at no stage in 2014 had ever resolved to sell most, if not all, of its land, isn't that right?---I don't know.

20 Well, you know because I've shown you the Gows Heat agreement, assuming it's a legitimate one, and I've shown you the minutes of the meeting on 31 October, 2014, and it's clear that the board only discussed five lots of land, isn't that right?---Yeah.

And how many lots of land did the Land Council own? Was it only five or was it more?---It's a lot more, a lot more.

The board did not at any stage, Ms Dates, resolve unanimously to sell most, if not all, of its land, isn't that right?---I don't know. The minutes, it's all carried here, so that's, that's the board meeting.

30 THE COMMISSIONER: As a chairperson of the board, if there's one thing you would remember it would be something as dramatic as this. You know, the board resolved unanimously to sell most, if not all, of its land. You'd certainly remember that, wouldn't you? That's a pretty dramatic thing, isn't it?---Yes.

Do you remember it ever happening?---No, I don't.

MR CHEN: It didn't happen, Ms Dates, did it?---What didn't happen?

40 The board, under your chairpersonship, did not resolve to unanimously sell most, if not all, of its land.---It's there in the minutes. I don't know.

Well, okay, Ms Dates, let me take you back - - -?---It's moved, moved by two different persons, so I don't know.

THE COMMISSIONER: Well, the minutes are obviously wrong, aren't they?---I don't know. I can't say that.

Well, you were chairperson.---I signed off on it.

You're a chairperson.---Where's the rest of it?

You're a chairperson of this board. Do you say it's possible that the board met at some stage, namely on 14 November, '14, and resolved unanimously to sell most, if not all, of its land? Do you think that ever happened?---I don't know. It's moved by two board of directors.

10 You don't know? Is that what you're saying?---But I'm saying that's, that's a copy of the Land Council members' board meeting. But I can't read - - -

Did you care what this board did? You couldn't care less, could you?---I was the last one standing when they all walked away from me. No one wanted to help me.

It doesn't sound as though you did anything to protect the board.---Of course I did.

20 You were helping the developers, the white, the non-Indigenous people, weren't you?---Well, the Land Council had to move forward.

Well, it does seem - - -?---It had to move forward.

- - - on one view of it. I'm not - - -?---We, we were going nowhere, the community's still going nowhere.

Still going nowhere.---Still sitting the same.

30 But we're just asking about this here.---Talking about my community.

That could be right, that statement, could it? The one you see there on 14 November 2014, "The board of the Awabakal Aboriginal Land Council had resolved unanimously to sell most, if not all, of the land." That couldn't have happened, could it, and didn't?---I, I can't remember.

That's an incorrect statement, isn't it?---I can't remember. That's, that's the minutes.

40 But you know from your knowledge as chairperson at the very time, 14 November 2014, that that never happened. You know that, don't you?---I can't recall.

You're joking, aren't you?---No, I'm not joking.

If the board had resolved to sell most, if not all, of the land, that's something you'd remember, wouldn't you, as a very diligent chairperson? You'd remember that, wouldn't you? If anything, that's what you would remember.---That's going back 2014. I, I couldn't remember it.

You know that the board never resolved that, don't you?---I don't know.

You are obfuscating, aren't you?---No.

That means you are evading the truth, aren't you?---No, I'm not. No, I'm not.

10 You are deliberately just sitting there - - -?---If that's in a - - -

- - - saying you can't remember.---If that's in an Awabakal Land Council board of directors meeting, that must have happened because it's signed, second and carried out by two board of directors.

MR CHEN: Well, Ms Dates - - -

THE COMMISSIONER: Just a moment. Yes, Mr O'Brien.

20 MR O'BRIEN: Sorry, can I just take a point of order. It seems to be the case that Ms Dates is reading the date and then reviewing the minutes and suggesting that this was moved or accepted at the meeting in 2015. I'm not sure if - - -

MR CHEN: It's '16.

MR O'BRIEN: Yes, '16. Sorry.

THE COMMISSIONER: '16, yes.

30 MR O'BRIEN: It appears to be a possibility at least that the witness is seeing this as being accepted at the meeting where it's been dealt with, rather than at a meeting prior, two years earlier.

THE COMMISSIONER: But the plain wording of it suggests the contrary, doesn't it? I mean - - -

MR O'BRIEN: I accept that but the questioning seems to be at odds, given the answers that are given.

40 THE COMMISSIONER: Well, Mr O'Brien, I'm rather concerned, I must have to say, at some of the evidence your client is giving. I'm not saying I'm making any judgement about it but she does not seem to be wanting to help the Commission in its investigation in many respects.

MR O'BRIEN: I'm just raising fairness to it, because when it's asked whether this was ever, ever did happen, she says, "I can't recall," and then she refers you back to the document itself and says it was moved and it's in the minutes, therefore it did occur. And I suspect that that may well be lost

in translation in the questions and answers because it's there in front of her as having happened but the minutes themselves are two years after the event.

THE COMMISSIONER: It would be surprising if she can't see the point, I must say. I mean, whether she understands it's recording a decision made in '14 or '16, it's obvious to her that the board never, at any time, at any date had made that resolution, isn't it? I mean, absolutely plain as – if anything's plain in this case, it's that.

10

MR O'BRIEN: That is so, and the answer to the questioning originally was, "I can't recall it ever happening," and then the second response is, "Well, it says it in those minutes," and those minutes are two years after the event, not on that date.

THE COMMISSIONER: Okay.

20

MR CHEN: Well, Ms Dates, I'll approach this in a different way because what I'm going to suggest to you at the end of this is that this summary that's contained in these minutes was in fact prepared by either Mr Petroulias or Ms Bakis or both of them. Do you understand that?---Yeah.

30

So, I want to take you back and show you what Nicole Steadman took as her draft of the meeting and then I'll take you back to this and you can see whether you can deal with it in that way. So, would you have a look, please, Ms Dates, at volume 54, page 31. I'm sorry, it's Exhibit 106, I'm told, 31. Now, I want you to just assume that these are actually the draft minutes that Nicole Steadman has prepared from her handwritten notes. Would you do that for me, please, Ms Dates?---Yeah.

40

And if you have a look at it and you go to point 4 you can see that it's quite different to what is actually contained in the minutes that I drew your attention to a moment ago as point 5. Do you see that?---Yeah.

There's no reference at all to the Land Council approving the sale of all or most, if not all, of its land in 2014. Do you see that?---No.

So please read them and see whether that assists you as being perhaps at least under point 4 a more accurate version of what you might consider occurred at this meeting.---Did you just show me these minutes?

No. What I showed you was a later version of those minutes which had been revised either by Ms Bakis and/or Mr Petroulias. This is the version that Nicole Steadman, the minute taker, took.---I can't recall. Can't recall that. If that happened in a board meeting it happened but I can't recall it.

I see. Is it you can't assist at all in what's gone on in this very important meeting of the board when its considering a number of proposals put before

it? Is that really the position, Ms Dates?---But you're showing me minutes of meetings so if it did, if this happened it happened.

No. Well, Ms Dates, just so it's clear, Ms Steadman was, at least at this meeting, the minute taker.---Yeah.

10 And she has taken down a record in hand of what she believed occurred during the course of that meeting and she then arranged for it or herself typed up these minutes. Do you understand the sequence so far, Ms Dates?  
---Yeah.

And if you look, please, and we'll show you this, page 30 of Exhibit 106. She has then emailed these to Knightsbridge North Lawyers. Do you see that?---Yeah.

20 And what has come back from Knightsbridge North Lawyers under the hand of either Mr Petroulias and/or Ms Bakis is this revised set of minutes. Do you understand where we're at now?---Yeah, but I know nothing about that. I don't know anything about that.

When you say that, what are you talking about?---These emails to, from Nicky to Knightsbridge.

I'm not suggesting you, I'm not suggesting that but I'm simply showing you that there are conflicting versions of what has happened in these documents.---I don't know.

30 Well, if we come back to what apparently are the records of the minutes of this Land Council of this meeting which is volume 11, page 312 and under point 5. Are you saying, Ms Dates, that you are unable to say at all whether the board had resolved during the time that you were the chairperson whether to sell most, if not all, of its land?---See you're showing me minutes of the Land Council meeting and you've showed me the same one, you've showed me this one and another one from the same person that moved it and the same person that seconded it.

40 I don't understand what your response is to that question.---My response is you've shown me two different, you've shown me the Awabakal Land Council minutes of a board meeting, you've shown me moved by Micky Walsh, seconded by Lenny Quinlan, but you've showed me two different things. You just showed me a different one then and this is totally different again but it looks like it's a Awabakal Land Council board meeting.

THE COMMISSIONER: I think we'll – you're not going to get anywhere with this witness on this topic. She's obviously not going to, for whatever reason, assist.

MR CHEN: Well, Ms Dates, you do know, of course - - -

THE COMMISSIONER: Yes.

MR O'BRIEN: Sorry. I think the answer demonstrates, with respect, Commissioner, the inability to comprehend the line of questioning. There has been an inconsistency between two sets of board meetings from the same date shown to her.

10 THE COMMISSIONER: I understand the point you make, Mr O'Brien. I'm prepared to concede that it's one possibility (not transcribable) and I think we'll leave it at that otherwise we just, for whatever reason, don't seem to be getting anywhere with your client on this issue. I think we'll move on to other areas.

MR CHEN: Well, I think I put adequately the proposition.

THE COMMISSIONER: Yes, you have. You have. And I can't understand why the witness just can't comprehend what you're saying.

20 THE WITNESS: I can remember the first one, if you go back to that first one that – not this one, the last one.

MR CHEN: You mean the draft that Nicole Steadman prepared?---Yes. I can remember that one, a thing about, a little bit about that one.

Right. What do you mean by that, Ms Dates?---But I can't remember the other one. The other one makes no sense.

30 I see.---You're showing me two different, you're showing me two same board of directors meetings moved by the same people and seconded by the same person, but you're showing me in a different way. But this one here that I'm looking at now in front of me looks perfect.

Looks perfect?---Yes.

Right. And by that do you mean that accords with your recollection?---Yes.

I see. And that's the version that Nicole Steadman took?---Yes.

40 All right.---So you were showing me different stuff and just made no sense to me.

So what you are saying, then, to be clear, is that there was no discussion, to the best of your recollection, at all during the course of this meeting about the board having made a resolution to sell most, if not all, of its land, correct?---Correct.

And also there was no discussion at all, was there, about selling most if not all of the land to a company, sorry, to a consortium partner described in the minutes as Gows, isn't that right?---Yes.

All right. Now - - -

THE COMMISSIONER: Mr Chen, that other board minute which records that there was a decision made on 14 November, that is, that it had resolved unanimously to sell most, if not all, of the land is plainly false.

10

MR CHEN: I think that's so, Commissioner. That's the evidence of - - -

THE COMMISSIONER: And whoever wrote that to form part of the formal minutes of the board of the Awabakal Local Land Council could be criminally liable for creating a fraudulent instrument, it seems to me, directed to misleading the directors of the board as to what the position was in terms of the previous resolution. And if that's what in fact has occurred, it is a very, very serious offence, given that it would impact upon – potentially, at least – the way in which Aboriginal land held by this Land Council could be dealt with.

20

MR CHEN: Yes, Commissioner.

THE COMMISSIONER: Anyway, that will be the subject of interest as this investigation goes on and we'll need to return to that, I think, to nail it.

MR CHEN: Yes, Commissioner. Now, Ms Dates, if you just follow this document, volume 11, page 314, you'll see that there's a reference to a company called Able Consulting Pty Ltd. Do you see that?---Yeah.

30

Do you know who that company is?---No.

Did you request that that company, Able Consulting, prepare a summary of the proposals, et cetera, to be put before the board?---No.

Do you recall whether in fact a report from Able Consulting was ever put before the board?---No.

40 You don't believe it was?---I don't think so. You'd have to go and look in another board meeting. But, no. Don't know the name.

Well, I'll just show you, if I can, volume 11, page 323. And you'll see that there's a report from that company that's addressed to you. Do you see that?---Yeah.

Have you ever seen that before?---No.

Did you ever retain Able Consulting to provide advice to the board in connection with property acquisition proposals?---No.

Did you ever request somebody to do it?---I can't recall it. You'd have to go back to the board meetings.

Well, we're at the board meetings now, Ms Dates.---No, well, I, I haven't got my copies in front of me. I don't know something. I don't know the name.

10

Do you know anybody that has arranged or did you ask somebody to arrange for this?---No.

Do you know who's behind this company at all?---No.

I'll just ask you to come back to the minutes again, Ms Dates, and you'll see at volume 11, page 314, there was apparently some discussion about the various proposals, and it's referred to that the Sunshine Group agreements were discussed. Do you see that, Ms Dates?---Yeah, I can't recall. I can't recall these minutes. I don't recognise these minutes so I don't want to speak about them, because I can't recognise these minutes. The last, the other one you showed me, I can, but not this one, I can't. So I can't answer anything to this.

20

All right. Well, to the best of your recollection, was there any discussion about Sunshine Group at all? We can take these off the screen if they're distracting you.---You've got to go back to the proper board - - -

30

All right. Well - - -?---That's not the - - -

I'm sorry, what did you say? They're not - - -?---They're the last ones you showed me and I got mixed up on. Take me back to, yeah, that one.

So, it's Exhibit – well, you can see the Sunshine group's referred to there as well.---Yep.

What was discussed about Sunshine Group?---I can't remember. It should be there in the minutes.

40

Well, you've got then in front of you.---Yeah, well - - -

Well, to help you in a way, Mr Walsh has given evidence that he never moved to reject Sunshine at all. Do you know anything about who might have done that?---No.

Was it you?---No.

Do you know anything, or did you know anything as at 8 April 2016, about what their proposal was and what it involved?---I can't remember.

But that's the very entity that you were signing documents with in October of 2015, Ms Dates.---Yeah, I can't recall.

This is Mr Zong, or as you described him Mr Wong's company.---I can't recall. I can't remember.

10 Well, did Ms Bakis talk at this meeting?---The meeting that we're looking at on the screen?

Yes.---She didn't speak at many of our meetings. Only when, when she was  
- - -

What about – I'm sorry, you keep going.---Only when she was asked to speak, she spoke.

20 Well, what about Mr Petroulias? Did he speak at this meeting?---I can't recall. He might have, yeah.

Well, you can see even on these, see, "Nick presented to the board, a summary of all proposals," so we can probably move along that that's likely to have been the case, Ms Dates?---Yeah, probably was.

And there seemed to be discussions involving Nick throughout, is that right?---Yep.

30 Was there anybody from the Land Council that was speaking at this, do you recall?---Oh, there was – what do you mean Land Council?

Well, any of the board members.---Well, Lenny Quinlan. He had a lot to say. Micky Walsh, he was talking.

But they're asking questions of Nick, aren't they? They're not presenting the proposals, are they?---No. They were asking questions, but, like - - -

40 Well, did Mr Petroulias disclose that Sunshine had been involved in this transaction as at 23 October, 2015, and that contracts had been signed by the Land Council, his firm and Mr Zong?---No.

Did you disclose it?---I didn't know of it.

Well, what about Mr Green? Did he disclose it?---No. It, it should have been on the minutes here, if we did.

Did Mr Petroulias disclose that by this time his company had managed to secure over a million dollars from that transaction?---No. So, is this the last, is this the last meeting in 2016?

No, it's 8 April 2016.---April, right.

And did Mr Petroulias disclose that if in fact this company was to be approved, Solstice, that his company could secure approximately \$1.2 million if the transaction went ahead?---No.

10

Are you sure about that?---Yes.

I take it these kind of matters would all be matters that you as a responsible and diligent board member would want to know before you decided whether or not - - ?---Yes.

- - - approve one party or not. Correct?---Yes.

Did Ms Bakis disclose any of these matters?---No.

20

Are you sure of that?---Yes.

Did Ms Bakis disclose that she was still dealing with Sunshine during the course of 2016?---No.

Did Mr Petroulias?---No.

Did Mr Green?---No.

30 Did Ms Bakis disclose that there had already been some agreements prepared involving Solstice and there had been some negotiations?---No.

What about Mr Petroulias, did he disclose that matter?---No.

Again these are all matters that you would want to know about presumably before you considered what to do in relation to any of these proposals that are before the board. Isn't that right?---Of course I would.

40 And it would be important, would it not, for all board members to be properly informed about these matters?---Yes.

Do you agree?---Yes.

And the matters that haven't been disclosed I take it you accept are matters of considerable importance for disclosure?---Yes.

And did you tell any of the – I withdraw that. Did Mr Green disclose to the board at any stage that he had signed any agreements involving Sunshine?---No.

Did Mr Green disclose that he signed or potentially signed agreements involving Solstice?---No.

Commissioner, I notice the time. It's probably a convenient time as any.

10 THE COMMISSIONER: Very well. Ms Dates, we haven't finished your evidence but the Commission is going to adjourn and won't resume now until 17 September.---Yeah.

And you will be required on the day so you'll just have to bear that in mind and make sure that you're here - - -?---Yeah, I will.

- - - ready to start to at 10 o'clock. All right. You may step down. Thank you.---Okay. Thank you.

20

**THE WITNESS STOOD DOWN**

**[3.59pm]**

THE COMMISSIONER: Anything else?

MR CHEN: Not for my part, Commissioner. Thank you.

THE COMMISSIONER: Yes, Mr O'Brien.

30 MR O'BRIEN: Commissioner, there was a request made of me to take some instructions in relation to a folder that was referred to as having been passed from Mr Petroulias to Ms Dates.

THE COMMISSIONER: Yes.

40 MR O'BRIEN: I just want to clarify my position in relation to that. It was later, after I undertook to take those instructions, it was later clarified as to who that folder was provided to that being Mr Tyson apparently. I obviously have taken the material that was provided to Mr Tyson as I understand it but I didn't receive a folder. In any event, it strikes me that that might be something that the Commission can now follow up, and as well as that I foreshadow the possibility, unless it's waived, that there be some privilege associated with such materials. I'm not confident about that to suggest it so glaringly but there may be some.

THE COMMISSIONER: Yes, all right. Well, Mr O'Brien, I think we will have the Commission officers follow it up and if they need to raise any

matter with you that will be done. So for the moment I think you need not take any steps to that end unless and until informed by the Commission.

MR O'BRIEN: Thank you, Commissioner.

THE COMMISSIONER: Thank you. I'll adjourn.

**AT 4.01PM THE MATTER WAS ADJOURNED ACCORDINGLY**

10

**[4.01pm]**