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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 TUESDAY 18 SEPTEMBER, 2018

AT 2.00PM

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THE COMMISSIONER: Yes, Mr Ramrakha.

MR RAMRAKHA: Commissioner, I only have a few further questions. Ms Towers, just before the break I was asking you questions about the clean-up. I just want to take your mind back to the day of the clean-up. I know you don't remember what day it was in the week, but I just want you to take your mind back to the day of the clean-up. You got there in the morning, correct, to the Land Council?---I would have for sure, yeah.

And the bin was there from the day before, correct?---I'm not sure.

Could it have been there from the day before or you just don't remember? ---Don't remember.

And do you recall that Ms Anna arrived at about 9.30 in the morning? ---Can't, can't recall.

20

Do you accept that she did arrive at about that time?---Yeah.

And that when she arrived the bin was full at that stage?---I can't recall.

Could it have been full?---I can't say.

And that she was only there then for about half an hour before she left. Do you recall that?---No.

30 You're not, you're not denying it, are you, or you just don't recall?---Can't recall.

And just in terms of the other people who were there, Mr Richard Green, he was present, correct?---Do you mean when the bin arrived or when?

Well, that day.---That day, what day?

When the clean-up was occurring.---It, it occurred over a week.

40 Well, didn't you have the bin for about three days?---Could have been longer.

Could have been longer or is that, is that, is that - - -?---I can't recall, but it was longer than one day and two days so could be three, four, five.

Well, can I suggest to you that the bin arrived on the Thursday and the clean-up occurred on the Friday and the bin was taken away on the Monday?---Sophie worked all weekend.

THE COMMISSIONER: No, but that's not the question.---I don't, I don't recall the days. I don't know the days.

MR RAMRAKHA: And you don't recall the days.---No.

And you don't recall Ms Anna leaving after arriving at 9.30, so she came at 9.30 and she left after about 30 minutes. Do you remember that?---No.

10 And so you don't remember her coming back then after at about lunchtime?  
---No.

And by that stage, by lunchtime the bin was well and truly full. Do you remember that?---I don't know when it got full, I don't know, like.

Well, you were there that day, weren't you?---Yeah. It didn't get full in one day like, yeah.

20 Well, you also gave some evidence, you agreed that some folders had been  
moved into the boardroom. Correct?---Yes.

And they were lever-arch folders. They're those folders with a lever arch.  
Correct?---Which folders?

Well, the folders that you saw in the boardroom.---There was plenty of  
folders.

30 And there's quite a bit of material in terms of documentation in the  
boardroom. Correct?---There's always folders been in the boardroom.

But you agreed that folders were being taken to the boardroom during the  
clean-up.---Yeah.

Correct?---Yeah. I said that, yeah.

And there were a lot of folders being taken into the boardroom. Correct?  
---Yeah.

40 And you will recall that in the weeks after Ms Anna made a request of you  
to obtain new folders, correct, she asked you to order some new folders in?  
---What, when, like.

In the weeks after the clean-up.---She may have. I can't recall.

And she asked you to arrange to obtain those folders so she could organise  
the materials that were in the boardroom. Correct?---She could have. I  
can't recall.

You're not denying that that's the case, are you?---No.

They're the questions I have for the witness.

THE COMMISSIONER: Thank you, Mr Ramrakha.

MS NOLAN: I have a question.

10 THE COMMISSIONER: I'm sorry?

MS NOLAN: I have a question.

THE COMMISSIONER: Yes, all right.

MS NOLAN: I represent Ms Bakis. My name is Nolan. You've identified in the course of giving evidence I think in the last line of questioning that other witnesses not just you saw documents being thrown into the skip bin. Can you identify those - - -

20

MR RAMRAKHA: Well, I object.

THE COMMISSIONER: Yes. All right.

MR RAMRAKHA: How can she give that evidence?

THE COMMISSIONER: Exactly. Yes.

MS NOLAN: Well, she gave the evidence.

30

THE COMMISSIONER: She said it but she can't give that evidence.

MS NOLAN: Well, you were speaking about other witnesses. Who were the other witnesses? That's my question.---Um - - -

THE COMMISSIONER: Well, the same point - - -

MR RAMRAKHA: Well, I object.

40 THE COMMISSIONER: The same point arises, Ms Nolan.

THE WITNESS: But I think more than one - - -

THE COMMISSIONER: No, no, no.

THE WITNESS: - - - staff should be - - -

THE COMMISSIONER: Madam?--- - - - be asked the same question.

Madam, would you be quiet?---But that's not fair. That's not fair.

You can't have it in that way, Ms Nolan.

MS NOLAN: Well, you gave that evidence. On what did you base that evidence? What knowledge did you base that evidence on?---That I wasn't the only one that seen it.

10 And how do you know that other people saw it?---Because we all spoke about it and - - -

And who were these people with whom you spoke?---Tamara Towers and Peter Townsend.

And what did you discuss in the conversation?

THE COMMISSIONER: You can't have that, Ms Nolan.

20 MS NOLAN: Well - - -

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

MS NOLAN: Hearsay applies. There's no rule against hearsay in this, Commissioner. I don't understand.

30 THE COMMISSIONER: No, no, but I can control whether evidence that's cogent is before the Commission. You said you had one question. Now you're opening up a whole line of questioning because it leads, if we're going to have a number of people all having conversations where does it end? I won't allow it. Have you got any other topic you wanted to examine? You said you had one question. That's why I allowed you to put the question on that basis but you haven't identified any line of questioning which is necessary for your client's interest. In other words, I haven't applied the standard directions to you simply because you said you had one question.

40 MS NOLAN: Well, the basis for my question is, is because there may potentially be other witnesses that might be able to come before this Commission and can - - -

THE COMMISSIONER: Well, maybe. It's a fishing expedition. But I won't repeat myself, Ms Nolan. Is there anything else?

MS NOLAN: It's not a fishing expedition with respect. It is exculpatory evidence which this Commission is required - - -

THE COMMISSIONER: Please don't traverse my rulings. Please don't traverse my rulings. Is there anything else?

MS NOLAN: I don't understand you to have made a fishing expedition ruling, with respect, but I was answering your question.

THE COMMISSIONER: Is there anything else?

10 MS NOLAN: No, there's nothing else.

THE COMMISSIONER: Thank you. Yes, Dr Chen.

MR CHEN: Now, Ms Towers, would you be good enough to look at volume 2, page 64 and you'll see there that these are the minutes of the Land Council board meeting on 31 October, 2014. Do you see that?  
---Yeah.

20 And as I understood your evidence on the last occasion and certainly to the questions Mr Lonergan asked of you today, the sequence is that you would receive the minute book – that is, the book that contained the handwritten notes taken by the minute taker of the meeting – and that you would then type up the minutes. Is that the case?---Can you say that again? I - - -

Sure. So you understand, Ms Towers, I'm just trying to understand the sequence that you followed to type up these minutes that are on the screen now, volume 2, page 64. Do you understand?---Sequence?

30 The order - - -?---The order?

- - - in which you prepared things.---What order?

Just listen to the question, Ms Dates, sorry, Ms Towers, and we'll see how we go.---Yeah, I am a Dates and a Towers, yeah.

All right. Now, as I understood what you said, Ms Towers, is that you would receive the minute book and you would then go away and type up, as you did in this instance, these minutes. Is that right?---That's right.

40 And you would then thereafter at a point in time type up the resolutions that were contained within these minutes. Is that the case?---Yep.

And that is what you did on these occasions, namely you typed these minutes on 31 October, 2014. Is that right?---That's right.

And you also typed up, did you not, the resolution which is at volume 2, page 12?---Yeah, I did that.

Do you see that?---Yeah.

And I think Mr Lonergan asked you this question, but the resolution is precisely in terms that it appears in the minutes. Isn't that right?---In terms, what do you mean, like?

It's the same?---Yeah.

10 And that was your job, to ensure that whatever is in the typed minutes you would put in this resolution.---Yeah.

Now, Mr Lonergan asked you some questions as well about another resolution which is at volume 2, page 66, and it will come up on the screen in a moment.---Yeah.

20 And what I understood you to say, Ms Towers, was that it looks as if, in terms of its format, something that you may well have typed up, but you couldn't say whether you did or didn't. Is that the effect of your evidence?  
---Yeah.

Now, I'm going to ask the Commission staff to put the volume in front of you, volume 2, because I want you to see something, Ms Towers, and it will be quicker if you do it with a hard copy and this on the screen. Now, if you'd be good enough to turn up volume 2, page 12, so the page numbers are on the bottom.---Yeah.

30 Do you have that in front of you, which will be the resolution of 31 October, 2014?---Yeah.

And you can see there that what is referred to is a resolution describing, "Propose a contract of sale to IBU," et cetera. Do you see that?---Yeah.

And, Ms Dates, Ms Towers, that is exactly the way it appears in the minutes as well. Isn't that right?---Yeah.

But what this document, which is volume 2, page 66 says, is something quite different. Isn't that so?---Yeah.

40 There couldn't be a basis on the way in which you have come about preparing the minutes and then the resolution which is at volume 2, page 12, and volume 2, page 64, in coming up with this other version, is there? How could that be?---The board could have edited the minutes, they could have done a new resolution, there could be heaps of um, things why things change.

Well, if there was to be a further resolution or a record of something happening on 31 October, 2014, that itself would appear in the minutes surely?---Yeah.

10 And I'll just make it easy I hope, Ms Towers, for you, but this here, that is to say the resolution that appears at volume 2, page 66, cannot or does not find any reference at all in any of the minutes, certainly not the minutes of 31 October, 2014. Are you able to offer an explanation on that footing how this resolution has been typed up and come to be in the records of the Land Council?---Are you talking to me?

Yes, I am.---Oh, you're looking at him.

Well, I'm actually reading the screen at the moment, Ms Towers.---Oh, I thought you were looking at him.

But are you able to answer my question?---Sorry, could you say it again?

20 Of course. You appreciate that the two resolutions are quite different. ---Yeah.

And you appreciate that the first resolution and the minutes are the same? ---Yeah.

So my question is to you, Ms Towers, are you able to offer an explanation as to how this resolution that appears at volume 2, page 66, may have come about?---Well, you would, I would, if you, I would go back to the red book because this is just paper you're giving me.

30 Ms Towers, do you have a specific recollection of typing up this second resolution or not?---It looks like me, yeah.

But when you say that, in fairness to you, is the only reason why you're saying it is that it has adopted a similar type of format that the other resolutions have?---Yeah.

But aside from that you're not able to say whether you typed it up or not? Is that the position?---Sorry, what did you say? Can you say it again?

40 Aside from the format that this document at volume 2, page 66 has - - -? ---Well, not only that because - - -

Just allow me to ask the question.

THE COMMISSIONER: Just let him ask you the question.---Yeah, I know what you're going to say, but.

No, no, no. He's entitled to put the question.---Yes, so am I, yeah.

No, no. He asks the questions.---Yeah.

You give the answers, right?---Yeah.

10 MR CHEN: Aside from the fact that this document at volume 2, page 66, to your observation appears to follow the same formatting as the other resolutions, do you or don't you have a specific recollection of actually typing that document up?---Well, how it is, how you've given it to me on the screen is exactly how I would have cut it out and put it in the book. The little part on, on the end, up the top with the sticky tape, that's me. So I don't know how it's different but you would need to show me the red book.

Well, so you would only prepare this document on the instruction of somebody, is that so?---If it was a change in it.

20 And you gave evidence on the last occasion that you had a conversation with Mr Richard Green about something that you couldn't read in the handwritten minute book. Do you remember giving evidence along those lines?---Yeah.

Did you actually have a conversation with Mr Green at all about this, or the minute as it appeared in the handwritten minute book of 31 October, 2014 or not?---Do I what?

Do you have a recollection of actually speaking to Mr Green about this particular entry in the minute book of the Land Council?---This one here?

30 I'll show you, if I can, the handwritten minute. I'll have that brought up for you in a moment, Ms Towers, but do you recall having a discussion with Mr Green actually about – I'll just show you Exhibit 50, Ms Towers. So I'm opening it to page 129 of Exhibit 50. Just have a look at the left-hand side if you would. You recognise that as the minute book, I take it, Ms Towers, do you?---Yeah.

And what you're being asked or what you did type up originally appears on the left-hand side – that is, at page 139 – does it not?---129 you mean?

40 I think it said 139. But is it 129 in the top left-hand corner?

THE COMMISSIONER: I think you firstly said 129.

MR CHEN: Did I?

THE COMMISSIONER: Is it 129?

MR CHEN: Yes, I did. Thank you.---I thought he said 139.

Anyway, what you typed up was that which appeared at page 129 of Exhibit 50, isn't that right?---Is it the same?

Please listen to my question. That is what you typed the minute from, is it not?---Yeah, of course.

And you said on the last occasion that you had a discussion with Richard Green about something that appeared, it seemed, that arose out of the minutes that were taken on that day.---Yeah.

10

Did you ring Mr Green?---Yeah, I would have, yeah.

No, did you?---Yes.

Right. And did you have a conversation with - - -?---I appreciate if you look at me when you talk to me too.

Did you have a - - -

20 THE COMMISSIONER: Madam, you just behave yourself.---Yeah, but that's not, that's not nice.

Just listen to the question.---When you talk to people you look at 'em.

You just listen to the question and you do the best and give your answer and we'll get along fine then.---Yeah, that's good. Look at me then.

MR CHEN: Well, Ms Towers, I need to look at the document.---Yeah.

30 You can see on there that there were some words added in. Is that what you spoke to Mr Green about on the first line after the word - - -?---That's it, yeah.

And you've got a clear recollection of that, do you?---A clear recollection, yeah.

No doubt about it?---No doubt about it.

40 And he's told you, has he, to insert some words or has he told you what those words mean?---Can't recall that one.

Did you speak to Mr Petroulias about this entry and who apparently made or the conversation that you say you had with Mr Green?---Can't recall.

Did you speak to Mr Petroulias - - -?---Can't recall.

- - - at any stage – please allow me to ask the questions, Ms Towers. Did you have any conversations with Mr Petroulias at all at any time about this apparent conversation that you had with Mr Green?---Can't recall.

It must be so, mustn't it, that Mr Petroulias's barrister was putting propositions to you based on this, that you must have had a conversation with him. Isn't that right?---Who's his barrister?

10 Well, just factor that out for the moment. You must have had a conversation - - -?---You just said that though.

You must have had a conversation with Mr Petroulias about this. Isn't that right, Ms Towers?---Wow. No, I can't recall.

Are you able to explain at all, Ms Towers, how it is that even if you had some understanding of the, or inability to understand what was written there, how it is that you've come about preparing two distinctly different resolutions?---Can't recall.

20 No, I'm not asking you whether you can recall or not, I'm asking you to explain the differences.---I can't explain.

Are you trying to assist the Commission in working out what has truly happened - - -?---Yeah.

- - - in relation to - - -?---Yeah.

30 - - - these apparent inconsistent resolutions?---But you're giving me anxiety which is not helpful to my knowledge, to regain my knowledge from how, what, three years ago.

Well, this - - -?---Because you're not looking at me when you're talking to me.

Well, the second resolution, Ms Towers, talks about only Gows, whereas the first resolution talks only about IBU. So are you able to explain how it is this second resolution that you've typed up extinguishes any reference to IBU?---I can't.

40 THE COMMISSIONER: Have you any explanation as to how the word Gows was inserted into the board resolution which you have at page 129 of Exhibit 50?---50? Where was that?

So you've got it in front of you I think, haven't you, Exhibit 50, that's the red book, page 129?---Yeah.

Do you have any explanation as to how the word Gows found its way into the resolution for 31 October?---In the resolution or the hand printed?

No, the resolution you have in front of you. See it says, "Friday, 31 October, '14, Development" - - -?---This one?

- - - "Development Proposal?"---Because it's in the handwritten - - -

Are we looking at the same documents?---This one?

What's that?---Resolution.

10

MR CHEN: No. Just look at it on the screen, Ms Towers, it might help.

THE COMMISSIONER: It might be easier if you look on the screen and I'll look on the screen.---Yeah, it's on there, it's on page 129, Gows.

Have you any explanation when the proposal, when the resolution was typed up where it says, "Proposed sale to Gows," have you any idea how the word Gows got there?---Um - - -

20

If you don't know, just say so. I'm just asking if you have any explanation. ---I don't know. I sort of recall I did it but I can't, I can't say a hundred per cent.

You paused for a very long time after I asked that question, but all I'm asking - - -?---Because I was trying to remember. Is that all right?

You can't remember, is that right?---Yeah, I can remember, yeah.

Yes.---I'm pretty, like, 99 per cent sure I did it.

30

MR CHEN: So are you able to explain, then, now you know that you inserted those words, Ms Dates, how it is – sorry, Ms Towers – how it is that you came to type up a resolution and minutes without reference to those words you've had to add in? How did that manage to happen?---Without reference? What do you mean?

Well, have a look at volume 2, page 12.---Yeah, I seen that.

Well, you're able to type up a resolution - - -?---But the board - - -

40

Please, Ms Towers, allow me to ask the question. Please don't talk over me.---Sorry, I'm just, as I'm thinking it's coming out.

Please do not talk over me.---Yeah, just relax.

THE COMMISSIONER: It's nothing personal.---Yeah.

Every witness is told to let the question be asked and finished before the person, the witness, responds.---Yeah.

That's all you're being asked to do.---That's fair, yeah.

It's just wait until he's finished the question, then you can go for it.

10 MR CHEN: How is it you're able to type up this resolution and the accompanying minute, Ms Towers, without having to add any words in? How were you able to do that?---So I probably did this one. I'm not sure.

You really are not attempting seriously to answer my questions, are you, Ms Towers?---Is that your opinion?

I'm asking you a question, Ms Towers. I think you can understand that. ---Yeah.

20 And you're not being truthful as well, are you?---Wow. Is that, are you allowed to do that?

MR MENDOZA-JONES: Excuse me, Commissioner, would the Commission be open to a brief adjournment so that I can confer with my client in order for her to be - - -

THE WITNESS: Yeah, I think so.

MR MENDOZA-JONES: - - - of best assistance to the - - -

30 THE COMMISSIONER: Not at this point. Not at this point.

MR MENDOZA-JONES: Commissioner.

THE WITNESS: No, got to be fair.

MR CHEN: Do you want to respond to that, Ms Towers, at all?---No, not at all.

All right. Do you know somebody called Janne Lindrum?---No.

40 Never spoken to them - - -?---Sounds familiar but I, I don't know her.

I'm sorry?---Sounds familiar, the name.

Have you ever spoken to a person by that name?---I don't know. Can't recall.

Thank you, Commissioner, that's the further examination.

THE COMMISSIONER: Yes, now Mr Mendoza-Jones.

MR MENDOZA-JONES: Thank you, Commissioner. Ms Towers, just two brief questions for you. In the time that you've been an administrative support person at the Land Council, would have you ever done anything that was against the wishes of the CEO or the members of the board in performing that role?---Never.

10 And thinking about your role in the community and the importance of the Land Council there, would you have ever done anything that was against the interests of the Land Council or the membership body, the members?  
---Never.

MR CHEN: Well, I object, Commissioner.

THE COMMISSIONER: It's too general.

MR MENDOZA-JONES: No further questions.  
20

THE COMMISSIONER: That's too general. And just in fairness to you I should just say how can a question like that cover - - -

MR MENDOZA-JONES: Commissioner, the - - -

THE COMMISSIONER: - - - possibly years of varying unnamed, unspecified functions? I mean, I'm just simply in fairness to you pointing out that the weight that could flow from an answer to that question must have to be regarded as rather slight, wouldn't it?  
30

MR MENDOZA-JONES: No, Commissioner, I understand what you're saying. The basis of the question is having regard to concerns of Ms Towers that reflect upon her in the very public nature of the evidence that's been given to this community, beg your pardon, before this Commission and its reporting in media in Ms Towers' community.

THE COMMISSIONER: Yes. You've asked the question and it's been answered.

40 MR MENDOZA-JONES: I have.

THE COMMISSIONER: So it's on the record.

MR MENDOZA-JONES: Thank you.

THE COMMISSIONER: Yes. Thank you. You may step down. You're excused.

**THE WITNESS EXCUSED**

**[2.39pm]**

THE COMMISSIONER: Yes. Where do we go now?

MR CHEN: I call Andrew Kavanagh, Commissioner.

THE COMMISSIONER: Yes.

10

MR CHEN: Commissioner, I understand he's legally represented.

THE COMMISSIONER: Yes.

MR FERNANDES: Please the Commission. Fernandes for Mr Andrew Kavanagh. F-e-r-n-a-n-d-e-s. I seek leave to appear.

THE COMMISSIONER: Yes, I grant leave. Now, do you take evidence on oath or affirmation?

20

MR KAVANAGH: Oath.

THE COMMISSIONER: Yes. If you wouldn't mind standing, we'll administer the oath.

THE COMMISSIONER: Mr Kavanagh, just take a seat there. Yes.

MR FERNANDES: Mr Kavanagh requests the declaration of the section 38.

THE COMMISSIONER: Very well.

10

MR FERNANDES: I've informed him.

THE COMMISSIONER: I understand the provisions of section 38 have been explained to you, Mr Kavanagh, and you'd prefer to take advantage of that provision. Is that right?---Yes.

20

Very well. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare all answers given by Mr Kavanagh, any documents or items he may produce in the course of his evidence are to be regarded as having been given or produced on objection. There is accordingly no need for Mr Kavanagh to make objection in respect of any particular answer given or document or thing produced.

30

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE ALL ANSWERS GIVEN BY MR KAVANAGH, ANY DOCUMENTS OR ITEMS HE MAY PRODUCE IN THE COURSE OF HIS EVIDENCE ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION. THERE IS ACCORDINGLY NO NEED FOR MR KAVANAGH TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Yes.

MR CHEN: Your name is Andrew Kavanagh, is it?---Yes.

40

And are you a consultant property developer?---Yes.

Do you have some formal qualifications in building, Mr Kavanagh?---I had a diploma in building at Granville Tech.

You've worked with a gentleman from time to time, Ryan Strauss, doing development projects, have you not?---Yes.

And I think the term that you might use is you co-develop together. Is that right?---Yes.

Have you known Mr Strauss since about 2006?---Yes.

And have you worked with him from time to time since then?---Yes.

10 Now, do you recall in around November 2015 that Mr Strauss got in touch with you to advise you that he had an opportunity with a land council in the Newcastle area?---Yes.

And did he tell you at that stage that the land needed some rezoning?---I can't remember exactly but it was, I think so. I think that's right.

THE COMMISSIONER: We're talking about the year 2014, aren't we? ---2015.

'15. I'm sorry. Yes.

20 MR CHEN: Do you recall that Mr Strauss sent you some valuations - - -? ---Yes.

- - - for the properties that were under construction?---Prepared by Diamond's, yes.

30 All right. I'll just have this brought up on the screen, Mr Kavanagh. If you have a look, please, volume 8, page 1, and you can see there in front of you on the screen is an email from Mr Strauss to you on 7 November, 2015. ---Yes.

And you can see as well there are a number of attachments to that email. Do you see that?---Yes.

And those attachments were the valuations of the properties that you were discussing with Mr Strauss. Is that right?---Yes.

40 In addition to that was there some discussion, perhaps not at this stage but shortly thereafter, about other properties as well, one of which was the Newcastle Post Office?---Yes.

Now, at this stage – I withdraw that. The introduction as you understood it to these properties came to Mr Strauss by a gentleman, Mr Say, S-a-y? ---Yes

Did you know Mr Say at all prior to November 2015?---No.

What did Mr Strauss tell you, if anything, around this time about what it is that you would be doing if you were interested in looking at these properties

further?---He mentioned there was a bundle, like package of properties that the, the, an Aboriginal council was wanting to sell. There was a large parcel of multiple blocks up in Warners Vale and there was a sandstone post office in the Newcastle CBD area, a bit like the sandstone buildings in Martin Place, and there was a grab bag of other things around like Cessnock and Waratah, Mulbring suburbs up there around Newcastle.

10 Did you also have a discussion – I withdraw that. I think you’ve said Warners Vale. Did you mean Warners Bay?---Warners Bay.

All right.---Sorry.

Did you have some discussion with Mr Strauss about this time about Mr Strauss knowing the valuer who had prepared the valuations for these properties?---I think I knew that Ryan knew Stuart Rowan. He’s fairly well known. He’s a, he’s a valuer that tends to sort of overshoot the runway on, on valuations so Diamond’s are fairly well known.

20 Did Mr Strauss tell you that he thought potentially the valuations were over market value?---Yeah.

And did he tell you as well that he saw potentially some value in the rezoning opportunities that may be available for these properties?---I’m fairly sure he said that back in November, yes.

30 Now, did he also speak to you about what the deal might involve or how it came to be that this land was being offered to you or to him?---I don’t think there was specific talk about the deal at that point. It was, it was the valuations in November and there was an outline, then there was a period of time that we, we seemed to lose up to about March of 2016 and from there there became more clarity around the deal structure.

I just want to keep you at 2015 at the moment if I can. Did Mr Strauss relay to you that there had been another party who had been interested in the land and that maybe the deal had fallen over, or something to that effect?---I don’t recall that.

40 Did Mr Strauss tell you at that stage anything about the deal involving buying out of any particular interest that another party had in that land? ---Still in 2015?

Yes.---I don’t think so.

Did you find that out subsequently?---Yes.

Now, at around this time did you go to Newcastle to have an inspection or a drive-by of some of these lots?---No.

Were you aware of whether Mr Strauss may have done so?---I got an email from Ryan that I was cc'd into about early March '16, I think the 7<sup>th</sup>, and in that it said that he was going up to Newcastle with a group of people, I think Sammy was part of it, and they were going to, I think they were going to stay the night and they were going to look at the post office, they were going to look at Warners Bay and do a bit of a drive, it was more of a drive-by thing for the rest of them but I think they hopped out and had a look at Warners Bay and they hopped out and had a look at the post office.

- 10 Did you, after receiving these contracts but before the end of 2015, have a meeting with any of the prospective or the vendor, the Land Council, and those, and people that apparently represented them?---What time frame are we talking about?

By the end of 2015.---No.

Did you ever go to a meeting at offices of Knightsbridge North Lawyers?  
---Yes.

- 20 When did you go to those offices?---My recall of that was a meeting in the early part of April 2016 and there was a second one in the late part of April 2016, so there were two meetings in April and that was it.

I'd like to just show you some documents as well if I can, Mr Kavanagh, but do you recall in late 2015 shortly after these valuations came through that some documentation had been prepared or draft documentation had been prepared involving the company that was potentially the purchaser Solstice and the Land Council?---No.

- 30 I'll just ask you to have a look if you'd be good enough, at volume 8, page 72. I'm not suggesting that you were a party to this email, Mr Kavanagh, but would you be good enough just to have a look and you can see here that there's an email from Mr Say to Ryan Strauss of 18 November, 2015?  
---Yeah.

And you can see a description at the top of that page, "Awabakal Solstice Part B."---Yes.

- 40 A PDF. And what was attached to that was a draft or a series of draft agreements, some of which you can see, but it was slightly corrupted, which I'll just ask you to have a look at. Page 73 first, and you can see these are only part of the standard form or standard terms from the standard form contract, but if you have a look at for example at page 82, and then for example page 84, do you remember seeing this agreement attaching a number of other documents in late 2015?---No.

Did you recall seeing it at any stage, that is to say up and even into 2016?  
---From early April.

All right. Just so it's clear to you, there was another form of documents that was heavily the subject of discussion in April 2016. Just so it's clear, these seem to be a draft form or an early form of the documentation. Do you recall seeing an early form of the documentation which had one agreement with a number of annexures to it, as opposed to the five agreements which came about in April of 2016?---I think I've seen something that was called heads of agreement, I think I've got that attached in an email somewhere, but I don't remember the details. What's in my mind are these five agreements.

Yes. And when you say you've got something in your mind, heads of agreement, that being a separate document or that being a description of the document that was to be entered?---I think it's, I think it's what the attachment's called in an email that I've got.

Anyway, would you be happy to speak to Commission staff afterwards just to make sure we've got all of your emails, Mr Kavanagh?---Yeah, sure.

20 Now, I think you said earlier in your evidence that things went a bit quiet from the end of 2015 into early 2016. Is that your recollection?---Yes.

And in the early part of, I think, March of 2016, is that approximately when you think the further contact was made about this deal after the end of 2015?---Yeah. My, my next recollection of, of something happening was early in March, when I got an email cc'd to me from Ryan in relation to the Newcastle visit.

30 Would you have a look, please, Mr Kavanagh, at volume 10, page 93. So this will come up on the screen, and I think this probably confirms what you've just told the Commission. You'll see there's an email there that says at the top at least – I appreciate this doesn't involve you at this stage – Ryan Strauss sending an email to Dean Alcorn, “Get the Warners Bay option for now.” Do you see that?---Yes.

Do you know what lies behind that instruction? Namely, did you give the instruction - - -?---No.

40 - - - or have some discussion with Mr Strauss about the Warners Bay option?---Nothing at that point, no.

What was the discussion that you had with Mr Strauss, if anything, about moving this potential deal forward in the early part of March of 2016?---I don't recall I had anything. I think I might have had a discussion with him about his visit to Newcastle.

I see.---But that was in relation to just inspecting the properties. As far as the deal structure, this is, you know, this is all new to me.

Well, have a look if you would, Mr Kavanagh, at volume 10, page 112.  
---Yeah.

And you can see that that's an email from Mr Strauss to you.---Yes.

And it's referring to a deal for Warners Bay down – do you see that?---Yes.

10 What was the idea of what you were trying to do for Warners Bay? Was it just simply to pursue that of the lots that were offered or what's the position, Mr Kavanagh?---I think initially the idea was to go and assess Warners Bay and the post office also – I think they were both included – and the idea was to effectively, you know, put our skills together to try and rezone Warners Bay with the help of the, the vendor, the Aboriginal Council. Ryan was, you know, effectively the guy facilitating most of that and I was the, the one that he had approached to, to, you know, co-venture it with him and put, put the early, you know, risk capital into the deal.

20 And when you say Warners Bay, these are the lots that were identified in those valuations that came through in November '15?---Yes.

Now, would you have a look, please, at volume 10, page 193, and you can see that Mr Strauss is forwarding to you a number of proposed agreements. Do you see that?---Yes.

Do you recall receiving them at this stage?---Yes.

30 And there were five agreements. I'll show you some of them at least. If you have a look at volume 10, page 195, you can see that there is what's described as a collaboration agreement.---Yes.

There was also another document called a call option agreement. Do you recall that?---Yes.

There was a management agreement. Do you remember that?---Yes, I recall that. Yes, I do.

40 And there was also a document called a surrender and release agreement. Do you remember that?---I remember that.

And do you remember that involved a company called Gows Heat?---Yes.

At this stage, that is to say 1 April, 2016, had you met the vendors yet in any meeting at Knightsbridge North Lawyers or was that about to occur?---It was about to occur.

Right. And by this stage, 1 April, 2016, did you have any understanding about who Gows Heat were and what their role is or was in this transaction?---On, on around 1 April?

Yes.---No.

10 Did you review the draft contracts that had been circulated?---I had some discussion with Dean, I had a quick read through them also myself, but in detail, I mean, those, these types of things we tend to, you know, skim through it fairly quickly and then go to the, cut, you know, cut forward to the meeting, and that's, that's basically what we did.

Did you understand though that one of the documents required the buying out or payment to Gows Heat of a sum of money?---Yes.

And that's because it was contending, at least in these draft documents, that it had rights to the various blocks that would be potentially acquired by Solstice if this transaction proceeded.---Yes.

20 Now, you mentioned earlier that there was a meeting. Are you able to say to the best of your recollection when that was?---I think that was on the, either the, it was very early in April, around the 3<sup>rd</sup> or the 4<sup>th</sup> or the 5<sup>th</sup>.

And are you able to say from your side who attended?---Well, I recall there was, there was certainly myself and Ryan, there was, Sammy was there, Nick was there, Richard Green was there - - -

When you say Nick, do you mean Nick Petroulias?---Nick Petroulias.

30 And that's the - - -?---Nick, he wasn't there at the outset, he arrived about five or 10 minutes into the meeting.

And is that the gentleman you can see in the hearing room here?---Yeah.

Right. And, sorry, you mentioned Richard Green as well.---Richard Green.

Was anybody else present?---There was someone else down the other end of the table but she didn't say anything.

40 Do you recognise the person as somebody in the hearing room here, Ms Bakis?---(No Audible Reply)

I think she's here. She is. The lady with the black dress on, on the third row. Just - - -

THE COMMISSIONER: Would you mind standing up, Ms Bakis, would you?

THE WITNESS: No, I don't think so, I don't think I recognise that lady.

THE COMMISSIONER: Okay. Thank you. Thank you, Ms Bakis.

MR CHEN: You don't recognise that as the female you - - -?---No.

10 - - - observed in the meeting? Now, did Mr Petroulias tell you his role in this meeting?---Not exactly, no, but he, you know, he came in with all the paperwork and the files and sat down and he was a little bit late – he was probably five or 10 minutes late, as I mentioned – and he, you know, he sat down and we all just listened to what he had to say. He just seemed to carry it.

20 And what did he have to say about what the deal was, if anything?---Well, in my recollection he, he said that there was a deal, there was a deal with some Aboriginal land, you know, there were a few complications to it and it needed some structure. There was some land at Warners Bay that needed a rezone, there was some other lands that were going through a title claim that hadn't been fully finalised yet, but, but that the, the deal needed to stick with, within pre-approved or pre-agreed parameters that had been agreed between Gows and the Awabakal LALC.

What did that mean or what was said about that?---There was, there was apparently some deal there that Awabakal and Gow had agreed to that, where, where Gow was going to effectively step out of the deal, we had to pay Gows some money to do that and then we'd then go and enter into a deal with the Awabakal.

30 And just so it's clear, the deal agreed to, they were going to step out, that is to say they had an interest in the land that you wanted to acquire.---Yes.

Is that right?---Yes.

And - - -?---But we never saw that, we never saw those, those documents.

Right. Well, you didn't?---I didn't see them.

40 And was there a discussion at that stage about how much was to be paid to get them to, Gows to step aside?---1.2 million.

Right. Now, did Mr Green, how did he introduce himself at this meeting? ---Just as Richard Green, the, you know, I think, I'm sure he mentioned that he was from the, the Land Council.

And he was present during the course of when Mr Petroulias spoke about Gows needing to step aside and for them to be paid out, was he?---Yes.

How long did this meeting go for?---Under an hour but pretty close to it.

And are you able to fill in any more of the detail in general terms about what was discussed?---I think we were trying to nut out a structure so there was a, was a, we're trying to come up with a price and a structure, some terms. We were trying to work out whether it was going to be a JV agreement or it was going to be a purchase. There was a rezone so there was a, there was some, some discussion in relation to how, who was going to be in charge of pushing the rezone through and making the applications and speaking to council and who was going to be funding all that.

10

And with Mr Petroulias at this meeting, did he indicate to you whose interest he was there representing?---No, we just assumed.

And what did you assume and why?---We just assumed he was the lawyer.

And why did you make that assumption?---Well, we were at Northbridge lawyers. You know, we were there. We were waiting on their lawyer and, and in he came so we just assumed he was the lawyer.

20 And when you say the lawyer, do you mean the lawyer for the Land Council?---Yes.

Now, Mr Green has given some evidence before the Commission, Mr Kavanagh, broadly to this effect, and that is that he made it perfectly clear to you and to Mr Strauss and whoever was at this meeting, there might be an issue as to the timing of it, as to whether it's in 2015 or now, but in any event he says he made it abundantly clear to those representing Solstice, so that would include you, that any deal with the Land Council required approval by members of the Land Council and subsequently State Land Council approval. Now, did he ever indicate that to you or to any meeting you attended?---No way. We were never, that was never ever mentioned.

30

You later went and got a barrister's advice, did you not, because you made a discovery about a notation on the title. Isn't that so?---Yes.

And is it the case that it was only when you got the barrister's advice back that you realised that there was a fetter or a limit as to what could actually occur?---Yes.

40 And if you'd known about that beforehand would you have necessarily approached things in a different way?---It affected, it, well, I mean, it created huge issues. How we'd have approached it would have just been that we'd want the deal structured similar to how we then responded after the advice, that we wanted the deal structured such that no money was let go other than into trust until we had the concurrence of the State ALC.

I see.---So that was, that was our position after that.

Now, at this meeting one of the contracts was a management contract and did you understand that?---Yes.

And the manager under that contract was to be a company called Able Consulting Pty Ltd. Did you know that?---Yes.

10 Whose company did you understand Able Consulting to be?---I didn't know. I didn't know whose that was but I could see that it had to be connected with Gows. It was just too much of a coincidence to be in the same building in North Sydney.

That is to say, it had the same registered address?---I think one was level 4, one was level 5, but they were just, you know, it was beyond a coincidence to me.

Was there any discussion about who Able was at this meeting that you had in early April, 2016?---No.

20 Now, I'm just going to show you one other, in fact two other documents relating to this, please. If we just have a look at volume 11, page 98. I just want to complete your knowledge as to how these documents came about, et cetera. But if you have a look at volume 11, page 98, you can see that there's some discussion about a meeting. Do you see that?---Yes.

And if you have a look at volume 11, page 147, you can see there's an email which, amongst others you received, confirming that there was to be a meeting sometime after 4 April, 2016, so around the time that I think you thought a meeting in fact took place.---Yeah, yes.

30 Does it accord with your recollection it's likely to be that meeting that you had on 6 or 7 April, 2016? Or you're not sure of the precise date?---It could well have been on the 6<sup>th</sup>.

Now, there were some further discussions, were there not, after this meeting about the form of the documentation or how the deal was to be structured, is that right?---Yes.

40 And there was a chap called Dean Alcorn who did some work either with you or with Mr Strauss that was giving some legal assistance, albeit that he was not a lawyer, is that right?---Yes, Dean had had legal training and, you know, for various reasons no longer practises.

And you understood that there was some to'ing and fro'ing between on the one side Solstice and on the other Knightsbridge North Lawyers about the form of the agreement and progressing, if at all possible, the final form of that agreement?---Do you mean in relation to the suite of - - -

Yes.---Yes.

And do you recall that in late April 2016 that there was some communications from Knightsbridge North Lawyers to the effect that the Land Council, their client, was no longer interested in pursuing a transaction?---Which, sorry, which was - - -

I'll show you the document.---Could you just repeat that again?

10 I'll start again. Just have a look at this document, Mr Kavanagh, if you would. Volume 12, page 225. Perhaps I'll just ask you to look back at one, at 224 first, just so you understand where this has come from. You can see that there's some changes to the documentation that are referred to in those emails. Can you see that?---Yes.

Particularly the email of 14 April and then 26 April, 2016 at the top of page 224.---Yes, I see that.

20 And if you then look at the next page, 225, you can see that you - - -?---The deal was off and then I wrote an email.

Yes. And there'd been some reasons why things had not progressed properly on your part, which you've explained in that email. You see that?---Yes.

And Mr Say has advised on 28 April, 2016, that same day, the meeting was confirmed for the next day.---Yes.

30 Now, you can see at the very top of the page that somebody from Knightsbridge North Lawyers has sent an email more or less saying that the meeting has not been confirmed by them. Do you see that?---Yes.

But a meeting did take place, didn't it?---Yes. Late April.

Yes. And if you have a look, please, I'll just show you – you know that it occurred, don't you, shortly after this date, on 29 April, 2016, don't you?---Is this 28 April here?

It is.---So either this day or the next day.

40 Yes. But you're certain a meeting took place?---Yeah.

Yes. And just have a look if you would, please, at volume 13, page 92, and you can see that on 29 April Mr Alcorn has circulated to you and to Mr Strauss final form documents of the Gows-Solstice agreements, et cetera. Do you see that?---Yes.

And this is all consistent with your recollection of how things happened?---Yes.

And you met, didn't you, on that very day, do you agree?---Yes.

And did you meet at the offices of Knightsbridge North Lawyers again?  
---Yes.

And who was present at that meeting on that day?---Myself, Ryan, certainly Nick, I'm just not sure about Dean, maybe Dean. Dean was present at one of them but I don't think he was present at both. I'm just not sure whether  
10 he was – I think Dean was present at this one but not at the first one.

All right. And what about Mr Green, was he present?---I don't recall Mr Green being present.

And what about a person called - - -?---Sammy was there and I - - -

- - - Ms Bakis, was she there?---Well, I don't recognise, I thought I, I thought I knew in my mind who Ms Bakis was but I just don't, that's not Ms Bakis down there.  
20

I'm sorry, do you mean that's not her, the person you're pointing to?  
---Yeah, that's not the person I recognise.

I see. That is her, I can assure you. It may not be the person you recognise, but that is her. Or at least I believe it to be her. So, all right. Now, what was the subject of discussion at this meeting, Mr Kavanagh? Obviously the terms of the agreement.---Well, we'd had a lot of mark-ups, we had a lot of changes, so there was a lot of changes around the management agreement, I don't think there was too much contention around the call option agreement,  
30 and I think they were wanting to know when we could, when we could get it all signed and pay the deposit.

Right. You see from the initial discussions that you had about the various lots that were the subject of the valuation to this point in time, or certainly to the beginning of April 2016, the proposed land dealing went from about seven lots to 30. Isn't that right?---Yeah.

How did it come that these additional 23 lots had come about - - -?---Yeah, so - - -  
40

- - - to form the subject of this agreement?---So we had the, the primary deal was really the post office and the Warners Bay land, but then there was other, there were a few sticking points around, you know, I think they wanted more than, the price was fairly high and we wanted to bring the price down, so rather than bring the price down, they had some other assets and, you know, they were, they were available, so it might have just been a way at the time to sweeten the deal and make it more attractive so that we could get it to work.

So had that come from the vendor's side, that is the inclusion of these additional lots?---Well, we didn't know they were there until we were told.

Right. But they appeared in the draft agreements that came about in April of 2016.---Well, I think they were in the earliest agreements, there was a schedule there at the back of the call option.

10 Well, there were, when you say the earliest form, there were seven in the earliest form in November '15, but as I understood your evidence earlier you hadn't seen that documentation?---Yeah. No.

And by the time that the documents had been redrafted there was, on my calculation, 30. There was certainly substantially more.---Yes.

Is that your understanding?---Yes.

20 And what I would like you to try and explain to the Commission is how did it come about that those additional lots came to be put into these contracts?  
---Well, I don't know when they raised it, I don't know when they, I don't know why it was mentioned that they had more, I really don't recall how it evolved into an expanded deal, other than that the only logical thing I can, I think I can recall is that, you know, it was a very big figure that was involved in the buying of all this property and the rezoned land, if it didn't get rezoned, didn't have, wasn't going to be worth the 30-odd million that was being offered for it. So it was a, it was a way to, it was a way to, I think it was way to try and improve the security in the deal, because the houses had real value whereas Warners Bay had a question mark over it, you know, it was very heavily treed land, had a lot of constraints on it. The post office  
30 was, you know, a bit of a wreck, it was all flooded and, you know, graffiti'd and what have you, there was no real, it wasn't, it wasn't an easy kind of a, easy to resell that sort of a property.

THE COMMISSIONER: Do you recall who raised or introduced the idea of adding more value by giving more property to sweeten the deal?---I don't recall who raised it, but it would have come to me from Ryan, but then in turn from Sammy and then in turn from probably Nick. So, so the trail went from, you know, Nick would, would tell Sammy, Sammy would tell Ryan, Ryan would tell me. I was usually the last to know a lot of these things.

40 Well, are you assuming that chain rather than knowing?---Well, yeah, I know, I, I, I think I, I've got a fair idea of it. I sort of pieced it together after the event, you know, that there was a chain there that things I wasn't party to and some things I were party to and, you know, the same people who, the same people were party to it, you know, seemed to be party to collections of information I wasn't party to. So there was, there was always Sammy, there was Sammy, Ryan, you know, wherever they were getting the information

from, and I'd get, I'd get the information, you know, it was thought appropriate that I get it. It seemed I didn't, I didn't have the whole picture.

MR CHEN: But so far as you were concerned, it wasn't coming from your side, the Solstice side. It was coming from the other side, the vendors.---It couldn't have come from us. We just wouldn't have been aware of it.

Now, there was still some discussion after this time about still trying to do a deal after the meeting ended, isn't that right?---(No Audible Reply)

10

I'll start again. You look confused.---There were so many stop-starts, yeah, it is confusing.

All right. I'll, pardon the pun, start again.---And the date.

So if you just accept for the moment the late April meeting took place that you've just described.---Yeah.

20

You've described the evolution as to how the lots or the increased lots came to be in the agreements in April of 2016. After this meeting – that is to say, the meeting at the end of April 2016 – there was still continuing discussion, was there not?---Yes.

And initially there was a suggestion on 30 April, 2016 that the Land Council was declining to proceed further. Did you know that?---That sounds – my recollection was they, they suddenly dropped us when we got the advice of Marcel Fernandes a few days later, but there might have been something a bit earlier. There were, there were about four renditions of this where - - -

30

I think – sorry, you go.---Where the deal was off and then, you know, we'd be able to resurrect it again fairly easily. So it wasn't like a normal deal where a vendor would just go, no, you've worn out the welcome mat and you'd never get a chance again with them. You know, we'd always be able to get back in.

Well, I'll just show you the sequence because I think your recollection is right. So if you have a look at volume 13, page 212, you'll see that there's an email apparently from Despina Bakis advising that on 30 April, 2016, if you just look at the last paragraph - - -?---Yes, yes, I remember this.

40

But there was still negotiation after this time, wasn't there?---That's right.

And if you have a look then, please, at volume 15, sorry, volume 14, page 15, you can see there that that's an email sent from Ms Bakis to, amongst others, you, Mr Strauss, et cetera. Do you see that?---Yes.

And there's a bit of a complaint that things hadn't been sent in a timely way to enable their consideration. Do you see that?---Yes.

And you recall these events occurring at this time?---Yes.

And it's about this time, isn't it, that you happen to come across the certificates of title and notice that there was a notation on them, isn't that right?---Yes.

And you requested advice from a barrister, who's actually here, Mr Fernandes, isn't that so?---Yes.

10

And I'll just show you the advice you received back or the relevant email that refers to it. If you have a look at volume 14, page 16, you can see there that Mr Fernandes was giving you advice, telling you there's some problems with the title, et cetera, you need to have approval.---Yes.

And if you look at the top of it, you forward that on to, amongst others, Mr Strauss.---Yes.

20

And there was some discussion – I withdraw that. I just want to, these are slightly out of order, I apologise, but just have a look at where the request came. If you have a look at volume 14, page 79, I think I paraphrased this in your evidence earlier, but this was that you had noticed the notation on the title, and that's when you requested the advice from the barrister.---Yes.

And the email that I took you to earlier at volume 14, page 16 was the advice that you received. It's quite substantial. It wasn't just the page that I showed you but would you like to look at the balance of it?---I recall all that.

30

Did you speak to Mr Strauss obviously once you'd forwarded this email on to him?---Yes.

And did you come up with a way that perhaps you could keep the deal alive notwithstanding that there were these restrictions in what title could be passed to you at the present time?---Yes.

40

And what was the substance of what you agreed with Mr Strauss about? ---Well, we, we explored the idea of leases and caveats and, you know, obtaining some sort of security or hold over the properties without, without it, that might have been possible without requiring the consent of the, the State Land Council.

And did you communicate this to Mr Say or did Mr Strauss to your knowledge do so?---I think I recall I had the discussion with Sammy.

And within a short period of time did you receive some notification back from Knightsbridge North Lawyers about the deal and the prospect of going forward once you'd told Mr Say that?---I think on the, I think on 6<sup>th</sup> we got

the, the, a notice to say that the council had had a meeting and that our proposal had been rejected on about the 6<sup>th</sup>.

That came out of the blue, did it?---That was very sudden.

All right.---You know, we're, we're still grappling with that trying to find alternate ways to go forward and, you know, then the deal was off again.

10 Now, after this time after you receive that notification, did you speak to Mr Say to see whether you could move the deal forward through efforts he might be able to make?---I think I recall that, yeah. I think, in fact I think I sent an email to him along the lines of the, you know, the gist of the advice. Sammy's, Sammy's really just a site finder. He's not a technical. So to, to boil it down for him I said to him the gist is that we need State concurrence for the deal and we, we weren't prepared to let your money go until they'd gone and obtained that.

20 Did you understand that he was trying to make contact with a person called Debbie Dates who was the chairperson of the Land Council?---I'd heard of Debbie Dates.

Whose idea was it to try and contact her do you know?---Which, around what date?

Well, it's around 6 May, 2016. I'll show you an email if that helps.---Yeah, okay.

30 So have a look at volume 14, page 285. So if you can see in the middle there's an email from Mr Say to you 6 May, 2016 at 11.12pm. Do you see that?---(No Audible Reply)

And you can see that it says, "I'm still waiting on Debbie to call me back." Do you see that?---Yes.

40 And did you understand at that stage that Ms Dates was the chairperson of the Awabakal Local Aboriginal Land Council, the potential vendor of these various lots that you've been negotiating - - -?---I think by that stage I knew that she was the chair of the Aboriginal Land Council because I think Sammy had sent me an email attaching a minute.

And whose idea was it to try and make contact with Ms Dates?---That would either have been, in discussion with Sammy either myself or Ryan.

And what was the idea behind making contact with her directly, Mr Kavanagh?---To see whether, to see whether they would be happy to morph the deal from a, from the deal that we had which was encompassed in those five, the suite of documents, the five into something that was predominantly a leasehold, long leasehold type of arrangement given there

was a big departure from, and we'd been, you know, we, the gist had always, the theme had always been we couldn't depart too much from a certain set of parameters.

10 So what do you mean by the certain set of parameters?---Well, as I discussed earlier there was an agreement worked out between that Gow had reached with the Awabakal, the details of which I'd never seen but, you know, we, we, it was impressed upon us at the beginning that we had to confine the deal basically to something that had already been approved or, or that Gow already had under option. I don't quite know the mechanism that Gow had to have a hold on that land but I know that it wasn't, it wasn't leasehold.

This is the interest that they were proclaiming to have?---Yeah, the interest that Gows were proclaiming to have, yeah.

20 I just want to show you some emails if I can, Mr Kavanagh. Just have a look at volume 15, page 61, and this is about three weeks or so from the last email that I showed you, and you can see that what Mr Strauss – I withdraw that. This is an email from Mr Strauss to you of that day. Do you see that? ---Ah hmm. Sorry, yes.

And you can see that it's referring to a conversation that Mr Strauss has had with Sammy. Do you see that?---Yes.

And I just want to draw your attention to point 4, and namely that a certain sum of money, \$450,000, is to be paid to (not transcribable) Debbie. Do you see that?---Yes.

30 What was the discussion that you had with Mr Strauss?---I don't recall a specific discussion at that point with Ryan but I imagine I would have had one. And Ryan's, Ryan's, Ryan has always said that this was a lobbying fee, some type of a fee, to, to, in connection with the, assisting with the rezoning and project managing the Warners Bay rezoning process.

40 THE COMMISSIONER: Quite an attractive lobbying fee.---Well, it's probably not, it's probably not as high as, as, as some other fees. I mean, in terms of a lobbying fee to – depends what it included. I mean, Ryan, you know, as far as how Ryan viewed that and what she was meant to be doing, you know, some would say that's, that's probably a reasonable sort of a fee. It's not beyond, it's not, it's not an unreasonable fee if it, if it involved lobbying and securing a rezoning process.

MR CHEN: But she was the chairperson of the vendor.---That's right.

And so the idea was to pay her.

THE COMMISSIONER: Slight conflict of interest on the horizon, I would have thought.---Yeah, that's right. I'd never met Debbie and never spoken to her, but, you know, you know, I've got no doubt that she was, she was influential in the, in the, the Aboriginal community. How well she'd be able to go about getting a rezone, I had no idea.

10 MR CHEN: Was it you or Mr Strauss that was liaising with Mr Say about the payment of this, or potential payment of this sum of money to Ms Dates?---No, this is Ryan. The deal was, the deal was basically over in my mind. The, the trust issues were, that had, that had come out in early May after we obtained the advice of Marcel Fernandes, which in retrospect meant that we were very close to being ripped off our deposit. So there was, you know, we realised that as soon as we got it that that was the game and, you know, but Ryan and Sammy went off and, you know, wanted to keep – Ryan didn't really appreciate the advice for what it was when we got it. You know, and him and Sammy have gone off and, you know, they wanted to keep the deal alive, which is, you know, fair enough. They're, they're fairly tenacious. They want to get a, you know, a commission for being the finder.

20

And how was this lobbying fee, as you understood it, to be structured and paid, do you know?---Well, if I, in my recollection I, I'm sure I would have had a discussion with, with Ryan and I would have, by now everything had to go past the lawyer, and no money was to go out to these guys unless it was via a trust account and, you know, certainly not prior to sign-off from our lawyers and, and then subsequently the New South Wales ALC. Nothing prior to that. I mean, there might have been a thousand or two thousand for a meeting. I think we, I think we talked about paying that. But no big money like this.

30

Just have a look if you would, Mr Kavanagh, at volume 15, page 87, and this might – it's already on the screen. Is that what you're referring to then when you talk about how the money would be paid, namely to put into a trust account, et cetera?---Exactly. That's exactly right.

Do you recall that there was some discussion with Mr Strauss that apparently Ms Dates had accepted this or not?---I seen an email to that affect that there had been some agreement.

40

Were you privy to what went on there or not?---I wasn't directly privy to it, you know, I was getting emails that were, you know, through Ryan which, you know, he was relying on information from Sammy. But I mean it's very likely she could have agreed, I just don't know.

THE COMMISSIONER: Do you recall what the substance of the, what you've been told - - -?---No.

- - - about the emails, the message in the emails?---No, no, I got some of these emails. Some of them I didn't get but these ones clearly I did get. I knew the gist of what he was doing but, you know, the theme was we can't trust these guys, we've nearly been, we've nearly been ripped off, very close to it. We were not prepared to let these guys move sideways. I know we had a lot of resistance from Sammy and with Ryan to some extent, they – there was a lot of pushback from them because they thought that I was being difficult but there's just no way I was prepared to lose that capital.

10 MR CHEN: Do you recall shortly after, I withdraw that. Perhaps not shortly after but in June, later in June receiving what's called a notice to cease and desist from Knightsbridge North Lawyers, Ms Bakis?---Yes, yes.

Just have a look if you would, volume 16 page 55. You see there an email dated 23 June, 2016 at 5.08.11am?---Yes.

You recall receiving that email, do you?---I do.

20 And you can see that it makes reference to apparently an attempt by you to bribe and corrupt her?---Yes.

And what do you say to that, you were simply to pay her a lobbying fee which was going to go, be documents, be put into a trust account?---Yes, we did not make any attempt to bribe anyone.

Just pardon me. I just want to take you back and ask you a couple of more questions if I can, Mr Kavanagh, about these meetings. Was there anybody at these meetings who indicated that they were representing Gows?---No, no, we assumed it was also Nick.

30 I see. Did he speak about those agreements during the course of the meetings?---Yes.

Was that at - - -?---There was fairly lengthy meetings, quiet lengthy discussions in relation to all the permutations in them and how money would be paid, what they would, you know, do and whatever.

40 And did that extend to Gows and the money to be paid to Gows if the deal went through with Solstice?---Yes.

And did that occur at both meetings that you had with Mr Petroulias, the one in early April and the one in late April 2016?---Yes.

Just pardon me. Commissioner, that's the evidence of this witness, thank you.

THE COMMISSIONER: Thanks very much. Anybody got any questions for - - -

MR WHITE: I have.

THE COMMISSIONER: Yes, Mr White.

10 MR WHITE: Mr Kavanagh, you're aware that I appear on behalf of Mr Strauss?---Yes.

My name's White. I just want to ask you some questions about what you've just said this afternoon about being aware that Ms Dates was a member, a chairperson of the board at the Council. Did you have any personal knowledge of that at the time?---In terms of, back at what time frame?

20 In May, April/May 2016?---I had no recollection of this, I had no knowledge of any of that until I received an email from Sammy attaching a board minute around the 3 or 4 of May. That was when I could see that Debbie had an official role and so did Richard.

All right. But those emails around 3 or 4 May, your knowledge of her position on the board was limited to what was contained in those emails. Is that the situation?---Yes. Never met her, wouldn't know what she looked like, never spoken to her. I think she was based in Newcastle but she never attended the meetings.

30 All right. You've become aware of a lot of information since April/May 2016 about this matter generally. Is that correct?---Yes.

Is it possible that back at that time in April/May 2016, doing the best you can, you may be mistaken as to whether your understanding at that time was that she was actually chairperson of the board, as opposed to just an Aboriginal elder who had influence in that community?---Yeah, up until receiving the email I only put her about as high as an influential member in the Newcastle community, possibly attached to the board, I didn't know in what capacity, but I knew, I knew there was a capacity after I got Sammy's email and saw the board minute.

40 Are you able to refer to what specific email brought notice to you that she was a member of the board? Which particular email are you referring to? ---It's the email that Sammy sent to me on 3 May containing the minute of 8 April.

Right. I apologise, Commissioner, I don't have reference to that particular email. I wonder if I can be assisted.

THE COMMISSIONER: We might be able to pick it up, Mr White. Mr White, if you've got something else you could go on and we could come back to this? By that time we might track the email.

MR WHITE: It's really just this issue, Commissioner. If I could just ask you about your discussions with Mr Strauss at that time, independent of the emails that you've just referred to. You don't have any recollection of him actually saying to you at any stage that he was aware that she was chairperson or a member of the board, correct?---No, no. It's very likely with Ryan, Ryan's not a details guy, he doesn't, doesn't tend to read a lot of these things, so it's very likely that, that Ryan had a different frame of knowledge to what I had.

I do apologise about this, Commissioner.

THE COMMISSIONER: No, it's all right, Mr White.

MR CHEN: The only email, Commissioner, that I can find is perhaps at volume 13, page 399 and that's 2 May, '16 and that's my recollection is the only email that attaches minutes but if Mr White has another one. That's the only one that I could recall and the only one found.

THE WITNESS: This is the one.

MR CHEN: Okay.

MR WHITE: So what you're looking at at the moment, Mr Kavanagh, is an email from Samuel Say to yourself.---He's just taken a photo of it and screenshotted the thing.

I'm sorry?---It's just a photo that Sammy's taken of a board, an Awabakal board minute that he's then put into an email and sent to me.

So what you're now being shown is a document which - - -?---There should be a second page to this. Yeah, there it is.

I think it was page 399 if it could be returned to the email itself. So that's the email you're referring to?---Yes.

And the attachment to that email indicates minutes of a board meeting at 8 April, 2016?---Yes.

It refers to Ms Dates's chair and that's what you're referring to?---Yes.

So do you have an actual recollection of seeing that or having seen that notice at that time?---I don't have a recollection of it. It's part of the, you know, the work that I've done in reviewing it since but I could have seen it then. I just don't know.

Is it possible that you've only seen that on reflection - - -?---Possibly.

- - - afterwards?---It is possible.

After having reviewed this matter?---It's possible.

It's possible that you might not have been aware of that at the time?---It is.

10 The contents of that email and that board meeting?---It is possible. I just can't, I can't say for sure.

But to the best of your recollection you didn't have any discussion with Ryan Strauss at that time in April/May, 2016 which would suggest that Ryan Strauss was aware that she was a member of the board, that is, Ms Dates?---Do you mean did I have a discussion about Debbie specifically with Ryan?

Yes.---No, none at all.

20

So to the best of your recollection in terms of these discussions which were taking place in relation to this fee of \$450,000, at the time of those discussions you'd agree that Mr Strauss may not have been aware that she was a member of the board based on discussions with you?---That's right. That's right. I've no idea what Ryan was aware of but there, there, I can't recall there being a discussion between myself and him specifically in relation to Debbie Dates and I'm not sure whether I saw this then or it's something that's in, imprinted in my mind since, since all of this has started happening.

30

See, the email that you were shown today, the email of 27 May, 2016, this is at volume – sorry, Your Honour, Commissioner – volume 15. I think it might be page 61, Commissioner. It's the email that he was shown of 27 May. See, this is the email from Ryan to yourself, which you were shown before. If you look at point 4, it indicates "\$450,000 paid to female Aboriginal Debbie, whatever her name is." You'd agree that's the way he's described Ms Dates?---I think, yeah, absolutely. That's, that refers to Debbie Dates.

40 There's certainly no suggestion anywhere in that email that he's aware that she's a member of the board.---Well, I can't see it.

You were also asked some questions about the quantum of this amount, \$450,000, and you recall that the Commissioner asked you something about the size of that amount in terms of it being a lobby fee. Based on your knowledge, what do you say about the amount of \$450,000 in terms of the overall amount of money concerning this overall venture had it proceeded?

---Well, it's very small. It's very small. I mean, these rezones tend to take anywhere from five to 10, 15 years. So if it had been, you know, anything like that sort of time frame, then you're talking about paying a consultant, you know, 40 to 50,000 a year, which, you know, it doesn't buy you much of a consultant. Someone who's going to stick with, you know, get the application through and achieve a rezone for you or, you know, put all the steps in place and project-manage a rezone for you is not going to, you're not going to get them for that sort of money.

- 10 So is what you're saying, although you accept 450,000 is a substantial amount of money, when considered over the life of this agreement and considering the extent of the proposal, that it's a reasonable amount?---It's a, it's a reasonable amount probably on the slightly low side. It's not overcooked, in my view.

- And you've referred to it being a lobby fee. Can you explain what you mean by that?---Well, the Aboriginal, when we met with Richard and discussed the deal, the Warners Bay site was very problematic in terms of, you know, it's heavily treed, it was, had, had environmental features on the property, and the rezoning was not going to be a simple thing. It was, it was land that the Aboriginals I think were, they were, you know, occupying it to some extent and doing, having their festivals there, or their corroborees and what have you. So there was a, there was a whole discussion around how, how they would help and assist the rezone process. We can only do, you know, as a developer you can, you can go through, you can only do so much to get your rezone approved. But these guys said they were connected. They had contacts and what have you. They knew the area, they knew the local politics. They were occupying the land, which some of the, the neighbours didn't like them doing. And this was a way to, you know, potentially kill a lot of birds with one stone. There was a lot of, they assured us there'd be a, it'd be a fairly, there was no certainty to it but that the rezone would have fairly good prospects of getting up.
- 20
- 30

Thank you, Commissioner.

THE COMMISSIONER: Yes, Mr Lonergan.

- MR LONERGAN: Yes, Commissioner. I represent the interests of Mr Green.---Yep.

- 40 I'll just take you to volume 15, page 61, we just referred to that before. Can you have a look at point 5, please. Can you explain to me what your understanding of that point is?---Well, I think it, it just means what it says. I mean it's just, that's the Awabakal Aboriginal Land Council.

Debbie being the Awabakal Land Council or representative thereof?

---Oh, Debbie as being, you know, some capacity there, by then I was, you know, I knew or became aware, as I mentioned before, that Debbie had a

role there, I think Ryan at least knew that she was an influential person, I'm not sure what else he knew. That's all I can say about it.

Right. So you knew at the time that Debbie Dates was the chairperson of the Awabakal Land Council.---As I mentioned - - -

At the time of this email.---As I mentioned before there was, there's a reasonable likelihood I did know that, it's just whether I reflected on Sammy's email then or, or whether I got that information later.

10

Right. And - - -?---There's a reasonable chance, there's a reasonable chance I read his email at the time. I just don't recall that.

There's a reasonable chance also that you spoke to Mr Strauss about it as well, isn't there?---Sorry, could you - - -

There's a good chance you spoke to Mr Strauss about it as well.

MR WHITE: I object, I object to this, Commissioner.

20

THE WITNESS: In, in relation to what?

THE COMMISSIONER: Just a moment, just a moment.

MR WHITE: This was never put to Mr Strauss, this, this.

THE COMMISSIONER: Yes. Mr Lonergan, that is - - -

30

MR LONERGAN: I withdraw the question. It doesn't affect my interest that much. But going back, let's go back to the meeting that you had early April 2016. You're saying that that was at the offices of Knightsbridge North, just let me try that again.---Yes.

Sorry, Knightsbridge North Lawyers.---Yes.

You recall that?---Yes.

40

Now, Mr Green told you at that meeting that in order for the land of the Aboriginal people to be sold that it needed the approval of members and the State Land Council, didn't he?---Absolutely not.

Right.---He did not say that. And if he'd said it we wouldn't need the advice. The advice blew us, you know, knocked us over. We were - - -

Right. So at this meeting - - -

THE COMMISSIONER: Sorry, just to be clear, sorry, just to be clear on that - - -?---The advice of Marcel Fernandes.

Sorry?---The advice of Marcel Fernandes that we obtained in early May.

Well, when did you get that advice?---We got, we sought and obtained that on 4 May.

4 May. And you say had Mr Green said what's been put to you - - -?  
---We'd have no need to get it, yeah.

10 MR LONERGAN: When was the first time that you saw contracts for sale for the properties that were the subject of the agreement?---I don't recall when we saw those.

Right. And - - -?---But they were to be attached to the suite of the five documents and there was some annexure section there that presumably the contracts would slot in, but you know, the preparation of those were, were a little bit ad hoc, they, they didn't really follow in lockstep with the suite of five documents.

20 So you're an experienced property developer, are you not?---Yes.

Right. So when proposals for development of land come up, surely you go and check to see what encumbrances et cetera are on the title of the properties. Is that not one of the first things that you do?---Not necessarily in that order. We, you know, we often, because of Google and, and technology, you know, we can often get a lot of information from a desktop before we have to, and, you know, we can do that in conjunction with the negotiations and see whether these negotiations have any traction before we go and invest money going to the site, you know, and often we'd then take  
30 consultants, pay them, but we're not going to go and do that if, you know, there's really, there's really no, you know, if the deal lacks substance or, you know, there's no traction to it or we can't get it, you know, get the deal to start moving, we often find we, we wait until we validate that side of it and then we go and put some, some, some extra effort with paid consultants once we, otherwise we'd just be chasing dead leads, you know, with consultants, paying them a fortune.

Right. So you need consultants to go and do a check on the title of the property, do you?---Well, and to come and have a look at the environmental  
40 features, there might be - - -

No, I'm not talking about environmental features. I'm talking about doing a search on the title of the property?---I thought you meant a search of the actual property.

No. A search on the title, something you can do from a desktop. Even Google allows you to find that?---I was just referencing, I was referencing

the fact that I hadn't been to the property, so that's where I mentioned earlier - - -

So let's go back to my question. My question is a simple one. When was the first time that it occurred to you to do a search on the title of the property? Properties I should say.---We had, we had, if I can just - - -

Just answer my question, please.---I'm trying to, if you just give me an opportunity.

10

A date would be good.---Sorry?

A date as to what, okay. Let me ask my question again. When was the first time that it occurred to you to go and do a search of the title of the properties?---Well we didn't need to, we were given titles.

Right – you were given titles?---We were given some titles. We weren't given all titles. We were given some. It was dribs and drabs.

20

When were you given those titles?---I think it would have to have been in April.

Right. April – and you're a details guy because Ryan's not, right? You're the detail guy? It's your money, isn't it?---I'm more of a details guy than Ryan, yes.

So, did you look at the titles when they were handed to you in April 2016?  
---16.

30

Yes.---Not closely enough, not closely enough.

So it's not clear on their schedule encumbrance on title - - -?---It's a very, in our advice from Marcel - - -

I'm not talking about the advice from Marcel. I'm asking you questions about when you saw the documents in April 2016, which is evidence you just gave, right? You said you looked at the documents, yes – yes or no?  
---Yes.

40

Yes, okay. Now you're an experienced property developer. Surely one of the first things you go and look is whether there are any encumbrances on the title. Is that fair or not?---It's a fair thing.

Yes, okay. So did you?---Not properly.

Okay. How, how does - - -

THE COMMISSIONER: What do you mean by - - - ?---Because we've never seen, we've never seen - - -

10 What do you mean by that when you say, "not properly"?---Not properly, well, when we get a certificate of title we look at the registered proprietor, we looked at the lot and the DP lines up with what's written on the front of the contract. And, you know, we look at, you know, if there's mortgages, if there's caveats, big encumbrances like that, and there's usually substantive ones around mineral rights and what have you. But this one was, was unusual. This was the Aboriginal, the Aboriginal one, and at the time that I went and got the advice from Marcel we were under a fair bit of pressure to commit to this deal and pay the deposit, and as part of doing some last-minute due diligence, which is what we do – it's what I do – I noticed the encumbrance on the title and I didn't think it was as serious as it was. I put it to Marcel and the advice came back and, you know, it was one of the few things, pieces of legislation that can effectively render your contractual arrangements null and void if we proceeded. I had no idea that it was of that level of gravity.

20 What did that encumbrance indicate?---It indicated that for a deal to be binding on the Awabakal LALC that they needed to first obtain the approval or concurrence of the State ALC prior to any deal. So if we'd signed it and then consent was requested from the State, that's still a breach. It had to be done prior and then they, so they go away and get the consent and then if they're told, yes, they can do it, then they can enter into arrangements with someone like us.

Yes, Mr Lonergan.

30 MR LONERGAN: All right. So basically you saw this encumbrance on title in April, 2016 and did nothing about it until - - -?---Didn't know what it meant - - -

- - - until May 2016.---Yes.

And you sought the advice of Council?---Yes.

40 Now, at the meeting Mr Petroulias was there. You understand Mr Petroulias to be representing the interests of the Awabakal Land Council, is that correct?---Yes.

Did he say as much?---He didn't actually say it, no.

What did Mr Petroulias introduce himself as at that meeting?---Well, as I said, before he came into the meeting, five or ten minutes into it nothing substantial had started to be, being talked about before he arrived. He arrived with a bundle of documents and I think also a folder. He sat down towards the, you know, it's a rectangular table about in the middle of us all.

He just started talking about how the deal could be, the structure and what the deal would entail.

Did he present at that meeting anything to do with Gows Heat in terms of documents?---I think we got, I think we had documents for that meeting. I think we either had them at the meeting or we had them shortly afterwards.

So - - -?---When I say shortly afterwards I mean just like a day later.

10 My understanding was that your evidence was that you did not know – sorry, I withdraw that. When did you first become aware of what the agreement, or supposed agreement, between the Awabakal Land Council and Gows Heat was?---I think it was in discussions that we had with Nick when, when he arrived. I think that was the, that was the, the main realisation that we had.

But you didn't know the details of what that agreement was.---You mean the, the, the specific agreement between Gows and the Awabakal?

20 Yes.---No, we never saw that.

Never saw that. All right.---I can't recall ever seeing it.

So - - -?---Whether Ryan or Sammy saw it, I've got no idea, but I, I didn't see that.

30 So how are you knowing – well, sorry, your evidence was that going through the process of the deal you were constrained or, you know, the parties didn't want to deviate from what the terms of that agreement were. How did you know that if you hadn't seen the deal?---Well, because Nick told us what they were. We were very much led by what Nick, you know, was guiding us. Nick, you know, presented himself like he, you know, he was the lawyer but also very influential in terms of the business of the Awabakal and what would, what would pass muster with that Land Council and what wouldn't. So we were, we were quite heavily guided by the, the parameters that he spelled out at that meeting.

So Nick's driving the agenda, is that the point?---Sorry?

40 Nick Petroulias is driving the agenda. He's representing and telling you what the Awabakal Land Council can do?---Yes. Well, they've got something to sell. We're there to, doing, to, as interested buyers but, you know, we're, we're trying to initially work out what's the, what's on offer, what are they selling, and, you know, that's what Nick explained to us.

So Richard Green at this meeting didn't really explain anything to you, did he?---Richard's role was less technical than, you know, less legalistic-sounding than, than Nick's. You know, he was, he was clearly a, you know,

a member of the New South Wales, sorry, the Awabakal Council up in Newcastle. You know, he mainly, Richard confined his discussions to, to, to Aboriginal-type things.

Sorry, explain that to me, Aboriginal-type things.---Well, in terms of the Warners Bay land, there was some discussion that Richard led in terms of how some strategy might, you know, we might, they might pursue some strategy in terms of helping to facilitate the rezoning of the Warners Bay land.

10

Mr Green didn't explain that to you, did he, because Mr Green, how would – sorry, to your understanding, how was Mr Green capable of - - -?---Well, it was very rudimentary. It was, it involved, you know, basically the, the, the Aboriginal groups that he had contact with making, you know, effectively a public pest of themselves up there on the land where it had adjoining existing neighbours and residents, and, you know, putting pressure on council to, to, to encourage a rezone through, through neighbour complaints and, you know, wanting to, wanting to rezone the land and move it into, you know, land subdivision purposes. And, you know, his idea was to, you know, create a bit of nuisance up there and that was, that would help to push the wheels of progress along with the support of local residents.

20

So his expertise on rezoning is being a public nuisance?---Well, you know, it was very unsophisticated to us. You know, we weren't, we weren't particularly impressed with it. We'd never come across a strategy quite like that before but, but that was, that was, you know, about the limit of what Richard contributed, yeah.

30

So then fast forwarding. So Mr Green attended this one meeting. You had no contact with Mr Green after that point in time?---I can't recall any contact with Richard after that.

So you didn't attend the second meeting in April?---I don't think so. I could be wrong but I don't think so because I'd remember.

And yourself and Mr Strauss never had conversations about making any lobbying fee payments or other ways of describing such to Mr Green did you?---No.

40

No. Mr Green never asked for anything like that did he?---He never asked me for anything.

Well, did he ask Mr Strauss to your knowledge?---No, certainly not to my knowledge, no.

So at what point in time did yourself and/or Mr Strauss decide that Ms Dates was the person to lobby as opposed to Mr Green?---Well, I think that was a decision that was taken by Ryan and Sammy. They got ahead of

that curve. I, I decided back in early May that the deal had no, there was no trust there and it had lost momentum. We hadn't heard from KNL, the lawyers, you know, for, you know, since the 6<sup>th</sup> when they told us that the Solstice proposal had been rejected so Ryan and Sammy went off and, and, you know, trail blazed in, you know, an effort to try and resurrect the deal back on a, back on a deal footing again unbeknownst to me and, you know, that's, that's how they, you know, came up with this, they must have come up with some idea to go and approach, cut Nick out or Gows sorry, and, you know, approach the, the Awabakals direct.

10

No further questions, Commissioner.

THE COMMISSIONER: Yes, thank you. Anything further? Dr Chen, do you have any - - -

MR CHEN: No, I have of the witness. Thank you, Commissioner.

THE COMMISSIONER: Very well. Mr Kavanagh, thank you for your attendance today.---Thank you.

20

You're excused.

**THE WITNESS EXCUSED**

**[4.06pm]**

THE COMMISSIONER: Very well. I'll adjourn. Tomorrow's program is as per the draft advertised program?

30 MR CHEN: It is, Commissioner, subject to Ms Dates being given a marking of not before 12 o'clock.

THE COMMISSIONER: 12 o'clock. That's right, yes. Very good. Then I'll adjourn.

**AT 4.07PM THE MATTER WAS ADJOURNED ACCORDINGLY**

**[4.07pm]**

40