

SKYLINEPUB1905
20/07/2018

SKYLINE
pp01905-01953

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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 20 JULY 2018

AT 2.02PM

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CONVENTIONS USED IN THE SUPREME COURT.**

THE COMMISSIONER: Thank you, Mr Green.

RICHARD JOHN GREEN, affirmed

[2.03pm]

THE COMMISSIONER: Just take a seat, thank you. You might turn your phone off, if you would, thanks, Mr Green.

10 MR CHEN: Commissioner, I gave Ms Nolan notice that I wish to ask, with your leave, just a couple of other questions of Mr Green.

THE COMMISSIONER: Yes, leave is granted.

MR CHEN: Mr Green, did Ms Dates ever disclose at any meeting of the board that you attended that she'd signed any agreements with Gows Heat?---No.

20 Did Ms Dates ever disclose at any meeting that you attended of the board of the land council that she'd signed any agreements with Solstice?---No.

Or with Sunshine?---No.

MR CHEN: Thank you. Those were the further questions, Commissioner.

30 THE COMMISSIONER: Thank you. The Ms Nolan, we'll resume your cross-examination. I understand your estimate to counsel is assisting is about an hour and a half. I'm prepared to go through until 4 o'clock so you have until then to complete your cross-examination.

MS NOLAN: Thank you, Commissioner.

Mr Green, you may recall when we started that we were just talking about the education day that you had with NSWALC; do you remember that?---Yes.

40 I asked you to tell the Commissioner what you learned on that day. You were talking about taking minutes. What else?---Taking minutes and a lot of policies and procedures of the land council. Like I said, they come and do a one day, what was it, presentation. They stand up and write some stuff on the board and tell us how this works and that works, and that's about it.

You've had no other formal education as to how to be a

board director, have you?---No.

You've had no other formal education as to how to be a board member of an Aboriginal land council, have you?---No.

10 I asked you some questions about the Aboriginal Land Rights Act and how you understand it works with respect to selling Aboriginal land. Can I just qualify with you the understanding that you have today, is it the same understanding that you had, say, back in 2014?---Yes.

20 Can you please tell the Commissioner was that understanding is? If you could just step through, not by reference in any detail to the Act itself, but what you understand the Act requires in order for a lot or a parcel of Aboriginal land to be sold to anybody?---The interested party, they write a letter to either the CEO or the chairperson to come and do a presentation talk about the block of land that they are interested in, and then the board makes a decision whether to go with it or not to go with it. Like I said, there's always arguments. And then it goes to the community to pass it and then from there it goes down to the state land council and they should pass it.

How many occasions throughout your experience on land councils have you been directly involved with a completed sale of Aboriginal land?---Oh, once.

30 Which occasion was that?---That was about 24 - my daughter was about - she's 25 now, but, yeah, about 25 years ago it was.

What land was that?---Oh, in the Wee Waa Aboriginal Land Council.

What involvement did you have in that sale?---I was a chair and a board member and my wife back then was the coordinator in them days.

40 Did you negotiate with NSWALC or did you participate at any stage in any of those levels of approval?---Mainly my wife did it, because she could read and write and type and all that stuff.

I think you've given evidence to the effect that the Awabakal Aboriginal Land Council gave you a role, sort of endorsed you as a delegate. Do you understand what that

word is, like a person who is acting as their spokesperson on on their behalf to go out and scout property investors?

MR CHEN: I don't think that's the evidence at all, Commissioner, with respect.

THE COMMISSIONER: Do you have a transcript reference?

10 MS NOLAN: No, I don't. Can I withdraw that question and ask another.

THE COMMISSIONER: Perhaps if you could be a bit more precise.

MS NOLAN: I can't, but I'll do it a different way. I'll withdraw that question.

20 It is the case, isn't it, that you were given authority of sorts, like endorsed by the board to go out and try and find investors to bring back to the board to consider whether you were going to sell Aboriginal land to them, the Awabakal Aboriginal land?

MR CHEN: I object on the same basis.

30 THE COMMISSIONER: I think the some problem arises, Ms Nolan. You are talking about authority. You need to prove any authority. I mean, if there is any authority being granted it would be in the minutes I assume, but it's unconfined. He has been a board member for many years. What year are we talking about, et cetera? I think it suffers from the same vice as the previous question, I think.

MS NOLAN: Yes. I'm happy to withdraw it and have another go, if the Commission pleases.

40 Is it the case that you understood that you had been given authority by the board in or about 2014 to go out and find investors to bring back to them to purchase the Awabakal Local Aboriginal Land Council?

MR CHEN: Commissioner, again, it is a subtly different question but it suffers from the same problem. It could be overcome, if my learned friend doesn't have the transcript reference, because he gave far more confined evidence - is to ask it in a non-leading form.

THE COMMISSIONER: It is only based on his belief or understanding at the moment. I think I'll allow it, Dr Chen.

MS NOLAN: Do you understand the question?---Yes, I understand it. Yeah, they endorsed me, that's the word that they used.

10 THE COMMISSIONER: I strike that answer out, it is not an answer to the question. Put the question again so he understands point of your question.

MS NOLAN: Did you understand that you had been given authority to go out and negotiate or bring in investors to purchase Awabakal land?---Yes.

Did you understand that?---Yes.

20 What gave rise to that understanding? Can you tell the Commissioner why you understood that to be the case? What made you think had you that authority?---Well, the board endorsed it and - - -

Stop there because - - -

THE COMMISSIONER: That answer is struck out.

30 MS NOLAN: Don't worry about "endorse it", because "endorse" is just a big word and you need to explain what you mean by that word. What are the facts. Just give the Commissioner the facts - what people said to you, what they wrote, all those sort of things.---The understanding was that I could go out and show people blocks of land.

Stop there.

40 THE COMMISSIONER: That's struck out. You've given your understanding. Mr Green, nobody is criticising you, it is just a question of legal form of these questions are giving rise to some difficulty. Anyway, just listen to Ms Nolan.

MS NOLAN: What the problem is you can't bundle it all and say this is what happened. You need to give the Commissioner all the facts. What did people say to you that made you think that they had endorsed you? What were the words said to you, what meetings were held where there

was a decision made? Was it documented? How was it documented? Do you understand what I'm asking to you do.

THE COMMISSIONER: Are you able to do that, Mr Green? That's a very general question.---Yeah. We had a meeting, as far as I can remember.

MS NOLAN: Who is "we", when you say "we" had a meeting?---With the board.

10

When was this, do you remember?---No, I can't - I'm no good with dates.

Was it around the birth of any child, is there any way you can pinpoint it in your mind?---No. It would have been before, before all this - before I went and showed people land.

20

When did you think that you started showing people land? In or about what year?---I think it was about '15 or something.

About 2015?---Yes.

So it was prior to 2015 you say the board had a meeting?---Yeah.

30

THE COMMISSIONER: No, he didn't say that. I don't think he said the board had a meeting.

MS NOLAN: This is what I'm exploring with him, Commissioner.

THE COMMISSIONER: Yes. I think this is why you're going to keep running into head winds, Ms Nolan, because if you want to get from him that there was a board meeting and that there were decisions made at that board, you can't do it through his unsourced recollection. If there is a board decision, it would be recorded.

40

The rules of evidence don't strictly apply here, as you're aware, but nonetheless the validity of the evidence, if it is flawed, should not be allowed to be used as a substitute for the real evidence. A board can only operate by deliberation and agreement amongst its members, by majority at least, and if there was ever such a decision, it would be recorded in the minutes. That's the evidence of the

practice of the Commission as a corporate body. You can ask the question again if you wish, but you're inviting the same objection, I think, that he can't assist us - and I understand it is no criticism of Mr Green - as to what meeting you're talking about and when it occurred and who was there and what was the decision taken.

10 MS NOLAN: Commissioner, I accept everything you've said as being entirely appropriate and correct, but my point is actually - you've been furnished, I would understand, the topics of cross-examination. My submission, with respect to this, will go to a different point and that is this witness's understanding, his understanding has been conveyed to somebody else and somebody else acting upon that representation, if you understand my meaning, Commissioner. Do you understand where I'm going?

20 THE COMMISSIONER: He has already given evidence of his understanding. I've allowed that to go through, but that can't be the gateway towards proving a decision of the board. There's only one way of proving the decision of the board and that, as you know, is through the minutes.

MS NOLAN: There's so much controversy about minutes, but I've heard what you said.

30 THE COMMISSIONER: Look, I don't want to utilise your time. You obviously are aware of the fact that you need to allow the time I've allowed, two hours, wisely, but I think you've got from him what his understandings was, that he believes he had an authority to show people around with a view to selling land. Whether his understanding is soundly based or not is entirely another question. You've got that from him, his state of mind.

THE WITNESS: Not selling land.

THE COMMISSIONER: Where do we go from there?

40 MS NOLAN: We'll go from there, thank you, Commissioner. We'll go from there.

You were going out and showing people blocks of land from about 2015; is that right?---Yes, I was.

Do you remember the people that you were going out and showing blocks of land to?---I'd say there would have been

about, oh, five or six people, three or four at a time, one or two at a time - it would have been about five or six lots, not lots of land, but the people.

This would have been in about 2014 or 2015; is that right?---Yeah. Yeah, I think so, yeah.

You had some involvement in an organisation called the United Land Councils; that's right, isn't it?---Yes.

10

Is the United Land Councils an idea that you took part in to unify Aboriginal land councils along, say, the east coast of Australia or even broader so that they could harness and develop the opportunity to develop Aboriginal land in a unified way as opposed to just dealing with it on a land council by land council basis. Have I correctly summarised what - - -?---Yes, that's correct.

20

This was something that you were working on because, as I understand it, you had some, I will use the word misgivings about how difficult it was to sell Aboriginal land because of the oversight of New South Wales Aboriginal Land Council?---Yes, a lot of it is zoned environmental.

A lot it is zoned environmental?---Yes.

And that makes it very difficult to sell; is that right?---That's right. I wasn't trying to sell land.

30

What were you trying to do?---I was trying to get investors to help us, you know, to get it zoned off the - zoned off the zone that it was, because land councils have got no income to do such things like that and I thought the investors would come in and give us a hand to do all that stuff.

40

Was the idea that you would work in partnership with these investors you were bringing in so that they would get some of the land and then the Aboriginal people would get some of the land and you would at the same time develop jobs for Aboriginal people?---Yes, yes.

And that's what was motivating you in your work with the united land councils, wasn't?---Yes, exactly.

And that's what was motivating you in your attempts to try and - I will use the word "sell", but to transact in

respect of the Awabakal Aboriginal land?---Yes.

It is right, isn't it, that the Awabakal Local Aboriginal Land Council, insofar as you understand it, was the first member of the United Land Councils?---Yes.

You came to meet Ms Bakis in the context of her giving assistance to the Awabakal Local Aboriginal Land Council in its work with United Land Councils?---Yes.

10

Does this accord with your recollection: around the end of 2014, that's when you first were introduced to Ms Bakis?---Yeah, I'm not sure on the dates again.

Do you remember that you had a number of conversations with Ms Bakis where you were discussing with her her assistance to the Awabakal Local Aboriginal Land Council in terms of doing its legal work? Do you remember those conversations?

20

MR CHEN: Could we have a time for this?

THE COMMISSIONER: I'm sorry?

MR CHEN: I wonder whether my friend - - -

MS NOLAN: I'm going to funnel down. I've set a parameter and I'm going to funnel down.

30

Do you remember you had some conversations with Ms Bakis about her doing - - -

THE COMMISSIONER: You should put it into a time frame in the context. What period are we talking about? Are we talking about a particular year or years?

MS NOLAN: I will assist in that way, Commissioner, yes. I'll take what you say.

40

So 2014, I'm talking about August to around November, that's the end of the year, just at the end of winter around 2014, coming into sort of the beginning of summer. Can you cast your mind back, I know it's hard, to around that time?---I'll say yes.

Around then you were having some discussions with Ms Bakis - a whole variety of other people but Ms Bakis as well - about this United Land Council and you were speaking to

Ms Bakis about doing legal work for the United Land Councils, do you remember that?---Yeah, I do.

There is a costs agreement that your signature appears on that comes from at or about this time. Does it accord with your recollection that at or around this time you agreed to enter into an official agreement with Knightsbridge North Lawyers to do this legal work for the Awabakal Local Aboriginal Land Council?---Yes.

10

MR LONERGAN: Objection, Commissioner. The basis of the supposed agreement was with United Land Councils.

THE COMMISSIONER: Sorry, the basis of the - - -

MR LONERGAN: Not Awabakal.

MS NOLAN: Yes, it was.

20

MR LONERGAN: We can go back to the transcript it was definitely United Land Councils, not Awabakal

THE COMMISSIONER: Incidentally, what was the date of the agreement?

MR CHEN: 28 November 2014.

MS NOLAN: I'm happy to narrow it down.

30

MR LONERGAN: It is not a question of narrowing it down.

THE COMMISSIONER: I think you should withdraw that question. There was no evidence she was dealing with him about the United Land Councils' work. I think you need to go back and start again on this segment.

MS NOLAN: All right.

40

At the end of November - your signature appears on an agreement on that date, right, and I'm suggesting you signed that agreement because you were agreeing with Ms Bakis that Knightsbridge North Lawyers would be the solicitor for the Awabakal Aboriginal Land Council at or around that time, do you remember that?

MR CHEN: Could the witness be shown the document? I fear there's some confusion entering into the questions. I've

taken the witness to it, my learned friend should put it with the document.

THE COMMISSIONER: What's the exhibit number?

MS NOLAN: Is it 42, volume 8?

MR CHEN: Exhibit 43.

10 THE COMMISSIONER: Volume?

MR LONERGAN: Volume 43, page 1, 28 November 2014.

THE COMMISSIONER: All right. Could we get that up.

MS NOLAN: There is a document on the screen. Do you see this says "Cost Disclosure Statement and Client Service Agreement Awabakal Aboriginal Land Council". Can you see that?---Yes.

20

Over the other side it says Knightsbridge North Lawyers and it has the address, telephone, fax and email. Do you see that?---Yes.

Is it coming back to you now, do you remember this document?---I can't say I clearly remember it.

30

What about if we move to the next page. Do you see the formatting? You have been shown it I think in this proceeding. Just have a look at the formatting. Do you remember seeing a document looking like this?---I didn't read - I didn't read it.

40

Don't worry about reading. We've heard that. I'm not being critical of you. I'm just asking you to look at it. Sometimes looking at things can help you to say, "I do remember something like that". I'm asking you do you remember looking at it - if we would continue to scroll through, please, thank you, just slowly - do see costs charge, standard rates, reference to counsel fees, things like that?---No, I didn't read none of that.

What about this bit here, estimate of costs, clause 9, that big number, 80,000, do you remember that?---No, I don't remember that.

Just keep scrolling through, if you would, please. Does

the formatting bring back any memories?---No.

Do you see down the bottom - I know you've been taken to this - there's your initials there?---Yes. Yes.

It was Ms Bakis's practice, wasn't it, when she sat down with you - what Ms Bakis was good at, she was always really good as explaining things in terms that you could understand? You would agree with that, wouldn't you?

10

THE COMMISSIONER: No, Ms Nolan, if there was a practice you've got to establish it. There's no evidence there was a practice.

MS NOLAN: Okay. I'll withdraw that.

If you don't recognise this document, do you remember sitting down with Ms Bakis on an occasion where she explained to you that you were agreeing to enter into a costs agreement with her which would set out how she was going to charge you, what work she would do and what was the purpose of it, and she went through the document and explained to you various things in it? Do you remember that happening?---Oh, not - not really, like sitting down for half an hour with this stuff here. She used to say stuff to me, but Mr Petroulias used to always cut in and take over and say, "Sign this, sign this, sign this, initial it here, initial it there", yeah.

20

30

But you recall, don't you, sitting down with Ms Bakis on an occasion when she sat with you and she went through a document dealing with her costs and explained to you the effect of it, asked you to initial each page and then sign it? Maybe at the end, not necessarily at the end of every page being explained to you, but she sat you down and she explained to you in simple terms what it is that the document she was asking you to sign did; do you remember that?---I remember vaguely a bit of stuff, but I can't remember 100 per cent on this one here.

40

What I'm asking you is, you've sat down with Ms Bakis on a handful of occasions, maybe more, to sign documents, haven't you?---Maybe a couple of times, but mostly it was Mr - it was Nick.

I'm not really worried about Nick. What I'm concerned about is my client, Ms Bakis. I would like you, if you

could, doing the best you can, to think about the times Ms Bakis has asked you to sign a document, it is the case, isn't it, that when she has done so, she has sat you down, she has told you what the document is, she has gone through it, explained to you in simple terms the effect of the document, sometimes very slowly working through various aspects of it, and then if she's asked you to sign it, she said, "If you agree, would you please sign here" do you remember that experience?---I remember vaguely some stuff, yeah, yeah, I do, but, you know, it's a long time ago and my memory's not that good.

10 THE COMMISSIONER: When you say "some stuff", what stuff are you talking about?---It might have been this stuff here. I never took much notice. I was always - - -

MS NOLAN: Sorry to interrupt you. Please continue.---No, I've finished.

20 What the Commissioner is exploring you is exactly the same thing I would like to explore with you. I know it's difficult to remember what you had for lunch last Thursday, but what I'm asking you to do is remember the relationship. You can remember the relationship you had with Ms Bakis and that she took the time, didn't she?---Yes, she used to - - -

Sorry?---She used to sit down and have a little conversation with me, yes.

30 She took the time - when she was giving you documents she would explain to you what it was about and then at the end she would say, "If you agree with this, Richard, would you mind just signing here, or can you sign here, or sign here"? That's what you remember being your experience with Ms Bakis, isn't it?---Similar. Similar.

40 When you say "similar", it's not vastly different, though, is it?---No, like I said, she's had conversations with me but I can't - I can't remember this document, because I would have remembered the \$80,000 on it.

Are you sure about that?---Yeah.

I mean, there's been so much going on in your life in the past 12 months, hasn't there?---Oh, exactly, yeah.

I'm not asking to you tell the Commission what has been going on, but you agree with me these last 12 months in your life, or maybe longer, have been very difficult times in your life, haven't they?---Yes, I've had breakdowns and everything.

As you sit here today, doing the best you can, it doesn't matter how hard it is that you're trying to remember things, you just can't remember, can you?---No, I - - -

10

MR LONERGAN: I object to the question. The witness has answered specifically that he would have remembered \$80,000.

THE COMMISSIONER: I think he's said it now a number of times that he doesn't really have any specific recollection of what is being put to him. All he remembers is sometimes he has had a chat with Ms Bakis. I think that's as far as it goes, Mr Lonergan.

20

MR LONERGAN: If it please the Commission.

MS NOLAN: It is the case, isn't it, Mr Green, that throughout the course of your questioning in this inquiry many times you've felt overwhelmed; that's right, isn't it?---What does overwhelmed mean?

30

Like it's too much, it's too much, that it has been a really difficult experience for you?---I get very nervous when I walk into a place like this here, and I'm the only blackfella sitting up here getting persecuted, yeah.

It is the case, isn't it, many times you've just answered questions just to agree with things so that you can we just get on with it; is that right.

MR CHEN: I object.

THE COMMISSIONER: I don't think you can have that.

40

MS NOLAN: Commissioner, I withdraw it.

Do you recall on a number of occasions, or at least one or two occasions saying, "Well, what to you want me to say?" Do you remember saying that?---Yes, I do.

You've said that because you feel like you're being forced

to answer questions that you just can't remember the answers to?

MR CHEN: I object, Commissioner.

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

10 MS NOLAN: Did you know that if you did do things in respect of Awabakal land or Awabakal business, that you needed to keep a record of it and table it to the board at the next meeting? Did you know that you needed to do that?---I didn't have to do it.

20 Why do you say that you didn't have to do it?---There's a secretary, there's a chairperson and - there was never a CEO. They're supposed to do all that stuff. We just - we just have meetings, stuff left on the table when we walk out. That's what I say, people don't understand how Aboriginal land councils operate.

30 Maybe I can ask you some questions about that. When you say that people don't understand the way Aboriginal land councils operate, what is it that you're trying to convey? What are you trying to say by that?---Well, we don't operate like a white man system, you know, in an office. You go in there - like I keep saying, Awabakal is people that come from all over the place. There's no Awabakal people left, and when you sit in a land council meeting they'll say, "You don't come from here. You don't come from here. What rights have you got to say this", and it's always fights and paperwork gets left on the table. Everybody gets up and walks out and it just gets out of control. It's been like that for as long as I can remember, as long as I can remember. All over the country it's been like that and it still is. You know, they set up a Land Rights Act for land councils to operate, they put all uneducated - I don't like saying that about my people, but - - -

40 Are you all right, Mr Green?

THE COMMISSIONER: Yes, you proceed, Ms Nolan.

MS NOLAN: Have you finished your answer, Mr Green? I'm sorry to upset you. That's not my intention at all.

THE COMMISSIONER: Just a moment, Mr Green. Just a

moment. I'll give you a minute or so to collect yourself and then we'll move on. All right, Ms Nolan.

THE WITNESS: I'm not finished yet. I'm not finished.

10 MS NOLAN: Please continue. Just remember that you've been told you're not allowed to make speeches and I'm not inviting you to, but just insofar as you're answering my question, please continue.---Yes. The reason why it upsets me, they put Aboriginal people in charge of funding and all this sort of stuff and they've got no - I've been saying it for years, they've got no idea what they're doing. And you get persecuted, the investigators just probe on us all the time.

THE COMMISSIONER: Ms Nolan, I think it is time to change subjects and move on because it is now getting on for 20 to 3.

20 MS NOLAN: Thank you.

If you signed documents for and on behalf of the Awabakal Local Aboriginal Land Council, was it your practice to bring it back to the board and put it on the table and say, "I've signed this document"? Would you do that?---Yes, we normally do it.

30 In the period from about February 2015 to about August 2015 the board wasn't meeting, was it?---No, because of all the fighting.

So anything that you were doing during that time, do you remember that Ms Bakis was keeping file notes? Do you remember that she was keeping file notes of the things that she was doing?---Yes, I remember.

MR CHEN: I object, Commissioner.

40 MS NOLAN: I'm just - - -

MR CHEN: At the moment she's asking whether her client kept file notes.

THE COMMISSIONER: How would he know whether she - - -

MS NOLAN: He signed them, Commissioner. He signed them is my - - -

THE COMMISSIONER: Her file notes?

MS NOLAN: Yes.

THE COMMISSIONER: Which file notes are we talking about? Are you suggesting this was a practice or this happened on some occasions, or what?

10 MS NOLAN: It has happened on a number of occasions. The Commission has those notes.

THE COMMISSIONER: I think you need to be specific about it if you want to - - -

MS NOLAN: The Commission has them.

20 THE COMMISSIONER: The question suggests it was done as a matter of course. If that be the case, then I think you should put it to him. If it is confined to a few occasions, then put those occasions to him.

MS NOLAN: Okay.

30 Do you recall sitting down with Ms Bakis on more than one occasion - and I've heard what the Commissioner has said, so I am going to try and endeavour to do what I must. Do you remember sitting down with Ms Bakis on more than one occasion where she'd say, "Look, I've kept this record of what's been going on" and she would go through it with you and ask you to sign at the bottom? Do you remember that?---Oh, similar to that, we'd sit down and have a little talk, but she kept getting abused all the time, yeah.

When you say she kept getting abused all the time, it wasn't by you, was it?---No, it wasn't by me.

40 Do you remember that when the investigator was appointed to the Awabakal Aboriginal Land Council, you instructed Ms Bakis to bring proceedings against the registrar? Do you remember doing that? You wanted to fight it, didn't you?---Yeah, I did want to fight it. Despina had a few words to me but it was mainly Nick that put the - put the application in to fight the registrar.

Why did you want to fight it?---Because - - -

I'm not accusing you of anything, I'm just asking you why did you want to fight it?---Because that's all they ever do to our land councils, is put investigations into them for people that can't read and write.

10 So you would agree with me, wouldn't you, that you said to Ms Bakis's firm, Knightsbridge North Lawyers, "We want to fight it"? Do you agree with that?---Oh, I don't agree with that. I remember Nick saying, "We'll put an application in to fight them", and - I remember that vaguely.

You didn't say, "No, no, we're not going to fight it"; you were happy to fight it, you agreed to do that?---Yes, of course I did. And the registrar resigned, I must add.

20 At about the end of 2015 do you remember a man called Greg Vaughan coming up to the Awabakal Aboriginal Land Council?---Yes, I remember - I remember Greg, yeah.

Greg was coming up, wasn't he, to help with the policies and the procedures and tighten things up for the Awabakal Local Aboriginal Land Council so that it didn't come under this scrutiny from investigators and registrars, trying to bring it all up to speed so you had good policies and procedures; do you remember that?---Yes, I remember that.

30 Do you remember that Despina was also coming up and helping in that endeavour? She was coming and helping to get all the policies and procedures all tidied up so you wouldn't suffer the same fate as the investigator coming in again? Do you remember that?---Yes.

It is right, isn't it, that when the board started getting back together again and meeting again after the fighting sort of calmed down, that Despina was coming to meetings, wasn't she?---Yes.

40 And she was helping people with doing documents and typing up minutes and things like that, wasn't she?---Yeah.

She was helping with the accounts?---Yeah.

Of the Awabakal Local Aboriginal Land Council, wasn't she?---Yes.

And she was helping to deal with the auditor who had been sent in to deal with the - the auditor for the Awabakal Local Aboriginal Land Council too, wasn't she?---Yes, as far as I - yeah, I think, yeah.

10 It is during that time, January 2016, say, to about September 2016, so not last year but the year before - do you remember that - most of that year that Ms Bakis was meeting with you, meeting with Ms Dates, do you remember that?---Yes, and a few other board members, yes.

A few of the other board members discussing things like the ongoing investigation by Mr Kenney. Do you remember that?---Yeah, I remember, yeah.

And the need to continually try and improve the Awabakal - I'm going to call them governance procedures, but the policies and the procedures, yes?---Yeah.

20 Do you remember that Ms Bakis had a conversation, I think it was with you, maybe with you and Debbie, where she said that a lot of the stuff that had been going on, such as the various land transactions that you had been working with Nick on, that they hadn't been taken to the board, you hadn't been keeping the board up to date on a few things? Do you remember you had a conversation to that effect?

THE COMMISSIONER: When is this said to have occurred?

30 MS NOLAN: Pardon me?

THE COMMISSIONER: When is this conversation said to have occurred?

MS NOLAN: At the beginning of 2015, about February. About February.

THE COMMISSIONER: Where did it take place?

40 MS NOLAN: I think in the board - in the land council.

Do you remember having a conversation up there around the end of February 2016, not last year, the year before, the beginning of this time when Despina was starting to come up a lot and she said to you, and I think Debbie, that you guys haven't got a lot of the things that should be before the board, before the board - pieces of paper and the like?

Did she say something along those lines?---Yes, she used to say that. I can't remember about the land, but she used to say that stuff, you know, with the paperwork and it's got to be up to date and it's got to be this and it's got to be that, but yeah, yeah, I'd say yes.

10 You've been asked some questions about the idea of ratifying certain things that you did when the board wasn't meeting. Do you remember being asked questions about that?---Oh, I can't remember.

Does "ratifying" ring a bell?---Ratifying?

Do you know what that means?---No.

20 There was a meeting in March, 6 March 2016, you've been asked a lot of questions about it and it is the meeting where, you know, you brought the costs agreements with Knightsbridge North Lawyers to the table and said, "I've entered into these and I think we should agree as a board to enter into this, I did it on my own but I think as a board we should all agree that what I did" - - -

30 THE COMMISSIONER: Ms Nolan, it is a basic principle of cross-examination which must apply here in order to ensure that the evidence has got any validity: you must put the time, the occasion, the setting, the context in which a particular conversation is said to have taken place. There's evidence here of multiple conversations with various people over several years. If you want this to be understood by the witness, he's entitled to know the context. What was the occasion?

MS NOLAN: 6 March 2016.

40 THE COMMISSIONER: Who was there, what was the date? In other words, set context so that the witness has half a chance at least of understanding what conversation you're even referring to.

MS NOLAN: I'm positive that - - -

THE COMMISSIONER: I'm just simply saying the commonsense proposition behind that principal is to enable the witness to be sure that you are both on the same wavelength, talking about the same conversation, and that the witness is in a position to recall, particularly after years later,

the occasion about which he's being asked that a conversation took place. I'm just pointing out that you must comply with that requirement in cross-examination in order for this evidence to be of any value at all.

MR CHEN: Could I just add one other matter as well. I think my friend has got the dates wrong as well.

THE COMMISSIONER: 6 March 2016?

10

MR CHEN: There was certainly a meeting on 6 March, but my learned friend, and this is where it adds to the confusion - the cross-examination is proceeding on the basis that the ratification that the questions were asked about relates to an earlier point in time, namely 11 January 2016. My friend was cross-examining on the basis - - -

MS NOLAN: Did I say 6?

20

THE COMMISSIONER: You said 6 March.

MS NOLAN: It should be the 8th.

THE COMMISSIONER: That just reinforces what I said. You may have had one date in mind, the witness may have a completely different date in mind and you're missing each other like ships in the night. That can be dangerous, because people can be giving evidence unwittingly, thinking they're talking about one occasion and they're not. Let's get that date right and let's provide the context so Mr Green understands what you're putting. All right. We'll start again.

30

MS NOLAN: I think I said a board meeting on 6 March. I was wrong. In any event, I don't think you remember the dates. It is 8 March. You have been asked some questions about 8 March. I'm going to pause and ask through the Commissioner have I got the date right, Mr Chairman?

40

THE COMMISSIONER: I don't think it is right.

MR CHEN: There are different ratification resolutions at different meetings. My point earlier, Commissioner, was that the questions were directed to, as I understood it, a fee agreement or ratifying a retainer, and that's plainly a different meeting that my learned friend is directing these

questions to.

THE COMMISSIONER: Which one are you trying to get to, Ms Nolan; is the costs agreement issue or is it something else?

MS NOLAN: My note is wrong, it's okay. It is my mistake and it is 8 April. It is 8 April.

10 THE COMMISSIONER: 8 April?

MS NOLAN: Volume 11, page 312, I think. Is that it?

THE COMMISSIONER: Press on, because we're not sure which ratified agreement you're talking about.

MR LONERGAN: I'm sorry, Commissioner, what ratified agreement and what minutes? There are two variables that are undecided right here. What's the agreement that we're
20 talking about being ratified, and what is the meeting at which that agreement is purportedly ratified?

In fairness to the witness, I would ask that he be shown both the agreement that's sought to be ratified and the notes or minutes of the meeting in which it is purported to be ratified.

THE COMMISSIONER: Yes. Ms Nolan I think what Mr Lonergan said is right because it will make certain that the witness
30 is understanding exactly what you're referring to when you refer to an agreement and ratification. I think if you put the agreement before the witness, that will remove any doubt as to which agreement you're referring to.

MS NOLAN: Yes, Commissioner. If you recall, I'm only just trying to assist with the understanding of the word "ratification" at the moment. Could that document be put back up on the screen, please.

40 THE COMMISSIONER: The word has no meaning unless with context and the particular agreement is identified.

MS NOLAN: It has meaning, Commissioner.

THE COMMISSIONER: It has a general meaning but no specificity associated with it.

MS NOLAN: I understand that.

THE COMMISSIONER: It is the specificity that we're all here concerned with at the moment, if you want to pursue this question, that is.

MS NOLAN: Could you scroll down, please. I'm really flying blind here. Thank you, that's the one I want to see. Board resolution of - - -

10

THE COMMISSIONER: What are we looking at? Make it clear to Mr Green.

MS NOLAN: I'm making it clear to myself.

THE COMMISSIONER: I said make it clear. You've pulled up paragraph 4. He's entitled to know which document paragraph 4 appears in, just to confirm that he understands where you're going. I think you'd better scroll back to the beginning so he understands the date of that, et cetera. Mr Green, have a read of that so you can understand the occasion Ms Nolan is endeavouring to ask you questions about. All right, Ms Nolan, Mr Green has had the opportunity of reading those minutes, at least the introductory part of the minutes.

20

MS NOLAN: Do you see there "further ratification"? Do you see the word "ratification"?---Yes.

30

Paragraph 4. Do you understand what that means?---Not really.

It say that the board resolution of 8 March 2016 ratified certain payments. That could not previously have been the subject of board resolution during the time when it did not meet. This is what I was exploring with you, your understanding of - you've been asked questions about the board ratifying certain things. Do you understand what that means?---Oh, not really, but I think it's - it's that the other minutes were no good; is that right?

40

Is that what you understand "ratifying" means?---Yeah.

I'm not testing you, I'm just trying to ascertain - - -?---Well, I think that's what it means.

There was a period of time when the board wasn't meeting,

we've already established that, and during that time do you remember entering into - this is in November of 2015 - a costs agreement with Ms Bakis's firm Knightsbridge North Lawyers? Do you remember doing that?---I can't say I do remember. That's the best answer I can give you.

10 I might come back to it. We're just trying to pull up the right document. I'm going to come back to that, so just hold that thought. You remember, don't you, working with Mr Zong in respect of the Sunshine Property proposal to purchase the Awabakal land, don't you?---Not working with him, I remember having - speaking with him, not working with him.

Do you remember that the deal was there were five options to purchase about five blocks of land for about \$12.6 million, does that ring a bell?

20 MR LONERGAN: Objection, Commissioner. When was this knowledge - now or at the time of the agreements?

THE COMMISSIONER: Yes.

MS NOLAN: I'm just asking him about whether or not he remembers the deal.

THE COMMISSIONER: When do you say this deal was struck?

30 MS NOLAN: The deal that you were working on. I'm just saying the deal that he was working on. I'm not saying you entered into a deal.

THE COMMISSIONER: Which deal are you talking about?

MS NOLAN: The Sunshine Property proposal.

THE COMMISSIONER: The Sunshine Property - - -

40 MS NOLAN: Mr Zong.

THE COMMISSIONER: This is the transaction that was entered into with Gows Heat, and then Sunshine; is that right? Are we talking about the same transaction? It is the one in - - -

MS NOLAN: I'm not talking about Gows Heat. I'm not interested in Gows Heat. That doesn't concern me at all.

I'm interested in whether Mr Green remembers working with Tony Zong behalf of - he, Mr Green, working for and on behalf of the Awabakal Aboriginal Land Council with Mr Zong in respect of what we've all been talking about as the Sunshine Property proposal.

10 THE COMMISSIONER: All right. Do you understand that, Mr Green?---Yes, I remember talking to Mr Zong about meetings and showing him land, but I never said the sale of land or anything like that.

MS NOLAN: No, I'm not suggesting you sold him any land.---Yeah.

20 I don't think the document suggests you did. What I'm asking is do you remember that the deal you were sort of negotiating with him - you didn't finalise it, I'm just suggesting do you remember the deal you were negotiating with him?---Yes, that we were talking about, yeah.

Yes.---Yeah. I don't know if negotiate is the word or - I remember talking, yeah.

All right.---I can't forget Mr Zong, you know, he was a gentleman and - yeah, he didn't understand much English and I couldn't understand him a lot either.

30 Yes. All right. I'm just going to go back to that issue of ratification of the costs agreement, Mr Green. Can I just interrupt what we're talking about and take you back to - could the board meeting minutes of Monday 11 January 2016 be brought up, and I apologise for not having the reference.

MR CHEN: It is volume 10, page 7.

MS NOLAN: Thank you, I'm indebted to my friend.

40 Do you see this? This is a document that's dated 11 January 2016, so it is just after Christmas, not last year, the year before. Do you see there as attendees it records Richard Green - you attended?---Yes.

This is at the time when Eleanor Swan, Larry Slee and Deborah Swan weren't turning up. So it was just when the five of you were sitting - Debbie Dates, Micky Walsh, Richard Green, Lenny Quinlan and Jaye Quinlan. Do you

remember that board meeting around that time, January?---Yeah. Yeah, probably, yeah.

Jaye opened the meeting with a welcome to country, I assume, and a minute's silence. Is that how you started all your meetings?---Yes.

10 Then you spoke about Debbie Dates being suspended, do you remember that meeting?---I think Debbie Dates spoke about her being suspended.

When I say you, I mean you as a collective. Debbie spoke about it?---Yes, I think so, yes.

Do you remember not reading it, but do you remember her talking about it at that meeting?---Yeah, I - yeah, I remember her saying something along that line.

20 Yes. Do you remember that you also talked about Olney Road and how it was being handled? Do you see there it is written? Do you remember talking about that and the investigator?---To the investigator?

No, the investigator is looking back at the last five years, Olney Road and how it was being handled. So the investigator was looking at that. Do you remember discussing that? Do you remember talking about the Olney Road dealing in that meeting?---Yeah, I never talked about that much, yeah. Anyway, yeah.

30 Do you remember having a chat in the meeting about Larry Slee junior having people living in his house? Do you remember that?---Oh, yeah, I remember that one, yes, because we had a big argument about that.

40 Then you started talking about getting rid of Steven Slee as a signatory, John Hancock as a signatory, at the bank? Do you remember that meeting, talking about those things?---Yeah, I think I do, yeah. Yeah.

You can see that someone is very kindly scrolling down and there's a bit of highlighting. The second block. Now, you read out a board resolution. Do you see there, I'm just going to read it to you, "Richard Green read a board resolution", so you read something out, that the Awabakal Local Aboriginal Land Council formally ratify the appointment of Knightsbridge North Lawyers to act. Do you

remember that?---I don't remember reading that out because I never read meeting - board resolutions out.

Yes, but do you remember having a discussion in this meeting where you talked about Knightsbridge North Lawyers coming on board as your solicitors?---Yeah, probably did, I'm not sure.

10 It doesn't strain your recollection, it is not discordant, you don't go, "No, we never had that discussion"? You do remember having that discussion at the board meeting?---Vaguely I remember some of the stuff, yeah.

Some of the stuff - I'm asking about this particular thing, I'm really asking to you home in on this specific thing, this discussion about getting Knightsbridge North Lawyers on board as your lawyers?---If it is there in the minutes, it would have been talking about, if this is the correct minutes, whatever.

20 That's what I'm trying to test, you see, Mr Green. What we're all trying to do is establish whether or not what's written here is actually what happened. I'm asking you to tell the Commissioner does this accord with your recollection? It doesn't sound wrong, it sounds right, doesn't it?---It sounds right, yeah, but, you know.

All right. Thank you.

30 THE COMMISSIONER: Sorry, yes, but?---Pardon?

You were about to say something else?---Yes, it sounds right, but I can't recall much of it.

MS NOLAN: I'm conscious of the time, Commissioner. I'm just going to move on. I've really fluffed about a bit with this, and I've done it, and I'd like to move on, please.

40 THE COMMISSIONER: Just before you move on, there is an issue of course about the validity of such a resolution if it was put up, because no notice was given before it was put up. However, let's not detain you, we can deal with that in submissions.

MS NOLAN: Yes, certainly.

I will just go back to this Sunshine Property proposal. Do you recall why the Awabakal Local Aboriginal Land Council didn't continue to proceed with the Sunshine proposal, Mr Zong's deal?

10

MR CHEN: Commissioner, I object. I think my learned friend should be, with great respect, a little bit more precise in light of this witness's evidence and, indeed, in light of what appears to be the position in the minutes.

MS NOLAN: I'm going to go to the minutes. All I'm trying to do is assist this witness to turn his mind to things and funnel down. I'm conscious of my requirements as a barrister, I've been doing this 13 years. I've done it once or twice. I'm going to try to narrow it down because I have seen the difficulty this witness has had with remembering things.

20

THE COMMISSIONER: Don't make speeches, Ms Nolan. Dr Chen, just to be clear about it, just so that we don't waste too much time on it, your point is what?

MR CHEN: There's a particular meeting, presumably, that my learned friend wants to take the witness to. But, if not, the question is put at large as to what the position was in relation to what happened with Sunshine. I don't know. That's all I drawing to my learned friend's attention to.

30

THE COMMISSIONER: Do you have the date of the meeting where the matter was dealt with?

MR CHEN: It is April 18, 2016.

MS NOLAN: I'm going to work towards that.

THE COMMISSIONER: Why don't we go straight to that.

40

MS NOLAN: That method has been tried and this witness doesn't respond to that. All I'm trying to do is assist the Commission so that this witness, whose memory is deficient, might be able to assist a bit more. I'm happy to go straight to 8 April.

THE COMMISSIONER: I think you should.

MR CHEN: Can I just say my learned friend doesn't need to

make speeches. The proper way to ask this question, may I suggest, is to say, "Mr Green, I want to draw your attention to the minutes of 8 April 2016". Bang, off we go.

THE COMMISSIONER: I think we should go there, otherwise we get off target. 8 April.

MS NOLAN: 8 April 2016.

10

THE COMMISSIONER: Again, just give me a reference, if you would, where I can find that.

MS NOLAN: Just a second. I gave it before. I'll pull it up again. Volume 11, 312.

THE COMMISSIONER: Yes, thank you.

20

MS NOLAN: If I'm wrong, I'm sorry, it might be my poor notetaking.

THE COMMISSIONER: All right. Let's go straight to that document.

MS NOLAN: You have been taken to these minutes before. If you could just perhaps try and remember, it says that you attended, so it was you, Micky Walsh, Larry Slee was at this one, that might help you remember, Lenny Quinlan, Jaye Quinlan, Debbie Dates. Do you see that?---Yeah.

30

It was on a Friday, at five o'clock.---Yeah.

Yes, okay. Now, you discussed the Larry Slee email where Ms Steadman informed the board that he had sent her an email asking for financials to be presented to the board?---Yeah, yeah, vaguely, yeah.

40

Yes. Now, this is the meeting, you'll see, where Nicole introduced Despina and Nick. Do you see this?---Yes.

Yes, okay. Can we scroll down. Now, I've taken you to that clause before, that clause 4, talking about ratification. Could we scroll down a little bit further. Here is this clause that you've been taken to a couple of times before, maybe once, maybe twice, about the development of Awabakal lands. This is after you

had - do you remember back in November of 2014 the board had resolved, had it not, to sell either all of its land or just Warners Bay? Do you remember that? That was option A and option B?---I don't know if it was to sell. I don't know about that.

Well, develop it, in partnership - - -?---Maybe to develop it.

10 All right. Now, do you remember that at this meeting you discussed all of the various proposals that had been going on during that time when the board was not meeting, in most part? Do you remember this meeting?

MR CHEN: The board was meeting.

MS NOLAN: No, it wasn't meeting from February 2015 through until about August.

20 MR CHEN: Is my learned friend asking about what apparently occurred in 2014 or a later point in time? I thought the proposition that was put to the witness was that something occurred in November of 2014, and then the statement is made that the board is not meeting. I'm just asking her to clarify what time it is.

MS NOLAN: No, I'm sorry if I have confused the issue. I'm reading from that first paragraph: "In November 2014, the board of the Awabakal Local Aboriginal Land Council
30 resolved unanimously to sell most, if not all, of the land"; do you remember that resolution?---To IBU?

Mmm-hmm.---I remember a bit of this, yeah, yeah.

I'm not focusing on that. What I'm wanting you to focus on is the discussion that ensued with respect to the various property deals, I'm going to call them, that you'd been working on. I took you to Sunshine, that's Mr Zong. Do you remember me talking to you about the deal with
40 Mr Zong?---Yes.

Do you remember as you sit here today, without reading it, why you decided to reject - or did you reject the Sunshine deal?---I never rejected the Sunshine deal.

You, the board. Do you remember why the board - sorry, I'll be more precise. Do you remember why the board

rejected the Sunshine deal. Do you remember as you sit here today?---No, I can't remember that.

Do you have a view as to why the Sunshine deal was rejected?

MR CHEN: I object to that.

10 MS NOLAN: Do you remember why the Sunshine deal was rejected?

MR LONERGAN: Commissioner - - -

MS NOLAN: Just "yes" or "no". Do you remember?

THE COMMISSIONER: Yes, Mr Lonergan.

20 MR LONERGAN: The witness has answered that he can't remember and now he's being asked, "Do you know why it was rejected?" If he can't remember, how could he know why it was rejected?

THE COMMISSIONER: That's right.

MS NOLAN: My question is a different one.

30 THE COMMISSIONER: No, it is not. If he says he can't remember, how can he be asked the reason for it, if he can't even remember the incident?

MS NOLAN: Okay. My question was different, but I'm not going to use up my time.

40 Can I please ask you to scroll down so that we can see the rest of this section. Could I just take it from "The Sunshine group agreements were discussed". Do you remember discussing the Sunshine group agreements, as recorded here, in that meeting? Do you recall having a discussion about it?---I think so, I'm not sure. Look, my mind - my memory, for God's sake - well, if it's there in the minutes, you know, youse are making me say things that I don't - you know, I don't agree on. I can't remember really.

I'm not trying to make you say anything that you agree on.---Yeah, yeah.

I'm asking you do you remember, and you can say yes or no.

If you don't remember, that's no problem, I'll move on.---Yeah. No, I don't - I don't remember, yeah.

All right. Do you remember discussing the Salamander offer as is recorded there? Do you remember having a discussion about that?---Salamander?

Yes. With Mr He. Do you remember David He?---I think that was the guy with Tony Zong, I'm not sure.

10

Maybe we could scroll down, please. Solstice, do you remember Solstice? That's Mr Kavanagh, Mr Strauss.---Ryan?

Yes.---Yeah, I remember, yeah. I remember that because I remember telling him that - you know, the procedure to buy the land.

20

Do you remember talking about the Solstice deal at this meeting and what you should do with the Solstice deal?---No.

Okay. Could you just scroll down, please. Do you remember whether or not there was a discussion about the butterfly caves in this meeting?---I remember the butterfly caves, yeah.

Okay.---Because that's women's business, and I said that's not our business. I remember that specifically about the butterfly caves.

30

Okay.---Probably people here wouldn't understand women's business.

Okay.---Very sacred.

Did you have any dealings with Advantage, a group called Advantage?---Advantage was who? Persons? Can you refresh my memory, please?

40

Hussein.---Oh, yeah, yeah, I know Hussein, yeah.

Do you remember negotiating a deal with Hussein, Faraj Hussein?---Not negotiating a deal. I remember talking to him about stuff.

Yes.---About land and - - -

And he was representing a group that was happy to work together with the Awabakal Land Council to develop the land itself, do you remember that?---Yes, because he came up three times and wanted to present his proposal to the members, and because the members were rowing and fighting and kicking and spitting in the meetings, they couldn't come in.

10 This is the members' meetings you're talking about?---Yes, the members' meeting, where they abused Despina too.

So they didn't present at any members' meetings; is that right?---No, no, no-one got into any members' meetings because of that.

20 It is the case, isn't it, that between 2014 and, say, the end of 2016, and even today, so as early as 2014 to even today, it is your understanding, isn't it, that if you were to - and this is a hypothetical question, I'm not suggesting you did this, but I'm talking about your understanding, so just to set that. If you were to sign an agreement on behalf of the Aboriginal land council, right, with their authority, that signature can't sell the land because it has to go through to the New South Wales Aboriginal Land Council for their approval; you understand that, you understood that in 2014 and that's your understanding still today, that's right, isn't it?---Yes.

30 Pardon me, Commissioner, I think I'm done, but I'm just going to check my notes, if you wouldn't mind giving me a short indulgence?

THE COMMISSIONER: Yes.

MS NOLAN: Thank you. I just have one further topic, sorry.

40 It is fair to say, isn't it, that you take your role as a member of the Aboriginal land council very seriously, don't you?---Yes, I do.

You're a very proud Aboriginal man; that's right?---Yes.

It has never ever, in the course of your dealings with Mr Petroulias, been your intention to do any harm to the Awabakal Local Aboriginal Land Council and its membership, has it?---That's correct, that's correct.

MR CHEN: I object.

THE COMMISSIONER: Just a minute.

THE WITNESS: Correct.

MR CHEN: He's addressed it, Commissioner. For what it is worth, I withdraw my objection, Commissioner.

10

THE COMMISSIONER: Yes.

MS NOLAN: You have always, in your dealings with Mr Petroulias and Ms Bakis, acted - I'm going to use the word consistent, faithfully, to your very important role with the Awabakal Local Aboriginal Land Council as a custodian for its membership, haven't you?---Yes, I have.

20

THE COMMISSIONER: You can't have that one. That won't go - - -

MS NOLAN: Well, it goes to his understanding. It is a very important point.

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

MS NOLAN: You have never understood anything that you've done to have been dishonest, have you?

30

MR CHEN: I object, Commissioner.

THE COMMISSIONER: I reject it.

MS NOLAN: I'll leave it there, thank you.

THE COMMISSIONER: All right, thank you. Mr Lonergan, do you have any questions?

40

MR LONERGAN: I do, I wasn't anticipating this much time today but - - -

MR CHEN: I should say, just in fairness to my learned friend Mr Lonergan, that there is still an outstanding application, as I would understand, for Mr Petroulias to seek leave of the Commission to ask this witness questions. My learned friend may well wish to defer that.

THE COMMISSIONER: Yes. Mr Lonergan, I think it's very fair of counsel assisting to inform you of the fact that I think it is only as recently as today Mr Petroulias has indicated that he wants to ask some questions of Mr Green. That being the case, I wouldn't oblige you to commence any, as it were, re-examination or further examination. If you want to defer it, that can be done at the next hearing date, which is set as 6 August.

10 MR LONERGAN: If it please the Commission.

THE COMMISSIONER: You would prefer that course?

MR LONERGAN: Yes.

THE COMMISSIONER: All right, very well. The further examination of Mr Green will be stood over Monday 6 August and as necessary thereafter, it being noted that Mr Petroulias wishes to examine the witness and
20 Mr Lonergan, who appears for Mr Green, has reserved the right to examine when the cross-examination has been completed. He should be allowed to adopt that position, defer the examination of his own client until all cross-examination has been completed.

All right. Mr Green, although the end perhaps may not seem to be in sight for you, nonetheless, I think it would be fair to say that your examination in this investigation would appear to be likely to be completed in the week of
30 6 August. I can't give any guarantees because sometimes adjournments occur, and so on, but in trying to help you as much as I can to forecast your future obligation to attend the investigation, Mr Lonergan will confirm it with you, I do draw your attention to the fact that your examination has not yet been completed. It will resume on 6 August, that's Monday, 6 August. The Commission is sitting that week, apart from the Wednesday of that week, and is sitting the following week. We would hope that your examination will complete in the week commencing 6 August. It would be
40 hoped perhaps that that examination of you will be completed on the 6th or soon thereafter as possible.

As I understand it, the bail conditions you're presently on, although your legal advisers should confirm it, permit you to be in attendance on those days at this investigation by the Independent Commission Against Corruption, but you should have that confirmed, all right. You're free to go

today.---All right. Thank you.

THE WITNESS EXCUSED

10 MR CHEN: There were two matters, Commissioner, if it is convenient for me to raise them now. The first is that could you make a direction in relation to transcript that any corrections be provided to Mr Broad in writing in the same form that has been covered by earlier directions made by you, Commissioner, by close of business next Friday. We will certainly have our proposed corrections as well by that stage.

20 MS NOLAN: Commissioner, on that, I would be assisted if you so direct - I've started doing that, but I haven't had the time to finish it, and I apologise. If there's a form of proposed corrections that the Commission is to adopt, might I be furnished with it so I can agree it, rather than double handling?

THE COMMISSIONER: Yes.

MS NOLAN: Do you understand?

30 MR CHEN: Commissioner, my learned junior and I have already had ours uploaded for a considerable period of time. The direction I was seeking today was really only for this tranche of the hearing. I invite my learned friend to look at that and follow that form.

MS NOLAN: Yes, my fault. I will do that, and I'll also try and incorporate - - -

THE COMMISSIONER: I make a direction that all corrections to the transcript be provided by the close of business next Friday.

40 MR CHEN: The second matter, Commissioner, is I'm instructed that a witness list for the first week of the resumed hearing, that is commencing 6 August, will be available on the restricted website on Monday morning. We're just confirming the availability of witnesses.

THE COMMISSIONER: All right. That will be noted and all participating or interested in the hearing of the Commission in this matter should check the website on Monday to confirm the identity and order in which it is

proposed to call further witnesses.

MR CHEN: Yes.

THE COMMISSIONER: Very good. Nothing else?

MR CHEN: No, Commissioner, thank you.

10 THE COMMISSIONER: Just one matter before I do adjourn.
Ms Nolan, do I understand you will be in attendance
representing Ms Bakis in the further hearing of this
matter?

MS NOLAN: Yes.

THE COMMISSIONER: There was, I am told, an email sent
this morning, I think to Mr Broad, raising a matter that
you had some other commitment. Has that gone away?

20 MS NOLAN: No, it has not. When the Commission informed
me that there was an obligation upon me to let you know of
any unavailability, I didn't understand that to be the
case.

30 Coincidentally, at the end of that day, I had a
conversation with an instructing solicitor in another
matter and I am briefed in a matter in the running list in
a Newcastle District Court matter on the week immediately
prior to 6 August. It just had not occurred to me that it
was a running list. It was put in my diary at the
beginning of the year by my clerk who should have made me
aware that it was in a running list. That's just an
internal problem.

40 What I'm going to do is make absolutely every effort to
ensure that I'm here on the 6th. I consider that my
position in this - for me to just step out of it now would
be just deleterious for my client. So I'm going to do
everything I can to make sure that I'm available that week.
I'm going to speak to my opponent in the other matter.
The Commission would understand that these things can fall
over like that, so it's still up in the air but I'm going
to do everything I possibly can.

THE COMMISSIONER: Ms Nolan, I will just clarify two
things, I think. As I understand it, as to the future
hearing days, including commencing on 6 August and the

following week, notice was given by Mr Broad of the Commission to all relevant parties, including yourself, I think it was on 17 May, as to those dates. The first indication that you might have some difficulties about the week of 6 August only came through yesterday in an email, as I understand it, to Mr Broad. Are those facts correct?

MS NOLAN: Not entirely.

10 THE COMMISSIONER: Let's go back. You received notification on 17 May as to those hearing dates commencing 6 August?

MS NOLAN: I can't agree with you on the date.

THE COMMISSIONER: I have seen the email myself and that I'm taking in fact to be the case. It obviously is the case.

20 Secondly, it is the case that it was not until your recent email, I think this morning, or it might have been late yesterday, that you might have difficulties by reason of your Newcastle matter, was the first indication that those dates could create a problem for you. Is that correct?

MS NOLAN: No, that's not.

THE COMMISSIONER: Why is it not correct?

30 MS NOLAN: I think it was after you raised with me the other day that I needed to inform you of unavailability, and so I - - -

THE COMMISSIONER: When was the first time you gave notice to the Commission that you might have a difficulty with the date the week of 6 August? My information is it was - I'll just check. Was it yesterday or this morning?

MS NOLAN: It was Tuesday - - -

40

THE COMMISSIONER: Just wait a minute.

MS NOLAN: I can look; I sent it.

THE COMMISSIONER: You must know - it was either yesterday or this morning.

MS NOLAN: I'll look for you. I sent it. I'll have a look. Hang on.

MR CHEN: I am told, for my learned friend's assistance, it may well be an email sent to Mr Broad on Wednesday, 18 July at 5.49pm.

THE COMMISSIONER: Very good, thank you.

10 MS NOLAN: Yes, I sent an email. On 18 July, I sent two.

THE COMMISSIONER: Ms Nolan, your ethical obligation to your client is something I don't want to buy into. You will have to sort that yourself. I just want to make this perfectly plain. What you've said about you doing your best is not good enough.

20 I make it very plain that when the matter is set out and the Commission has arranged witnesses and there's only notification given of any difficulty as recently as Wednesday evening, in this case, it is totally and absolutely unacceptable to the Commission. The Commission has its public obligations to serve the community and will not be obstructed by anyone, including members of the bar, in proceeding unless of course there is good reason to entertain an adjournment.

30 In this case, your failure to provide any notice that you might be in difficulty until the date just mentioned, I think late Wednesday, is totally unacceptable because witnesses have been arranged and the program set on the basis that there has been no issue raised.

40 Members of the bar have to understand that in order for this Commission to perform its statutory charter, it must have full cooperation from members of the profession. You have your ethical obligations in a part-heard matter to your client, that is, Ms Bakis in this case, and I am not lecturing you about what ethical obligations were, but when I was at the bar, and I'm sure it's the same rule now, that if you're part-heard in a matter, a new matter cannot be taken and trump your obligations to the client in the part-heard matter.

MS NOLAN: That's not what happened.

THE COMMISSIONER: That was a firm rule, ethical rule

members of the bar were required to comply with. It ---

MS NOLAN: But what has happened, Commissioner --

10 THE COMMISSIONER: Would you not talk over me? It is not open to members of the bar to elect to suddenly take - when I say "suddenly", as recently as now or perhaps next week, to elect to take a brief in another matter, which is a new matter, and say, "I'm not available in the part-heard matter", which has been set down for some weeks now. Do you understand what I'm saying?

MS NOLAN: Yes, but, Commissioner, I don't know why you think that I've done that; I haven't done that.

THE COMMISSIONER: What haven't you done?

20 MS NOLAN: That's completely wrong and I reject it, with the greatest respect to you.

THE COMMISSIONER: What do you reject?

MS NOLAN: You have been misinformed and I'm not worthy of being lectured in this way because that's not what I've done.

THE COMMISSIONER: Ms Nolan, you're verging on contempt of this Commission.

30 MS NOLAN: I'm trying to ---

THE COMMISSIONER: I am pointing out I've just sought to ascertain the facts as to when the dates were advised and it was 17 May, and that's many weeks ago.

40 MS NOLAN: I was briefed in a matter by the State of New South Wales to appear in Newcastle. It was placed in my diary I think in about March. It was placed in there for four days. I was unaware of its location. It is in Newcastle. I didn't know that. When I - - -

THE COMMISSIONER: Ms Nolan - - -

MS NOLAN: When I - when I - - -

THE COMMISSIONER: Ms Nolan, I'm interrupting you. This Commission is proceeding with this matter in the week of

6 August.

MS NOLAN: I'm aware of that.

10 THE COMMISSIONER: You owe your duties to your client, how you manage that is your business, but it is not going to obstruct this Commission going forward on its program. Ms Bakis has been given notice - and it will be confirmed on Monday - that she will be required, it is anticipated, insofar as events enable it to occur, to give evidence before this Commission.

20 What you do about your professional obligations is a matter for you, but your obligation to your client, as I see it, and certainly to the Commission, is to not obstruct the proceedings going forward as scheduled on 6 August and the following days and following week by you reserving your right to say, "I've now got another commitment that's coming on for hearing on a particular date." It cannot happen, it will not happen and I want you to make it perfectly plain to your client as to what your position is.

30 This Commission will proceed and Ms Bakis will be giving evidence that week. You will have to consider it. I am speaking to you in this way so that you won't be under any misapprehension, based on the statement that you earlier made, that you'll do your best to avoid a clash. That is not good enough. You must take steps now to resolve any potential clash of commitments and you have to resolve it in accordance with your professional obligations as a member of the New South Wales Bar - - -

MS NOLAN: Of which I'm well aware and - - -

THE COMMISSIONER: Would you not talk over me?

MS NOLAN: Oh, Commissioner, I think you're under a misapprehension - - -

40 THE COMMISSIONER: Would you not talk over me? You are going very close to being in contempt of this Commission and I will not have counsel talk over me. It is for that reason that I've made it so clear this afternoon you are not at liberty to wait and see what the running list does, et cetera, et cetera; you have to undertake your obligations in accordance with proper practice. Now, that's all I'm saying. Your client and you are on notice.

This matter proceeds on 6 August and will continue throughout that week, apart from the Wednesday, and then the following week.

MS NOLAN: I would like to disavow you of anything that may have been misapprehended as to what I'm going to do. I am going to do absolutely everything to make sure that I am here on the 6th- - -

10 THE COMMISSIONER: That's not good enough. That's not good enough.

MS NOLAN: Well then what else can I do? I'll be here on the 6th.

THE COMMISSIONER: You resolve that, Ms Nolan.

MS NOLAN: But that's the point - I have not at any stage said - - -

20 THE COMMISSIONER: Yes. I am not going to enter into it any further.

MS NOLAN: But you've told I'm going to be in contempt and I'm just telling you, I'm assuring you that I will be here.

THE COMMISSIONER: I did not say that.

30 MS NOLAN: I don't understand why when I have said that I will make every arrangement to be here, that I am somehow in contempt of the Commission. I need to disavow you of that.

40 THE COMMISSIONER: I didn't say that. I don't think you're hearing properly, I'm afraid, or comprehending properly. I did not make that statement. I would perhaps suggest you read the transcript of the exchange we have had this afternoon so that you don't act on some misapprehension. I am just talking about this matter in the interests of your client, Ms Nolan- - -

MS NOLAN: I appreciate that.

THE COMMISSIONER: - - -so that your client is not disadvantaged by some arrangements you might have made about another matter. I can't put it any more clearly than that.

MS NOLAN: I am going to make sure that I am here on the 6th.

THE COMMISSIONER: Good, thank you.

10 MS NOLAN: And that I have - the only reason that email was sent is because you said that I needed to make it perfectly plain if I had any difficulties with availability and that's why I sent that email. It was to be- - -

THE COMMISSIONER: Ms Nolan, that email should have been sent weeks ago.

MS NOLAN: It was only on that day that I discovered that it was a running list and that's what I'm trying to explain to you, and that's it. I'm perfectly aware of my - - -

20 THE COMMISSIONER: Thank you, Ms Nolan, end of exchange. Now, Mr Lonergan, are there any issues you want to raise?

MR LONERGAN: I just wanted to say briefly --

THE COMMISSIONER: I am sorry, Mr White, do you want to go first?

30 MR WHITE: I do apologise, Commissioner, I was outside seeking some instructions about a matter concerning Mr Green with my client and the cross-examination by Ms Nolan ended a bit sooner than I expected and I apologise for not being here at that point. There were some very brief matters I wanted to put to Mr Green and if it is a convenient time I can do it now or whatever time suits the Commission.

THE COMMISSIONER: Yes, if you can complete it by four o'clock.

40 MR WHITE: I will only be, hopefully, about five minutes or so.

THE COMMISSIONER: I think it is best dealt with now rather than leaving it hanging.

Mr Green, I am afraid we spoke too soon. Just come back in the witness box, would you? From what Mr White says, this is not going to take very long, but it is best dealt with

while you're here today. I'll come back to Mr Lonergan in a moment.

**<RICHARD JOHN GREEN, recalled, on former affirmation
[3.39pm]**

MR WHITE: Thank you, Commissioner.

10 Mr Green, I appear on behalf of Mr Strauss. Do you know who I'm referring to?---Ryan.

Yes, Ryan?---Yeah.

I appear on his behalf. You understand any questions I'm asking are directed from his interests, do you understand that?---Okay.

20 All right. I just want to ask you some questions about the meeting at Knightsbridge North Lawyers that you gave evidence about?---Yeah.

I think you said it was in November 2015. Do you remember - - -?---No, I'm not sure when it was.

All right. You're not sure of the date of that meeting, is that what you just said?---Yeah.

30 As far as having meetings with Ryan, do you agree that there was only ever one meeting that was had with Ryan in the office of Knightsbridge North Lawyers?

MR LONERGAN: Objection, Commissioner. Just for clarification, meeting with Mr Green and what other participants? It is not clear - - -

THE COMMISSIONER: Meeting with Mr Green or others, is that what you're saying?

40 MR LONERGAN: Yes.

THE COMMISSIONER: Perhaps you could clarify that.

MR WHITE: Yes. I will make it clear.

What I'm suggesting to you, Mr Green, is that in terms of a meeting with Ryan, Andrew, Nick, Ms Bakis, which you've given evidence about, what I'm suggesting to you is that

there was only ever one such meeting and not more than one. Do you agree with that?---As far as I can recall I had one meeting, but Despina wasn't in that meeting.

Leaving aside whether she was there or not, that group of persons including Ryan, Mr Kavanagh and the others that I mentioned - - -?---Yeah.

10 - - - you only recall there ever being one meeting, not more than one; is that correct?---Yes, that's about it. That's all I remember, because I remember telling the guys about the procedure.

All right.---Mmm.

20 Just in relation to that meeting, do you recall mentioning the name of the company Able Consulting?---Able Consulting? Able Consulting? No, I wouldn't mention the name, I don't think so.

THE COMMISSIONER: I'm sorry, I can't hear you, Mr Green.---I said I don't think I did, yeah. Can I ask who was Able Consulting?

MR WHITE: Able Consulting is the name of a company.---Mmm.

30 I take it, from that answer, you're not aware of that company or its existence?---I think I've heard that name.

All right.---Yeah.

Just going back to the meeting - - -?---Yeah.

- - - in terms of discussions that took place, do you agree that there was a discussion about lobbying the local council about rezoning?---I - yeah, I remember - yeah, I think so, yeah.

40 Do you agree that you said that you would have influence and be able to do that yourself?---No, not myself. I meant the land council.

All right.---The land council would support - like I always say, if people want to rezone land, we didn't have financial backing to do this stuff. If anyone came in, we would write a letter of support from the land council.

That's the way I meant it.

But what I'm asking you specifically about is making applications to the local council to have the land rezoned. I'm just asking you about discussions that were had at that meeting about that.---Yeah, I think there were.

All right.---Yeah.

10 Were you going to be involved in that yourself, do you remember?---Oh, not just myself, it would be the land council.

But - - -?---The board.

Do you recall you specifically saying that you were going to have an involvement in that yourself during that meeting?---Yeah, I probably would have helped, yeah.

20 Was there discussion about a fee being involved for that as part of an agreement?---Oh, Ryan or someone might have put the fee up, I'm not sure. I'm not sure.

All right. You don't recall the name of the company Able Consulting ever being raised in the context of that discussion?---No.

30 All right. In terms of the overall deal - and again, I'm talking about the meeting, I'm not talking about anything else, just in terms of the discussions that took place - you agree, don't you, that there was discussion about the amount of money that would be paid for the land?---No, I don't remember no money figure, no.

You understand that the whole idea of the meeting was with a view to selling the land to Ryan and his partner?---No, not to sell, not to sell.

40 What did you understand that the meeting was about in terms of discussions with regard to the land?---Just discussions about land, not to sell.

Why were Ryan and Andrew there?---Probably there to discuss what they wanted and what they wanted to do, but I can't remember any prices chucked around.

Weren't they there with a view to purchase, to go ahead

with this deal, to acquire the land?--Well, I think all the - all the people came in to acquire the land, not just Ryan.

I'm talking about - sorry to cut you off.---Yes.

10 I'm talking about this specific meeting that happened at Knightsbridge North Lawyers. Wasn't there discussion about acquiring the land and the amount of money that would be involved?--I don't think so, because when I told them, there was little discussions, I don't - when I told them the procedure, that was sort of the end of everything, but no - I'm not sure. I'm not really sure, but there wasn't a very - it wasn't a very long meeting.

20 I'm not asking about how long it was. I'm just asking you about whether there was any discussion about the amount of money, but I think you've answered that question. You don't remember that?---I don't remember no figure, no.

So if I were to suggest to you a figure of \$25 million, that doesn't ring any bells to you in terms of discussions that were had at the meeting?---I would have remembered \$25 million.

You don't remember any such amounts of money being raised in terms of the acquiring of that land?---No, no.

30 Do you remember anything at all said in the meeting about acquiring land?--Well, I knew they were there to talk about land, but I didn't take much notice. I just wanted to tell them about the procedure. That's all I wanted to do.

Weren't you say things like you would be able to get the deal across the line?---No, I didn't say that.

You deny that, do you?---I deny that.

40 Do you remember any discussions about Ryan insisting on a first mortgage over the properties to secure rezoning costs?---It wasn't discussed to me, no, I can't remember that.

How long do you recall the meeting taking place for? In terms of time, how long did the meeting take?---Oh, maybe 10, 15 minutes. I'm not absolutely sure, but it

wasn't long.

You recall that Mr Sayed was there, Sammy Sayed?---Oh, yeah, I think he was there.

What do you think he was there for? What was his role?---Sammy Sayed was a bloke who was bringing in investors or some bloody thing like that.

10 Investors for what purpose?---Oh, lots of stuff.

But in regards to land, investors for what?---Investors to build houses, grow cattle, grow sheep, grow chooks, egg farms.

Wasn't that why Ryan and Andrew were there?---Well, I'm not - I thought they might have been just there for the land. I'm not sure.

20 What do you mean by for the land?---To develop.

For them to develop the land they were going to have to pay money, weren't they?---Well, that wasn't part of my negotiations for money.

You were at the meeting, though. You heard the discussions?---Yeah, but I can't remember. I can't remember a figure either. I've answered the question.

30 MR WHITE: I have nothing further, thank you Commissioner.

THE COMMISSIONER: Thank you, Mr White.

THE WITNESS: That's the best I can do.

THE COMMISSIONER: Do you have anything further?

40 MR CHEN: To the extent I need to re-examination, can I exercise my right to re-examination after Mr Lonergan completes his examination, Commissioner?

THE COMMISSIONER: Yes.

Mr Green, I'm going to release you for a second time today. You may step down and you are free to go.---Thank God for that. I want to return to my country.

You are free to go returning on 6 August as discussed.

THE WITNESS EXCUSED

MR LONERGAN: I just have one matter. The Commission asked Mr Green yesterday for some documents.

THE COMMISSIONER: I am sorry, what was that?

10 MR LONERGAN: The Commission asked Mr Green for some documents yesterday. He handed them up and they were marked for identification. They were originals and I was wondering whether - - -

THE COMMISSIONER: Do you want a copy of them?

MR LONERGAN: We have copies of them, but whether it would be possible to substitute the copies for the originals and return the originals to Mr Green.

20 THE COMMISSIONER: Yes, I will permit that to be done. You can speak to counsel assisting and the arrangements can be made.

MR LONERGAN: If it please the Commission.

THE COMMISSIONER: Nothing else?

MR CHEN: No, Commissioner.

30 THE COMMISSIONER: I will adjourn.

AT 3.51PM THE MATTER WAS ADJOURNED ACCORDINGLY

[3.51pm]

40