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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 THURSDAY 29 MARCH, 2018

AT 9.30AM

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THE COMMISSIONER: Yes.

MR CHEN: Commissioner, this is the application by KNL and Ms Bakis for specific orders, namely that the Commission, as I understand it, conduct its investigation or further investigation into the matters identified in the scope by way of private hearing. Commissioner, Ms Nolan provided an outline of submissions which has been handed up, dated 28 March, 2018. Commissioner, we've prepared a response in writing. In fairness to my learned friend, she's only had a copy of it shortly prior to you coming on this morning, Commissioner.

THE COMMISSIONER: All right. Ms Nolan, have you had a chance to look at these submissions?

MS NOLAN: I've scanned them and I - - -

THE COMMISSIONER: Yes. Well, what I think I might do, given that we've got a fairly full program today, is I'll hear the submissions today. If you want to put in a further written submission or be heard then I can do that on Tuesday if that's convenient.

MS NOLAN: That's convenient. And I was going to suggest that, should the need arise, that may be the best way of dealing with it.

THE COMMISSIONER: Well, we'll take it as far as we can, then, this morning, and then around about 10 o'clock or so – or half an hour from now – we'll switch back to the public inquiry.

MS NOLAN: At about 10 o'clock?

THE COMMISSIONER: Look, I think I'll allocate half an hour. So we'll resume the public inquiry at about quarter past 10.00.

MS NOLAN: May it please the Commission. Commissioner, may I assist you please, just for completeness, by providing you with a copy of my written submissions and also the authorities from which I think Your Honour, sorry, the Commissioner may be best able to consider the issues.

THE COMMISSIONER: Thank you.

MS NOLAN: I know I have provided you with a copy yesterday via your associate, but I do so formally now on the record. I also in that bundle have a copy of the decision of the House of Lords in Attorney General and Times Newspapers Limited, which I have not yet provided in any form to my learned friend, Counsel Assisting – appearing as Counsel Assisting, should I say. I provided them a copy of the authorities I've handed you this morning electronically, and I hand now to them a copy of that decision of the House of Lords.

THE COMMISSIONER: Yes, thank you.

MS NOLAN: With respect, as was apparent to me from the exchange when I first raised this application, Commissioner, you already appreciate well the issues. And as I said to you yesterday when I introduced the way in which I saw these issues interrelating, there is no clear dictum of any court that addresses specifically the issue that arises here. This is the Independent Commission Against Corruption. The authorities to which I have referred, which arose in civil proceedings determined by the High Court, related to the royal commission, which is a different statutory make-up. I have referred you in the written submissions with which I have provided you to the decision of the High Court in Balog, B-a-l-o-g, and the Independent Commission Against Corruption, which construed the way in which the Independent Commission Against Corruption Act – referred to in my submissions as the ICAC Act – is to be read as the Commission being complementary to other law enforcement agencies in this state, to complement the administration of justice. That is an important matter upon which I rely. The reason being is that, as was observed by the High Court in the Balog decision – and if I can take you to it amongst that bundle that I've provided you.

THE COMMISSIONER: I'm reasonably familiar with the judgement in Balog, but if you just want to draw my attention to any particular passages.

MS NOLAN: I shall. The passages upon which I rely commence at page 634 of 169 Commonwealth Law Reports, and start at the very bottom of the page, within the last long paragraph, probably about point 7 of the actual page that I've handed up to you. So about point 9.

THE COMMISSIONER: Yes, I have it.

MS NOLAN: “Again the appellants are able to rely upon the maxim *expressum facit cessare tacitum*.” And I would read all through 635 down to 636. Now, I shan't read that today due to the shortness of time, but the important point that I make is that the function of this Commission is to act to complement the administration of justice in this state, and that is a relevant factor that ought be borne in mind in the way in which the Commission construes its powers and chooses to exercise them. That in circumstances where there may potentially – and I use that word properly because that is what I'm suggesting is the case, and I'll make good that proposition momentarily – potentially there may be an interference with the administration of justice in the Supreme Court of New South Wales by reason of the concurrency of the pending proceedings before Justice Darke. Now, have you, Commissioner, a copy of the pleadings and the relevant material? I inquired of my learned friends as to whether or not the Commissioner was apprised of it.

THE COMMISSIONER: I don't. I think Counsel Assisting might. Do you?

MS NOLAN: May I, may I - - -

THE COMMISSIONER: Yes, thank you.

10 MS NOLAN: I'll approach my learned friends to show them what I'm about to hand you. And I did discuss with my learned friend, Ms Curtin, what I chose to rely on. I have there a copy of all the pleadings and an affidavit of Ms Bakis and an affidavit of Mr Chalk, both having been read in the Supreme Court.

20 THE COMMISSIONER: Ms Nolan, my understanding is there are two sets of proceedings currently before the Supreme Court. One is a claim by Knightsbridge for outstanding legal fees in an amount of approximately \$27,000. So it's a debt claim or an action for fees for legal services that's being defended. And the other proceeding, as I understand it, is a claim by the Land Council, the defendant to the debt claim, seeking relief – and I think in the nature of declaratory relief – that the plaintiff, which I think might be KNL, Knightsbridge North Lawyers, breached its duty of care in terms of alleged negligence and breach of fiduciary duties alleged and possible other grounds, seeking in effect relief which will – if granted or if the grounds for it are made out – would effectively defend the money claim by KNL for fees. That's my understanding but it may not be right. But in general terms is that correct?

30 MS NOLAN: Somewhat, with respect, somewhat, with respect. Can I refer you, please, to the annexure which I apologise the pages aren't numbered, but it appears as an annexure to the submissions where I attempt to set out succinctly in accordance with your direction that it be a synopsis.

THE COMMISSIONER: That's annexure 1?

MS NOLAN: Yes.

THE COMMISSIONER: Yes.

40 MS NOLAN: The nature of the proceedings, there is a charge on certain property owned by the Awabakal Local Aboriginal Land Council which is the subject of the controversy in the Supreme Court and to the debt claimed, so it's purportedly, and I say that with respect to the issues, secures the debt and as Counsel Assisting the inquiry in his opening suggested, the viability and voidability of that charge is a real live question in these proceedings and also in the proceedings before the Supreme Court. Similarly, the Sunshine Property proceedings, so the Sunshine Property commenced a claim against the Awabakal Local Aboriginal Land Council but discontinued it.

THE COMMISSIONER: Yes.

MS NOLAN: But nonetheless all of the cross-claims survive.

THE COMMISSIONER: And - - -

MS NOLAN: And they're the matters to which I refer at 3 and 4.

10 THE COMMISSIONER: Sorry to interrupt. The proceedings have been,
as I understand it, case managed in the Supreme Court and during the course
of case management process I think Sunshine discontinued the proceedings
or had them dismissed by consent I think, and directions were given for the
filing of affidavit evidence. My understanding is that's been done. Is that
correct?

MS NOLAN: I'm sorry, I can't assist you with that because I'm not briefed
in those proceedings.

20 THE COMMISSIONER: Well, perhaps I may just interrupt you just to see
if that's right or not. Are you able to assist on that?

MR CHEN: Slightly more than my learned friend was able to. I've taken it
from material that I've seen that evidence has been served in the
proceedings, so that I've seen material served on behalf of KNL and Bakis
for example by Mr Green and affidavits have been service in that
proceedings to prove the fee agreement and thus the underlying facts
necessary to prove the debt, and I took it from my learned friend's schedule
of issues that there was a statement that evidence had been put on and draft
affidavits had been prepared, albeit they're not intending to waive privilege
30 by stating as much, so I took it that the proceedings were certainly well
advanced and directions had been made. Whether all the evidence is
complete is something I can't assist you with, Commissioner.

THE COMMISSIONER: Has there been any evidence put on on behalf of
the council, either as plaintiff or defendant?

MR CHEN: I believe so, Commissioner, I do.

40 THE COMMISSIONER: Right.

MR CHEN: I do. I've certainly seen affidavits of individual board
members to prove those matters.

THE COMMISSIONER: Very well.

MS NOLAN: The reason why I don't know about it is this, because I'm
constrained with respect to that which has been read onto the record, so that
would just have been served as potentially a Harman undertaking - - -

THE COMMISSIONER: I only raised that question – sorry. I only raised that question because if what I might call a primary affidavit in evidence is on, the submission that’s been made that witnesses could be potentially prejudiced by some aspect of the proceedings in this Commission or publicity about these proceedings, the fact that affidavit evidence by relevant witnesses is already on would tend to minimise any risk that’s perceived to exist that such witnesses might be influenced in some unspecified manner by whatever transpires in the proceedings before this Commission.

MS NOLAN: True, but not entirely, with greatest respect, because there are a number of other people who haven’t put on evidence and indeed those who already have, their affidavits have not been read and so they are compellable only really by way of subpoena or they - - -

THE COMMISSIONER: Well, do you know who they are?

MS NOLAN: I can’t assist you beyond that which my learned friend - - -

THE COMMISSIONER: See that’s the problem in dealing with this. This application is built upon the premise as I understand it at least in part that witnesses could be or would be prejudiced or exposed to publicity that might affect the way in which they give evidence in some way but if we can’t specify who it is that we’re talking about then that makes that argument sort of free, floating in the air. We do know from what we’ve been told that some affidavit evidence has been filed on both sides of the record in the Supreme Court. Presumably they would be one would think the primary witnesses in those proceedings. It’s not always necessarily so but it’s a working assumption. Now, if there are other people who might but we don’t know whether they will be called to give evidence, we don’t know who they are or if they are called what they might go to, then this application is dealing with something that’s just floating in the air isn’t it?

MS NOLAN: Well, no, it’s not and I was answering a different question with the greatest respect to you, Commissioner. You asked me whether or not I knew which affidavits have been filed. That’s a different proposition to the one which you’ve just directed my attention. That is answered by the annexure and I’ve been careful to attend to that real question. As you will find in the annexure I’ve set out on instructions as I only must the relevant people who are relevant witnesses and they include for example Ms Steadman, Mr Quinlan, Mr Petroulias, Mr Sayed, Mr Zong, Mr Rhee, Mr Driscoll, Mr Fisk, Mr Green, Mr Faraj, Ms Dates. I’m just reading from various parts of my annexure which I’ve endeavoured to set out as fulsomely as possible. Mr Chalk no doubt has already given evidence although he’s not before the tribunal. I anticipate Mr Lawler who has already given evidence before the Commission I apologise inter alia so - - -

THE COMMISSIONER: But that's just a spray gun approach because, for example, how – take Ms Steadman or Mr Lawler as concerned; Mr Lawler came in late in the piece, well after the retainer was established or the alleged retainer – how anything those two people could contribute to the argument as to the professional relationship between solicitor and client, and fiduciary duty obligations to advise the client, for example, of risk and other matters the client should be put on notice about, I can't see for the moment unless there's some evidentiary basis upon which you'd see that they could contribute on any issue in the cross-claim – that is, dealing with the
10 relationship between solicitor and client – is beyond me at the moment. So far as the debt claim is concerned, I could confidently say that the witnesses you mentioned would have nothing whatsoever to do with the debt claim. The debt claim simply is based on proof of the retainer, proof of services rendered, the fees rendered, perhaps the reason was for the fees but that's Ms Steadman who was the sort of clerk in the Land Council would have nothing to contribute to that issue nor would Mr Lawler who wasn't even involved in the Land Council, the Aboriginal council - - -

MS NOLAN: Well, I'm not relying - - -
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THE COMMISSIONER: - - - until he was appointed administrator in October, 2016.

MS NOLAN: I'm not relying on the debt claim. I agree with you that it will be proved on documents to a very large extent but it's the cross-claim in respect of it which seeks to impugn liability - - -

THE COMMISSIONER: Yes, but - - -

30 MS NOLAN: I haven't finished, with respect.

THE COMMISSIONER: But that's the relationship (not transcribable) between solicitor and client. How can all that – the witnesses you've mentioned, how could Mr Green, for example, possibly know and contribute to the duty of care that Ms Bakis owed the Land Council in terms of whether she fulfilled her professional duty or didn't?

MS NOLAN: Well, no, she can't but fiduciary duty you can - - -

40 THE COMMISSIONER: Pardon?

MS NOLAN: She can't but fiduciary duty she can because - - -

THE COMMISSIONER: But Mr Green couldn't contribute to that.

MS NOLAN: Certainly, because one of the issues that's well alive in these proceedings and also – in this inquiry should I say and the proceedings is the question as to whether or not a conflict arose, whether or not that

conflict was waived, whether or not by reason of that conflict for example Ms Bakis was in any way in a position to be able to induce or adversely affect a public official.

THE COMMISSIONER: Exactly.

10 MS NOLAN: Similarly, the fiduciary duty that she's said to have breached is a breach of conflict, and specifically Mr Green sits squarely in that controversy. Please don't focus on the debt claim. The debt claim is not the strongest of those to prove the point.

THE COMMISSIONER: No, I think it's the - - -

MS NOLAN: But there remain three other proceedings.

20 THE COMMISSIONER: But you've named a lot of these people, Green amongst them. I'm just simply pointing out how those witnesses could be relevant in the Supreme Court determining the issue of duty and breach of duty is lost on me. Unless there's something that points to the fact that he was involved in her discharge of her functions in some way, which could explain the relationship with her client, I'm not going to guess at what he might or might not say in evidence in those proceedings.

30 MS NOLAN: I have endeavoured, and in view of the shortness of time I hear what you're saying. I've said what I have to say with respect to the issues to which you've directed my attention, but may I invite the Commission, please, to study the annexure where I have attempted as best I can, in view of your direction that it be a synopsis, set out the issues and the relevant witnesses. I shan't stay on this point with respect to the
Commissioner, because I am mindful of the constraints, and my learned
friend really should be on his feet now. May I please return to the substance
of my argument to say this. I've set out at paragraph 7 of the submissions
the very real and alive question of the constitutional issue that may arise,
and I say that it's a relevant matter which would inform the reading of the
statutory function being exercised by this Commission. May I also direct
your attention to some parts of the decision in – I'll call it the BLF case, but
that's State of Victoria and the Australian Building Construction and
Employees and Builders Labourers Federation and the Commonwealth.

40 THE COMMISSIONER: That's a very long judgement. It's a well-known case, of course. What part of that judgement or the judgements of members of the High Court in the BLF case assists on this application?

MS NOLAN: Can I please direct your attention to the following pages? Page 58, first sentence. Page 59. This is the decision of the Chief Justice. Pages 59, where the Chief Justice talks about a number of the issues and then relevantly refers to what was approved in the Attorney General and Times Newspaper Limited decision in the extract that's set out from the

decision of Chief Justice Jordan in Ex Parte Bread Manufacturers and the Truth & Sportsman Limited. Similarly on page 60, about middle of that second paragraph, the balancing of interests which is mentioned in Attorney General and Times Newspaper down to the end of that paragraph with respect to “apprehended contempt”. Over the pages, page 100 of the decision of Justice Mason, from the second paragraph down to about the end, with respect to again Attorney General and Times Newspapers. Then also the discussion that ensues by Justice Mason, where he comes to the conclusion at page 103, “but the reaction of the public reading to a newspaper report of proceedings before the Commission will probably be unrelated to deregistration”. And can I just pause there to say that this decision is dated in the eighties, well before the intrusion of Google and other such search engines into our lives. And I hand to the tribunal something that I have done just to elucidate the point this morning briefly before I came here, and I gave it two minutes of my time. I did a search on ICAC and Petroulias and I came up with – just the first page of the Google search. And I printed three articles – Board Minutes Falsified to Show Vote Supported Land Sale, ICAC Told; Nick Petroulias Caught Up in Supreme Court Case over \$12 million Land Sale; Disgraced Former Taxman Nick Petroulias “Deal with Dead Man”: ICAC. I’ll hand you a copy of these. And this is just to prove the point. This is a different case, it’s a different time, and it’s not the same thing as the deregistration of a trade union. I’ll hand also a copy to my friends.

THE COMMISSIONER: Thank you.

MS NOLAN: This is not a case of a deregistration of a trade union where truly, deregistration, whether or not misconduct has been rife in that trade union, they are disparate issues and the High Court was correct to identify that, but that’s not the case here.

THE COMMISSIONER: Right. I’ll have those newspaper articles marked as Exhibit 1 on the application.

MS NOLAN: And I don’t, I don’t want to burden the Tribunal, sorry, I withdraw that, the Commission unnecessarily with all the newspaper articles, and that is just the first page and that’s since only a couple of days ago, Commissioner.

THE COMMISSIONER: Yes.

MS NOLAN: Similarly may I return to the decision of the High Court in the BLF case.

THE COMMISSIONER: Yes.

MS NOLAN: Justice Murphy expressed some very strong views with respect to the issues which I raise in my submissions starting at 106 over

107, bottom of page 108 through to 109, and then Justice Wilson page 135 and over at 136 and in that second paragraph, just to prove again the point that I've just raised by using those Google searches, with respect to the effect of publication on potential witnesses the decision could be different, that paragraph in particular. And that's why I use carefully the word potential, because what you're dealing with here is the potential, and that is what this Commission understanding its role as one complementary to the administration of justice in this case would take into account when considering the way in which the powers available to it under section 31 be exercised and section 31(8) expressly says a public inquiry may be held in private.

Can I just address one further point with respect to a matter you raised with me when I initially introduced this application. Section 18, reading the words of that provision it refers to an investigation. It is capable of being read down in circumstances such as these because it does not specifically refer to nor authorise the hearing or the investigation should I say by way of public inquiry, that is dealt with in a different provision which specifically recognises the availability of a public inquiry being heard in private. Read together in the context scope purpose of an act which seeks to complement the administration of justice in this state and all the matters to which I have referred in my submissions, the matters to which the High Court referred in the BLF case and Balog would suggest that an appropriate reading of the power in section 18 together with 19 and 31 is that the continuation of these proceedings be in private.

With respect those are my submissions.

THE COMMISSIONER: The section 18 when referring to an investigation and it's been well accepted that a public inquiry forms part of an investigation where one is conducted under the Act, that's the first thing. The second thing is that section 18 itself manifests the limits which the legislature is concerned to impose on proceedings of this Commission to proceedings for an indictable offence. Now, two things about that. The legislature is carved out as it were, where there are proceedings for an indictable offence, that means that there has been a charge laid and proceedings instituted on the indictment which have been commenced in a court with criminal jurisdiction. So what is notable is it doesn't refer to any other form of proceedings.

MS NOLAN: I accept that. I accept that. And the legislature has shown its intention expressly to carve out indictable proceedings on foot. Nonetheless my point is a different one. My point is it refers to an investigation. It permits the continuation of an investigation. The relevant discrimen here is not the investigation, the relevant discrimen is the nature of the public inquiry, whether it be in public or private. The investigation can include many different vehicles for its effect, to give effect to it, so the investigation can be through a compulsory examination and a variety of other powers

given to it under the part dealing with investigations. My attention is, what I seek to draw the Commission's attention to is that it is capable of being read down because it is a broad provision and it's capable of being read down in the circumstances of this case and the matters and the dictates of justice to which it requires attention to construe that the exercise of power under 31, being in the public interest, taking into account the complementary function of this Commission to the administration of justice in this state means that the proper exercise of the power is given effect to by choosing under section 31(8) to hold this inquiry in private.

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THE COMMISSIONER: Yes. Thank you. Yes, Mr Chen.

MR CHEN: Commissioner, you have obviously a written outline. I want to focus on one particular aspect namely, the suggestion by my learned friend that there will be allied to this suggestion there will be a contempt if the public inquiry continues that there will be real substantial risk that the publication material by the inquiry will result in serious interference with the administration of justice in the Advantage proceedings.

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Commissioner, just to summarise the position that we put, first, there's no real prospect of this inquiry having that tendency namely, to interfere with the administration of justice, secondly, and picking up the last argument my learned friend advanced, by virtue of section 18 of the Act pendency of civil proceedings is no basis for excluding the Commission from exercising its jurisdiction under section 31 to hold a public inquiry and no grounds exist to read down section 18 so as to require the inquiry to be held in private and, thirdly, in any event the public interest does not require that any part of this inquiry be held in private.

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Commissioner, can I focus on one particular aspect of the application brought by KNL and Ms Bakis which is the tendency of the inquiry to interfere with the administration of justice. The key part of the argument, Commissioner, is that there must be a real or substantial risk that the publication of material will result in serious interference with the administration of the Advantage proceedings. The difficulty in our submission arises on a number of levels. First, it's uncontroversial as we set out in paragraph 4 of our outline, Commissioner, that a publication will not be regarded as presenting a real or substantial risk of interference with the administration of justice if as is the case they're going to be heard, the civil proceedings, by a judge and not by a jury.

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Commissioner, this is a matter that you raised when this application was first mooted by my learned friend and it's a matter which in our submission heavily weighs in favour of the application being dismissed. Now, perhaps recognising this difficulty, the application is put as we understand it in three ways or is relying upon three matters I should say namely, that there is a possible or potential effect I think it was put today that the inquiry will have on the behaviour of witnesses common to the proceedings, that is, common

to the inquiry and the Advantage proceedings. Commissioner, I'm picking up here in particular paragraph 8(c) of my learned friend's outline of submissions.

Commissioner, in our submission these matters are highly and very theoretical. They're inevitably so because what is not before you is indeed any evidence at all that any of the witnesses who have been identified in the schedule to my learned friend's submissions may, might or will act in a different way. Related to that is this further matter, Commissioner, that is, as I understand it the evidence in those proceedings is on or largely on for both sides. Now, if there's going to be a contest about that then material can be put before ICAC and perhaps I'll invite my learned friend to indicate either now or in due course whether or not that position is to be contested.

I say that in part, Commissioner, because not only have I seen affidavits by witnesses who have prepared evidence in support of the Land Council's case, but I've also seen – as I indicated in answer to one of your questions, Commissioner – evidence from some of the former Land Council board members, in particular Mr Green, who have put on affidavits in support of KNL and Ms Bakis's case. I also was relying, when I responded to you, Commissioner, to paragraph H11 of my learned friend's submissions, which identified that there were a number of witnesses – admittedly in the context of the Sunshine proposal – where affidavits had been prepared and a number of other witnesses were also available.

Commissioner, it's important as well in your resolution of that factual determination as to whether there would be any real or potential prejudice by the fact that the Land Council itself has not suggested there would be any such prejudice, and presumably it would be in the same position. Commissioner, as well it is difficult to see how what the Commission does could in any way be relevant. This is a point that, Commissioner, you made on Tuesday to my learned friend, because what this Commission does and what this Commission finds will be of no interest or relevance to a Supreme Court judge determining the debt claim or the professional negligence or fiduciary duty cross-claim.

Commissioner, there are other procedures that are obviously available under the ICAC Act, section 38 being one, which would have another practical way of limiting the potential use of any evidence given before the inquiry.

Commissioner, my learned friend suggested that the Sunshine proceedings or the cross-claims remain. Commissioner, I'm not aware of that factual matter as to whether that's so. It was my understanding, and that of Ms Curtin's, that those proceedings in their entirety had been discontinued. It's not clear, Commissioner, what those cross-claims are from my learned friend's outline and what they relate to in any way. But again, if that's a matter that's to be contested, then perhaps my learned friend could indicate and perhaps will respond accordingly.

Commissioner, finally, this Commission has decided pursuant to section 31 of the Act to hold a public inquiry. Those matters which supported the announcement and conduct of a public inquiry support its continuation. Those are my submissions, Commissioner.

MS NOLAN: Commissioner, can I just say one thing, and it's nothing substantive.

10 THE COMMISSIONER: Yes.

MS NOLAN: I neglected to ask you to have - - -

THE COMMISSIONER: Sorry, I'm having trouble hearing you.

MS NOLAN: Sorry. I neglected to ask you to have regard to one section of the Attorney General and Times Newspaper case – and I'm sorry I didn't do that, but it's of no moment to what my learned friend just said, but it's something that I do ask you to read – and that is page 309.

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THE COMMISSIONER: This case is in your folder of authorities, is it?

MS NOLAN: Yes, it is. In the bundle of authorities I've handed up. So “The due administration of justice” down to the end of that page. “The due administration of justice” - - -

THE COMMISSIONER: Sorry, just pardon me. Just hold it for a moment.

MS NOLAN: Pardon me. It's my fault.

30

THE COMMISSIONER: Sorry. This is the Attorney General and Times Newspapers?

MS NOLAN: That's correct.

THE COMMISSIONER: Page?

MS NOLAN: 309. Decision of Lord Diplock from section B down to the end of H, may it please the Commission. I've heard what my learned friend

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- - -

THE COMMISSIONER: Just pardon me a moment while I read that. I'll catch up to you. Yes, well, they're very well-known, fundamental principles. I've read down to D. Yes.

MS NOLAN: What I really emphasise – I mean, I won't ask you not to read the entirety of it because it's the balancing exercise that's important – but what the Lord comes to conclude is “Contempt of court is punishable

because it undermines the confidence not only of the parties to the particular litigation but also the public as potential suitors in the due administration of justice by the established course of law.” And that’s really my point, is that the mischief that it’s intended to protect is potential, it is theoretical, it is speculative. But I’ve heard what my learned friend said. I will take the opportunity that you offered me to provide any written outline, and I will probably need to take instructions as to whether or not Ms Bakis and KNL choose to put on any evidence to - - -

10 THE COMMISSIONER: When are you in a position to forward any further submissions? Bear in mind I’d only be addressing any other point arising in the written submissions of Counsel Assisting that you haven’t already addressed.

MR NOLAN: I understand that, I wouldn’t go - - -

20 THE COMMISSIONER: And you may have addressed all of the points for all I know that are in the outline written submissions of Counsel Assisting, but I’m just giving you an opportunity if there is perhaps some other issue that arises on the written submissions of Counsel Assisting that you want to put a note in, then I’ll give you that opportunity.

MS NOLAN: I’m grateful and I’ll analyse that and I will keep it strictly within parameter.

THE COMMISSIONER: All right. Leave it on this basis then, that if you do rely upon any further submission that you’ll let Counsel Assisting have a note of that by, is it possible Tuesday morning?

30 MS NOLAN: Yes.

THE COMMISSIONER: All right. Tuesday morning, 9 o’clock.

MS NOLAN: Yes. And I will also, if I might, take up the invitation if it be the case to correct anything that fell from my learned friend with respect to the status of the evidence and what evidence has been read.

THE COMMISSIONER: Yes.

40 MS NOLAN: He invited me to do so, if that’s amendable I’ll do that also.

THE COMMISSIONER: Yes, you may do that.

MS NOLAN: I’ll endeavour to do it, I may not be able to get it in sworn form but I’ll endeavour to do it in draft form and have it to him and then it might be, it might be rectified by having it sworn later.

THE COMMISSIONER: All right. Now, what I propose would be that I'll make my ruling decision on this issue at 2 o'clock on Tuesday. Is that suitable?

MS NOLAN: If it please the Commission.

THE COMMISSIONER: Yes. Counsel?

MR CHEN: Yes, thanks, Commissioner.

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THE COMMISSIONER: All right. Yes, thank you, Ms Nolan.

MS NOLAN: May I be excused today?

THE COMMISSIONER: Yes, you're excused.

MS NOLAN: Thank you.

THE COMMISSIONER: Now - - -

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MS NOLAN: And perhaps you should mark for identification that bundle I handed you.

THE COMMISSIONER: The - - -

MS NOLAN: Of the pleadings and the evidence as well. Just for my benefit, what was the MFI on the - - -

THE COMMISSIONER: Well, I think what I'll do is - - -

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MS NOLAN: - - - on the articles?

THE COMMISSIONER: - - - I'll mark, I think I'll mark it for identification.

MS NOLAN: Yes.

THE COMMISSIONER: It's the folder containing pleadings in the Supreme Court of New South Wales, Knightsbridge North Lawyers. That folder I'll have marked on this application, I'll have it marked as, I'll have it marked as MFI 8.

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**#MFI-008 – FOLDER TITLED KNIGHTSBRIDGE NORTH
LAWYERS PLEADINGS IN THE SUPREME COURT OF NEW
SOUTH WALES**

MS NOLAN: And what did you, obviously you marked the publications as 7. Is that right?

THE COMMISSIONER: No, that's an exhibit, Exhibit 1, I think.

MS NOLAN: Oh, was it an exhibit.

10 THE COMMISSIONER: I'll have the bundle of media articles that you've
tendered re-marked as an MFI. I will however have regard to the material in
the document. There is just a limitation on our exhibit marking system to
20 deal with separate exhibits on an application like this, but I'll mark it as MFI
9. That's the bundle of media documents.

**#MFI-009 – 20 PAGES OF GOOGLE SEARCH ARTICLES DATED
29 MARCH 2018**

20 THE COMMISSIONER: And the folder containing the pleadings in the
Supreme Court is MFI 10. 8, is it? I'm sorry. It's already been marked as
MFI 8.

MS NOLAN: 8, yeah.

THE COMMISSIONER: And I will however have regard to that material
in both those two MFIs. The MFI marking system only been imposed for
the reasons I've indicated.

30 MS NOLAN: Please the Commission.

THE COMMISSIONER: Thank you.

Now, Mr Chen?

MR CHEN: I think the hearing room door has been locked, so once the
doors are open - - -

THE COMMISSIONER: I see. All right.

40 MR CHEN: - - - Mr Hancock will be the first witness.

THE COMMISSIONER: Do you want me to adjourn for a short moment
and then we'll resume? All right. I'll resume at 10.30.

MR CHEN: Thank you, Commissioner.

SHORT ADJOURNMENT

[10.24am]

MR CHEN: Commissioner, I call John Hancock.

THE COMMISSIONER: Yes. Thank you. Mr Hancock, would you mind stating your full name, please.

MR HANCOCK: John Terry Hancock.

10 THE COMMISSIONER: Mr Hancock, we'll shortly commence your evidence. Do you take an oath or an affirmation to give evidence?

MR HANCOCK: Affirmation.

THE COMMISSIONER: Affirmation. We'll have that done now then.

THE COMMISSIONER: Just take a seat there, Mr Hancock. Mr Hancock, just before we begin, under the provisions of the Independent Commission Against Corruption Act a witness may object to giving evidence if the person wishes. The effect of that objection is that the evidence can't be used in the future against the witness in any criminal or civil proceedings or disciplinary proceedings. It's a form of protection if you like that the Act offers. If the person chooses to object, you don't have to but if you want to you can avail yourself of that provision in which case I can make a declaration to that effect. Have you given this any thought, do you want to give evidence on objection or do you - - -?---Yes, please.

You do. Very well. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Hancock and all documents and things produced by him during the course of his evidence are to be regarded as having been produced or given on objection. Accordingly there is no need for Mr Hancock to object in respect of any particular answer given or document or thing produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR HANCOCK AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE ARE TO BE REGARDED AS HAVING BEEN PRODUCED OR GIVEN ON OBJECTION. ACCORDINGLY THERE IS NO NEED FOR MR HANCOCK TO OBJECT IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

THE COMMISSIONER: Yes.

MR CHEN: Thank you, Commissioner. Mr Hancock, are you currently a volunteer worker?---Yes.

Are you a member of the Awabakal Local Aboriginal Land Council?---Yes.

When did you first become a member of that land council?---In early 2000.

Were you a board member of the Land Council commencing in September of 2013?---Yes.

And did you resign from that role in December, 2015?---Yes.

Mr Hancock, as a board member you would have gone to many meetings of the board of the Land Council?---Yes, that's correct.

And ordinarily it was the case is it not that minutes would be taken of the meetings held by the board?---Yes.

And those minutes would be taken by hand?--- Yes.

10 And they would be recorded in a book?---That's correct, yes.

I'm just going to show you, Mr Hancock, Exhibit 50 and Exhibit 51. Perhaps I'll show you Exhibit 50 first. Do you recognise that, Mr Hancock, as the book of the minutes of the board of the Land Council for the period 20 March, 2013 to 8 March, 2016?---Yes.

Now, after the meetings – sorry, I withdraw that. Following the completion of the meetings are the minutes of the board then typed up?---Yes.

20 And in the time that you were a board member who would be the person responsible for typing up the minutes following the meeting?---The CEO, Steve Slee.

And you do know that Mr Slee finished or was suspended in that role in February of 2015?---Yes.

And he never returned to work at all after that suspension?---That's correct, yeah.

30 Following his suspension who was the person who undertook the typing up of the minutes during the time that you were a board member?---So when Steve had been stood down we basically didn't have any board meetings so I'm not, so there was no board meetings that actually happened except for one with the Registrar which was at the Lawler's office and another one with NSWALC at the Awabakal office so there was only two meetings that happened Steve had stood down that we actually had.

Are you able to say who typed the minutes for those meetings or you don't know?---I wouldn't have a clue.

40 What about – I'll withdraw that. Once the minutes are typed up, are they presented at the following meeting of the board of the Land Council for approval?---That's correct, yes.

And once they're approved by the board members, does the chairperson then sign them as true and correct records?---That is correct, yes.

And that's been the practice that you observed at the board meetings that you attended whilst a board member?---Yes, that's correct.

Now, following the meetings – I'll withdraw that. During the course of any given meeting, resolutions are moved and often passed.---Yes.

10 And what happens when the resolutions are passed? Are they typed up? What's the position with them?---Yeah, I think, I believe that there was another folder that's in the front office that had the list of all the resolutions. So after the motions were passed in meetings I believe they were then given a resolution number, which I think was the – when he typed up the meeting minutes, he then gave it a resolution number and then those were put into a document, I think, and then left at the front office, I think, so members can come in and see what motions have been moved in, during board meetings.

So after – sorry, was it your evidence that Mr Slee was responsible for typing up the resolutions? Or was it somebody else?---Well, as far as we're, as the board, Mr Slee was responsible for it. Whether he then got someone else to type them up, I'm not a hundred per cent sure.

20 And in what format were they stored? Were they in a folder in a book or were they electronic?---So we had, one's print, so we had this book which was the handwritten, then we had ones that were printed out. They were the signed ones from the chairperson. They were in, like, a lever-arch folder.

You mean the minutes? Are you talking about the minutes here?---The minutes, yes.

Yes.---Yeah, yeah.

30 And what about resolutions?---And then the resolutions was in another lever-arch folder which was – I don't know when that was typed up, how that process happened, but, yeah.

Now, just going back, in the ordinary course who has access to the handwritten minute book of the board of the Land Council?---I believe that that's stored in a locked file, like a filing cabinet in the CEO's office.

So once – it's brought into a board meeting, I take it?---Yeah.

40 And then the person who's responsible for writing out the minutes accesses the book and writes down the business of the meeting?---That's correct, yes.

And then is the book returned to the CEO, is it?---Yes, so at the meeting it's just pushed, I push it, usually push it over to the CEO.

I see.

THE COMMISSIONER: And you had yourself seen the minute book put in the – did you say it was some form of a secured cupboard?---Oh, yeah, in a filing cabinet in his - - -

Filing cabinet.---Yeah, yeah.

You had seen it - - -?---Like a two-drawer filing cabinet. Yes, I had seen it being put in there and taken out.

10 You had seen it put in.---Yeah.

Taken out. And - - -?---Not all the time. But I had seen that actually - - -

No. From time to time.---Yes.

And you say it was secured in some way or locked? What, by a key mechanism or - - -?---Yes, yes. It was a two-drawer key filing cabinet.

MR CHEN: And in the ordinary course, who has entitlement to access the
20 handwritten minutes book of the Land Council?---So as far as I was aware it was just the CEO and the board members. I don't, I'm not sure whether members can actually access that book. I think the members just access the typed-up resolutions in the front office.

So I'll just come to the resolutions, then.---Sorry.

And you may have answered it already, but is this the position, that there's a lever-arch folder with the typed up resolutions?---(No Audible Reply)

30 Sorry, you need to audibly answer. It's being recorded.---Yes. Yes.

And any member of the Land Council, thus including any board member, can access that at any time?---Yes.

I see. Now, once the resolutions of a board have been typed up, would you in the ordinary course of events see them or not?---Not until the next board meeting.

40 Are the resolutions then put back before the board or is it only picked up through the typed minutes that contain the resolutions?---It's only through the typed minutes. So that's what we – the typed minutes are presented at the next board meeting and then that's what all the board members checked and move a motion whether they're true and accurate.

And within those minutes, obviously, are the resolutions that were passed. ---Correct, yes.

So in the ordinary course you wouldn't have regard to or need to access the folder with the resolutions that is generally available to Land Council members?---That's correct, yes.

All right. Now - - -?---I only saw that once, that folder. So that's how I knew of it.

And where was that normally stored, did you say?---The, so that was the resolution folder for members, and I think that was at the front office.

10

Could you just - - -?---So the reception could be - - -

I'm sorry, I talked over you then. Did you finish?---So the reception could pull it out and basically show any members that came in and wanted to look at what meetings, what motions were moved during meetings.

Is the rough layout of the office that there's a front entrance and reception area?---Yes, that's correct.

20

And there's offices obviously behind that, is there?---Yes.

And the book, the resolution book - - -?---Yes.

- - - that's available for members - - -?---Yeah.

- - - was kept at the receptionist's desk?---That's correct, yes.

30 And during the course of the time that you were a board member, who were the receptionists?---Candy Towers and earlier on in the piece was Julie Beetson. She was the receptionist I think maybe before Steve.

When did Candy Towers take over the role, do you know?---2014, I'm not quite sure when, but 2014.

She was the receptionist certainly by the time that Mr Slee commenced as CEO. Is that right?---That's correct, yes.

40 And she remained the receptionist, did she, for the entire time that you were a board member?---Yes.

Now, Mr Hancock, I want to direct your attention to the period 2014 and in particular the second half of that year.---Ah hmm.

In the course of you being a board member of the Land Council, did you become aware of certain land proposals which came before the board as part of their business?---Yes.

And do you remember the names generally of any of the proposals that you can recall from about that time period?---Yes.

What ones do you recall?---Was the IBU and I don't remember the name but I remember the gentleman that was wanting to build retirement or over age, over 55 living at Hillsborough Road.

Is that - - -

10 THE COMMISSIONER: Sorry, which road?---Hillsborough.

Hillsborough?---Yeah.

MR CHEN: That was, was that land which had a street address of 291 Hillsborough Road, Warners Bay or you're not sure?---Not sure.

And is the developer a gentleman called Greg Cahill, C-a-h-i-l-l?---I think it may have been, yes.

20 And was his business or was the business that you may be recalling, Hillsborough Retirement Living?---It possibly was.

You're not sure?---I'm not 100 per cent.

I'll take you to some minutes and perhaps that might assist you. Now, you went to a good number of board meetings during the time that you were a board member?---Yes.

30 And you assumed the role, did you not, perhaps by choice, perhaps by default, of becoming the actual minute-taker. Is that so?---Yes. So when the previous CEO was stood down, Richard Green, not Richard Green, Richard McGuinness, was stood down, up until then the CEO had taken the minutes but when he was stood down the chairperson asked for me to take the minutes, so from that time I took the minutes.

And at every meeting that you attended, so far as you can recall, you took the minutes, did you?---Yes.

40 And that involved you writing down the business of the board in the book which is Exhibit 50?---That's correct, yes.

THE COMMISSIONER: Just on that, did you have, did you follow some practice in what you noted down?---The only thing that I was told, 'cause I had not done minutes before, and this was the first time I was on a board, Debbie said that you just need to put down the motions that are carried out through the meeting and the apologies, the attendance, time that we started and any general business that come up.

So over time after you settled into the role as minute-taker, if there was discussion in the matters of general business was it your practice to note those?---Note that there was a general discussion but maybe not, not what, what the full discussion was about because a lot of the times I was involved in the discussion so it was hard to be involved in the meeting as well as taking the minutes of the meeting.

Depending upon the nature of the business of the meeting - - -?---Yep.

10 - - - would you note any significant matters that arose?---Yes, and especially if like the chairperson, deputy chairperson or another board member said I wanted that noted in the minute book.

Yes, thank you.

MR CHEN: Thank you, Commissioner.

Mr Hancock, I'm just going to have placed before you volume 2 of the public inquiry hearing brief, and Mr Hancock, it will also come up on the
20 screen if you prefer to look at it electronically.---Thank you. I can do the screen.

So page 27, do you recognise that as the minutes of the board meeting of the Land Council on 16 October, 2014?---Yes.

And do you recognised the handwriting as being your handwriting?---Yes.

Now, under the heading or words business arising 18 September you will see there's a reference, "Steve has scheduled meeting with Hillsborough
30 Road developer."---Yeah. ADW Johnson are looking at the proposal.

"Are looking at proposal." Do you see that?---Yes.

And is the developer that is being referred to there the developer you mentioned earlier in your evidence, the gentleman that was looking at over 55 retirement living?---Yes, yes.

If you look down please to the bottom of that page you will see LB Group presentation.---Yeah.
40

Could you read, is it, "Doc provided to all board members Peter Zhu"?
---Yes, that's correct.

Do you remember this presentation?---Yes.

Would you turn please in the same volume to page 31 and if you would look at pages 31 and 32. Do you recognise that as a document that was provided at that time?---No.

Would you look then please at page 33. Do you recognise that and the pages that follow all the way up to page 38 as being the document that you've referred to in the minutes?---No.

You just have no memory one way or the other or you're disputing it?---No, I don't remember it.

10 I see. Now, you also mentioned earlier in your evidence a development proposal by an organisation called IBU.---Yes.

Do you remember approximately when that meeting was?---No. 2014.

Was it before or after the meeting that we've just referred to or you don't recall?---I think it was after that meeting.

And do you remember who came along to the meeting?---So that's the second one where they've brought the developer in?

20 Well, I think you said - - -?---So the first one was the Hillsborough one then the second one was the Cyril and - - -

Let me start again.---Sorry.

I'll be a bit clearer.---Thank you.

You mentioned earlier in your evidence that you recall a developer coming to present, one of which was IBU.---Yeah.

30 And you've also mentioned now Cyril.---Yeah.

Now, does Cyril, according to your recollection are they one and the same, IBU and Cyril?---Yes. Yes.

And you remember that presentation do you?---Yes.

You're not sure of the precise date but you certainly remember the presentation?---Don't remember the date. Yes, that's correct.

40 Did somebody come with Cyril to present?---Yes.

Do you know that gentleman's name?---Don't remember his name, no.

Do you know - - -?---But I remember he was of an Asian descent.

I see. Did they do a presentation to the board?---Yes.

Did they hand anything out to the board?---Yeah. We were all given a lengthy document.

In the same volume, volume 2, page 67. It's on the screen as well, Mr Hancock, but take your time.---Yeah.

Was this the document that was provided at that meeting?---It looks like it, yes.

10 Now, do you remember the nature of what they were proposing and what they were discussing?---I remember it being out of the blue because I think it was an extraordinary meeting that was called for that and was told that there was developers wanting to develop our land, come in and have a look. So I think it was like called within 24 hours possibly and then, yeah, we were presented that document and it was in like a – there was no visual presentation as in a projector or anything it was all printed out paper.

If you just look through that document say, turn to page 68. I'm not sure, are you looking at it on the screen or in hard copy?---Yes, on the screen.
20

You will see there's a number of descriptions of property.---Yes.

Do you recognise those as being Land Council property?---Yes.

If you turn to the next page, 69. Again, 291 Hillsborough Road, Warners Bay.---Yeah.

Again, that was Land Council property.---Can you scroll down just a little bit to the – yeah.
30

You're looking at the photographs, were you?---I'm looking at the map.

The map. I see. And again, page 70.---Yes.

Again that was Land Council property?---Yes.

Page 71. Again that was Land Council property?---Yes.

And again, page 72. That also was Land Council property, was it not?
40 ---Yes, I believe so, yes.

Now, what was the proposal that was being presented to the board? What were they inviting the board to consider or do?---So I believe it was a proposal for us to sell our land. They – I don't know where – I remember having the discussion with another board member saying don't know where they got the information from in terms of our land and all the address details and whatnot, because it was the first time it was ever brought to us, and so there was no pre-warning, there was no leading up to this presentation.

Did they say or announce where they were from or who they were representing?---Yeah, they said they were from IBU and I believe that Cyril, Cyril said that he was with the NSWALC, so New South Wales Aboriginal Land Council.

I see. Was there any mention at all through the course of that presentation to the Land Council that it was a presentation not only by IBU but a company called Gows Heat?---No.

10

Never any mention at all during the course of that meeting to that name? ---That's correct. No.

Never any mention in the course of that meeting to an entity called Gows? ---No mention, no.

You're quite certain of that?---Yes.

20 In the time that you were a board member of the Land Council, had you ever heard of that name Gows Heat Pty Ltd?---No.

And you'd never heard of a company or a business called Gows in the time that you were a board member?---That's correct. I had not heard.

Now, you obviously took the minutes that day.---Ah hmm.

30 I'll ask you to turn, please, same volume, page – I'll take you to the typed minutes first if I can. But before I do so, do you remember the board discussing after the developers left what if anything to do with the proposal?---Yeah. So whenever a proposal would come to us, we need to always take it to the members first to get their approval for it. So the discussion basically ended up being that we need to, anything that comes to us, we need to take it to the members to see, one, whether they want to sell the land first and, two, you know, if they want to sell the land and what process we go about doing that, whether we put it out for tender, whether we take the offer that comes in or, yeah.

40 Was there anything more specific about what was being proposed to do in relation to IBU at that meeting? Was there a discussion about that, do you recall?---No, I think, I suppose what had happened is the IBU brought that to us and then we saw that there was a possibility, there could be a possibility here for them to sell the land. So prior to that meeting there was no real discussion about selling lands. So we, yeah, that was the first time that we - - -

I'm going to ask you to have a look now, please, at page 64, volume 2, and do you see there in front of you that they are the minutes of an extraordinary board meeting dated 31 October, 2014?---Yes.

And if you look down at point 3, you'll see there's a description of the development proposal.---Yes.

Just read that to yourself if you would, Mr Hancock.---Yeah.

You've read that now to yourself?---Yes.

10 Does that accord with your recollection of what occurred on that day in relation to the proposal put forward by IBU?---Yes.

If you have a look at the next page, please, page 65.---Yeah.

In particular, point 7.---Yes.

Just read that to yourself, if you would, first.---Yes.

Do you recollect a motion being moved following the IBU presentation?
---No.

20

Having refreshed your memory now on reading that, does that assist you in saying one way or the other of whether or not one was actually moved?
---Yeah, I, we definitely did not move a motion for, to propose a contract of sale to IBU. The other thing that I did notice with this is that the address on it was incorrect.

I'm sorry, what address are you – the typed address - - -?---So up there it says 180 Maitland Road. That's not the office of the Land Council.

30 What's the address? Is it 167?---Yes. I think so. 127.

127.

THE COMMISSIONER: Sorry, just to be clear, that address, 167 Maitland Road, is what?---So on this it says 180 Maitland Road, but the actual address of the Land Council is 127.

Of the Land Council.---Correct.

40 MR CHEN: But the meeting was definitely held at Land Council's offices, was it not?---Yeah, it was held at the Land Council. I think 180 might be the Baptist church where he hold our members' meeting, but we've never held our board meetings at the Baptist, at the church.

Now, would you please have a look, Mr Hancock, at page 62 of volume 2. And that will come up on the screen as well.---Yes.

Do you recognise the page on the right as being the handwritten minutes of that board meeting of 31 October, 2014?---Yes.

And you recognise that as your handwriting, of course?---Yes.

Now, at the top, after the attendances and apologies, there's a word that appears to be "presentation". Do you see that to the right?---Yeah, "presentation, Cyril".

10 Cyril. And that's a reference to the presentation that you've just given evidence about?---Correct, yes.

And if you look further to the right - - -?---Yes.

- - - would you just read that?---"Richard Green declared interest."

Do you recall now Mr Green declaring an interest during the meeting?---Yes.

20 And what did he declare that interest as?---That he knew Cyril.

Was there anything more extensive than that?---No.

Would you go down a bit further, please, and you'll see a reference to Hillsborough Road.---Yes.

30 Do you have any recollection about what that related to?---I believe that that had relation to the large parcel of land on Hillsborough Road. So I need to go back to that document to see which one was the large parcel to tell you exactly the number.

But it's not related to the IBU presentation as you would read the order of these minutes?---No.

Would you turn, please, to page 63. And you'll see the first part of the minutes there's some wavy lines put through the writing.---Yes.

Did you do that?---Yes.

40 Why did you do that?---So I would have started writing the motion and then Debbie, who moved it, would have said, no, it needs to be written like this, so I crossed it out and then rewrote it.

Could you read onto the record what is beneath the wavy lines?---"Propose a contract of sale to" - - -

I'm sorry, we might be at cross purposes here.---Sorry.

You'll see at the top of the page, you can see there's two wavy lines crossing out something.---Yeah. Read that bit?

Would you be able to read that onto the record, please.---“The Awabakal LALC submit a tender to participate in the building and development of the whole project. Part of the conditions,” and then that's when they said, no, we need to rewrite it.

10 I see. Who was dictating this at the time to you, stating it, do you recall?---I think it was Richard Green that was dictating it then.

And if you look down to the next section, it starts with the word “propose”.
---Yes.

Just read that to yourself, if you would, Mr Hancock.---Yeah.

Now, I think your evidence was that you don't recall there being a motion put based on the typed minutes that I drew your attention to earlier.---Yes.

20 Having read this now, do you accept that there was undoubtedly one put?
---Yes.

And could you read just the first five words, propose a - - -?---Contract of sale to.

THE COMMISSIONER: Sorry to interrupt. Is the original document here?

30 MR CHEN: It's before the witness, Commissioner. Would that help? I'm sorry.

THE COMMISSIONER: Is it any clearer on the original?

MR CHEN: Would you have a look, please – I should have done that, thank you, Commissioner – to Exhibit 50.---Yeah.

40 THE COMMISSIONER: Just before you put the next question I might get my associate just to take the exhibit from Mr Hancock for a moment so that I can look at it. Yes, I'll return that to Mr Hancock, that exhibit. Thank you.

MR CHEN: So, Mr Hancock, it says “propose a contract of sale to” and then there appears to be a number of words compressed into the right side of that line.---Yes.

Are you able to say now what you wrote down and whether it accords with what appears there now in the book on that first line?---So I believe that what I wrote was contract of sale to IBU and include landscaping, fencing and so forth. The G-E and the G-o-w-s - - -

Just pause there for a moment. The G-E you refer to looking at Exhibit 50 or alternatively volume 2, page 63, is to the left of the IBU?---IBU. Yes.

And to the right you say is what word?---It looks like Gows, G-o-w-s.

10 And your evidence is those were not words that you put in the minutes when you were taking them at that meeting on that day?---That's correct, and how I've come to that was basically I looked at my spacing, the sale to IBU and, looks like my spacing and also the two Gs don't look like my Gs. So if you, yeah, took out those that are inserted the spacing to me looks like it's been, like words have been inserted into the spaces.

And you didn't - - ?---Both to the left and right. No.

Sorry, we're talking over each other. I'll just get this clear. You think words have been inserted to the left of the IBU?---IBU.

20 And to the right?---Correct.

And it doesn't look like your writing. Was that your evidence?---Correct, yes.

And also the spacing is wrong?---Yes.

And were you ever asked at a later point in time to insert those words by anyone?---No.

30 Did you insert them at a later time?---No.

Do you know who did?---No.

Are you able to offer any explanation as to how those words may have come into the minute book in that way?---Well, after Steve Slee was stood down Richard and, both Richard and Debbie both basically ran the office there. They were in the office there for eight to nine months. So anything could have happened during that time. Yeah.

40 THE COMMISSIONER: Sorry. You say they ran the office which was for about 10 months, this is what, after Mr Slee - - ?---After they stood Mr Slee down.

Mr Slee was stood down. Thank you.

MR CHEN: Mr Hancock, when resolutions are passed by the board and then put into the folder that you've given evidence about before, in your experience as a board member is that where they remained?---Yes.

Had you ever seen at any time that you were the minute-taker resolutions stapled into the minute book?---No.

And if there was a resolution stapled into the minute book of a particular resolution or resolutions, that would not have been done by you?---That's correct. I didn't do that.

10 And that would be something that you would not have expected or observed in the course of you being the minute-taker for the period that you were a board member?---That's correct.

Now, would you please, Mr Hancock, have a look at page 66 of volume 2. And you'll see there what purports to be a resolution of the board, dated 31 October, 2014, at the top of that page.---Yes.

I take it, in light of your earlier evidence, that that's not a resolution that flowed from the one that you noted in the minutes.---That's correct.

20 Have you ever seen that resolution before?---Only when it was shown to me in evidence with the ICAC investigators.

I see. And when was that? This year?---This year, yeah.

Never seen it before?---Correct. I've not seen this before.

You weren't asked to prepare something like that, were you?---No.

You don't know who did?---No.

30 At the meeting on 31 October, 2014, was there any discussion about heads of agreement at all?---No.

Was there any discussion about standard terms and conditions?---No.

And certainly no reference, on your evidence, to a sale to an entity called Gows?---To Gows. Again, no.

You're certain of that?---Certain of that.

40 THE COMMISSIONER: Just one point of clarification. I think you said earlier that your past practice was that before action, any action was taken on possible sale of land by the Land Council, any proposal would first be taken to the members.---Yes, that's correct.

If there were heads of agreement in relation to any particular proposal, would that in your experience come before any consultation with the members to possibly sell land? Or would it come afterwards?---I'd imagine that would come after, but the sale of the Olney Road, Adamstown, I think,

was motions that was before I was on the board. So the time that I was on the board, I never actually saw the start of a proposal or a development application or, yeah, developers coming in to present to the board.

Sorry, so in relation to any – call them legal instruments of any kind, such as proposed heads of agreement or something of that kind - - -?---Yeah.

10 - - - what was your past experience in the matter you've just referred to?
---So I don't have any past experience, so that's what, yeah. Because when I come onto the board, land had already been put to NSWALC for us to sell, so stuff happened before then. And then when I come on the board it was, NSWALC had just approved it and the sale was going through, so – and that, all the day-to-day stuff was done by the CEO, so - - -

Yes, all right. Thank you.

MR CHEN: Mr Hancock, if you assume that – you still have, sorry, Exhibit 50 open, which is the book.---Yes.

20 The minute book in front of you.---Yes.

And do you still have it open at the page for the minutes of 31 October, 2014?---Yes.

And you should see inside of, or loose there, that resolution that is on the screen. Oh, you're holding it up now. Which is also volume 2, page 66.
---Yeah.

30 That's the resolution that you've never seen before.---That's correct.

But if you assume that that was at one point stapled into the minutes at that place, are you able to offer an explanation as to how that managed to get there?---No.

The minute book, I think you've told the Commissioner, was kept in the CEO's office.---Yes.

40 But otherwise, once the CEO left, whoever was looking after the office in that time period.---Yes.

You don't know how it got there?---That paper? No, not at all.

Thank you. Can that exhibit be returned thank you.

THE COMMISSIONER: Mr Chen just on that page 66 item 2, it's headed, Board Meeting Resolutions. Are there other resolutions contained within the board records in the same format that we see there or, in other words, is that a standard form that was used from time to time?

MR CHEN: I'll take the witness to it Commissioner, I can draw your attention to it. So in the same volume page six. Do you recognise in front of you which is page six of Volume 2, the standard form of the resolutions that were kept by the Land Council?---Yes.

And if you scroll down to page, that is the form of which it appears in the running log of resolutions.---Yes.

10 I'll just hand you back Exhibit 50. One obvious difference appears to be the fact that when you look at the lose resolution within Exhibit 50 - - -?---Yes.

- - - it certainly cut out around some words.---Yes.

But otherwise there are some other subtle formatting differences.---Yes.

You would expect, would you not, that the resolution to appear as it appears on the screen on page 12 of Volume 2.---Yes, because again, I've not heard of Gows prior to this brought up so Gows are on the stapled in document.

20

Commissioner, we've looked at, I think to answer the question, we've looked at a comparison, we've compared formatting in other matters as well so we will be able to address that in due course as to differences and there are matters I don't think I need to explore with the witness.

THE COMMISSIONER: Yes, thank you.

MR CHEN: I might just have that exhibit returned now, thank you Mr Hancock. Now, I know that your recollection was that nothing happened with the proposal but I need you to just to see whether this assists you further. Would you look please at Volume 2, the minutes of 1 December, 2014 so page 105.---Yes.

30

Do you recognise that as the handwritten minutes prepared by you of the Extraordinary Board Meeting of The Land Council dated 1 December, 2014?---Yes.

If you look down the bottom of that page sitting at landscape, you'll see the last line development proposal - IBU - - -?---Accepted proposal.

40

Accepted proposal. Does that assist you at all in recalling what might have happened around this time period, or not?---Not really, no.

You don't have any other independent recollection about there being any discussion by the board or board members about how this proposal went between 31 October, 2014 and 1 December, 2014?---No, no sorry.

What did you think happened to it, just it was a proposal and nothing further happened, is that it?---As far as I can remember, as far as I can remember there, there might have been something to take to the members but I'm not, I can't recall really.

I'll move on. I just want to show you one other thing just to complete this reference, Mr Hancock.---Awesome.

10 Same volume, so volume 2, page 108. These are the typed minutes of the board meeting on 1 December, 2014.---Yeah.

Do you recognise them as that?---Yeah, but I also recognise it's 180 Maitland Road again, not 160, 127.

And if you turn to page 109, in particular point 6, just read that to yourself if you would.---Yeah.

20 Does that assist you at all in, well, I'll withdraw that. Do you know what that refers to?---Only imagine that is to do with IBU, the IBU proposal.

Anyway, you're not sure. Is that - - -?---I'm not 100 per cent, yeah.

All right.---I'm not sure, sorry.

Now, I'm going to have put on the screen but also put in front of you, volume 3, page 1. Do you recognise at page 1 those as the minutes of the board meeting held on 28 January, 2015, by the board?---Yeah.

30 And that's your handwriting?---Yes.

If you look a little bit down to about the middle of the page you'll see something that appears to start with the word, "Minutes."---Yes.

Could you just read that to yourself first and then once you have, could you just read onto the record what that says?---"Minutes from the 24th" - - -

Sorry, the next entry down.---Sorry. "Minutes from the 31st of October are accepted as true and accurate."

40 Beneath that it's got M.---So, "Moved by Ron Jordan, seconded by Debbie Dates and then that motion was carried.

And consistent with your earlier evidence, what had occurred in that sequence is that the typed minutes of the board meeting - - -?---Yes.

- - - of 31 October, 2014, had been placed before the board members?
---The board members, correct.

They'd been reviewed - - -?---That's correct.

- - - and approved as correct?---That's correct, yes.

Would you turn please to the next page, which is page 2, and at the top it says I think, quote, "On 15 December John Hancock took the minutes on the night, the minutes were destroyed." End quote. Do you see that?---Yes.

10 Do you still have volume 2 in front of you, Mr Hancock, or available?
---Yes.

If you look at page 142, please of volume 2.

THE COMMISSIONER: Could you get volume 2 again? Oh, it's there.

MR CHEN: Now, do you recognise the handwriting in the document that appears at volume 2, page 142?---Yes, I do, yes.

20 And whose handwriting is that?---That's my, my handwriting.

And these appear to be minutes that you have prepared.---Yes.

And they don't appear to have a date on them.

THE COMMISSIONER: Sorry, what page are we on again?

MR CHEN: 142, Commissioner.

30 THE COMMISSIONER: Thank you.

THE WITNESS: That is correct.

MR CHEN: While you're at page 142, sorry, you'll see that it says "meeting opened 17.13".---Yes.

And if you turn to page 147 - - -?---Yes.

40 - - - you'll see that that's when the typed minutes record the meeting having been commenced on that day.---Yes.

Is it likely that the minutes are in fact – the handwritten minutes at page 142 – are the minutes from that day?---Yes.

So in fact they haven't been destroyed.---That is correct.

I see. Thank you. Now, whilst – can I ask you just to close up volume 2, then. And I'll ask you just to come back to volume 3.---Yes.

And page 2. Now, on the right-hand side of that page – looking at it in landscape – you'll see about two-thirds of the way down “Hillsborough Road” underlined.---Yeah.

Would you just be able to read that onto the record of what your handwriting says?---“The Hillsborough prop”, which means property, “can be purchased outright. Prop sold as is. One and only offer for 500,000. No addition. 35 days to reply.” Or “for a reply”.

10 For a reply.---“Moved by Ron Jordan, seconded by Richard Green. Carried.”

And there's also at the, on the first line there's an addition to it. There's been an identification of the property as Lot 1 Deposited Plan 823734. ---Yes.

Is that your handwriting?---No. It's too neat.

I'm sorry?---It's too neat for my writing.
20

Do you know whose handwriting it is?---I don't know.

Thank you. That Hillsborough Road property, is that the property that related to – so far as you recall – the Hillsborough Retirement Living and Mr Cahill?---No.

Or you're not sure?---No, I don't think so. As far as I can recall, Mr Cahill come in and did his presentation. I don't, I can't recall us moving ahead with the retirement village.
30

Commissioner, is that a convenient time? I'm about to go onto a new topic.

THE COMMISSIONER: Yes. Yes, it is. Yes, very well. Mr Hancock, we're going to take a 15-minute break, morning tea.---Yeah.

You're free to step down.---Thank you.

We'll resume with your evidence. Yes, I'll adjourn.

40

SHORT ADJOURNMENT

[11.29am]

THE COMMISSIONER: Thank you, Mr Hancock. Thank you, yes.

MR CHEN: Thank you, Commissioner. Mr Hancock, up on the screen is going to be volume 3, page 123. And you may have the volume in front of you. Do you have volume 3 in front of you?---Yeah.

And is it open at page 123?---Yeah.

During the time that you were a board member of the Land Council, had you ever seen the heads of agreement which is shown at page 123 involving Gows Heat Pty Ltd and the Land Council?---No.

10 You've never heard of, during the time that you were a board member, an agreement of that kind having been entered at all?---That's correct.

Mr Green never raised with you at any board meeting, I take it, that he had entered such an agreement by or on behalf of the Land Council?---That's correct.

Mr Hancock, this agreement appears to have been executed on the 15th of December, 2014. That's the date of it on the cover sheet.---Yes.

20 There was in fact a board meeting of the Land Council on that day. Do you recall going to a meeting late at the end of 2014, around that time?---Yes.

Was there any mention at all during the course of that meeting by Mr Green that he had signed such an agreement?---No.

Never mentioned – sorry, I withdraw that. Did Mr Green ever mention that he was proposing to sign such an agreement at that meeting?---No.

30 At any time – I withdraw that. Was there ever any discussion at any board meeting attended by you giving Mr Green the authority to sign such a document?---No.

Was there ever any discussion at any board meeting attended by you giving or delegating to Mr Green the authority to execute an agreement of that kind?---No.

Or indeed any kind of agreement?---No.

40 Now, Mr Hancock, have you – sorry, in the time that you were a board member of the Land Council, had you heard of the company Sunshine Property Investment Group Pty Ltd?---No.

In the time that you were a board member, were you aware of any agreements or proposed agreements involving the Land Council and Land Council land and Sunshine Property Investment Group Pty Ltd?---No.

In your time as a board member, were you aware of any agreement or proposed agreements of any kind between the Land Council and Sunshine Property Investment Group Pty Ltd?---No.

In your time as a board member, were you aware of any agreements or proposed agreements involving Land Council land between the Land Council and Sunshine Warners Bay Pty Ltd?---No.

In your time as a board member, were you aware of any agreement or proposed agreements of any kind between the Land Council and Sunshine Warners Bay Pty Ltd?---No.

10 Did Mr Green ever raise with you at any time that you were a board member that he'd signed agreements with Sunshine Property Investment Group Pty Ltd?---No.

Or Sunshine Warners Bay Pty Ltd?---No.

He never advised you in a personal capacity that he'd done so?---No.

20 Did Ms Dates ever raise at any board meeting you'd attended that she'd execute agreements between the Land Council and Sunshine Property Investment Group Pty Ltd?---No.

Did Ms Dates ever raise at any board meeting you attended that she'd signed agreements between the Land Council and Sunshine Warners Bay Pty Ltd?---No.

Was there ever any discussion at any board meeting you attended about Ms Dates being given the authority of the board to sign such agreements?---No. And I would remember that because it's very out of the ordinary, member being delegated anything like that.

30 And just following on from that, there was no discussion at all at any board meeting you attended involving giving or delegating to Ms Dates the authority to execute any agreement of any kind?---That's correct.

Including any agreements with Sunshine Property Investment Group Pty Ltd?---That's correct.

Or Sunshine Warners Bay Pty Ltd?---That's correct.

40 Sorry, Commissioner. During the time that you were a board member of the Land Council had you heard of an entity called Solstice Property Corporation Pty Ltd?---No.

In your time as a board member were you aware of any agreement or proposed agreement between the Land Council involving Land Council land and Solstice Property Corporation Pty Ltd?---No.

In your time as a board member were you aware of any agreement or proposed agreements of any kind between the Land Council and Sunshine – sorry, I withdraw that – Solstice Property Corporation Pty Ltd?---No.

Would you be good enough just to have a look at folder 8, page 22. We'll just have folders 2 and 3 taken from in front of you, Mr Hancock, to free up a bit of space.---Page number?

22.---Yeah.

10

You will see, Mr Hancock, that on page 28 that document appears to have been signed by Debbie Dates and by Richard Green.---Yes.

In your time as a board member of the Land Council had you ever seen that agreement?---No.

Never mentioned by Mr Green to you personally?---No.

20

Never mentioned by Ms Dates to you personally?---No.

Never had a conversation with anyone else on the board about such an agreement?---No.

At any of the board meetings that you attended, Mr Hancock, was there any discussion – I withdraw that – was there any discussion by the board about giving Mr Green authority to sign such an agreement?---Definitely not.

30

And at any board meeting that you attended was there any discussion about giving Ms Dates authority to sign such an agreement?---No.

And I take it there was never any discussion as well about delegating to either of them the right to execute such an agreement?---That's correct. No delegation at all was discussed.

During the time that you were a board member of the Land Council do you recall the board or the Land Council requiring the services of a solicitor from time to time?---Yes.

40

Who was the solicitor that had been retained?---Ian Sheriff. Ian Sheriff.

Was that the only solicitor that you were aware of during your time on the board that provided services?---Correct. Yes.

Did he initially provide services through a firm called Emery & Partners? ---Correct. Yes.

And did he then later go out on his own?---Yes.

And notwithstanding that he went out on his own, the Land Council still retained him so far as you're aware as the solicitor to undertake its legal work?---That's correct, yes.

Was there any ever discussion during the time that you were a board member about, or any issue concerning the quality of work that Mr Sheriff provided to the board?---No.

10 Was there any discussion by any board member about the need to retain anybody else - - -?---No.

- - - to provide legal services?---Not at all, no.

When you were a board member of the Land Council had you ever heard of a firm called Knightsbridge North Lawyers?---No.

During the time that you were a board member of the Land Council had you heard of Despina Bakis?---No.

20 So far as you were aware was Ms Bakis ever a solicitor performing or providing work for the Land Council or the board of the Land Council? ---No.

And similarly so far as you were aware Knightsbridge North Lawyers did not provide any legal services as well. Is that the case?---That is correct. I only heard about them at the start of this investigation, Knightsbridge Lawyers.

30 Approximately when was that, sir?---Six weeks ago.

I see. Thank you. I'm just going to show you Exhibit 43. I'll just ask you to turn to page 1, Mr Hancock.---Yes.

Do you see that is a letter directed to the directors of the Land Council dated 28 November, 2014 to [sic] Knightsbridge North Lawyers?---Yes.

Have you ever seen this letter before?---No.

40 Do you think if a letter such as this was tabled at a board meeting you would remember such a letter if it were tabled?---Yes.

Do you recall there being any discussion at or around this time by the board about sourcing investors, capital, equity and debt funders?---No.

Do you know what that means?---Not really, no.

Was there any discussion around this time by the board of effecting the acquisition of or interest in indigenous lands and maximising their realisable value?---(No Audible Reply)

Was there any discussion along those lines?---There would have been discussions about how we can use our land to either provide services to the community or sell it to get money in so we can provide service to the community, but not in a, I mean that was a more generic or general conversation, it wasn't in regards to a certain particular dealing.

10

I understand. And were you aware of there being any request by the board for Knightsbridge North Lawyers to provide assistance to it in relation to matters that I've just drawn your attention to?---No.

If you look to the second paragraph, Mr Hancock, you'll see that the proposed amount of fees that were suggested as being a possible estimate, namely \$80,000 plus disbursements, is quite substantial, isn't it?---Yes.

20 THE COMMISSIONER: How is that to be read? It refers to the cost of \$80,000 plus GST plus disbursements monthly. Is it meant to be a monthly charge?

MR CHEN: That's the way I would read it, Commissioner.

THE COMMISSIONER: Yes, yes.

30 MR CHEN: On one view of it let's assume it's \$80,000 as a lump sum for the services. Were you aware of the funding that the Land Council would receive on an annual basis back in 2014?---From NSWALC, yes.

How much was that?---I can't say for certain, I think it may have been like a hundred and something thousand per year.

Is it about \$140,000?---Yeah.

And it's paid quarterly, isn't it, to the Land Council?---Correct, yes.

40 So this is a substantial sum of money relative to the funding or the external funding?---Yes.

A significant matter that presumably would have invited considerable board attention and scrutiny of any - - -?---Yes.

- - - proposed billing along those lines?---Correct.

If on an alternate view it's a monthly amount, it's very substantial.---Yes.

Now, if you turn please to page 2.

THE COMMISSIONER: Just be clear about it before we do. In that letter from, signed by Despina Bakis it says that, addressed to the directors, in the second line it says, "Thank you for assisting me, asking me, thank you for asking me to assist you." Do you have any knowledge of the directors making such a request as this?---No.

And - - -?---We only had one lawyer and that was Ian Sheriff.

10 Sorry?---We only had one lawyer and that was Ian Sheriff.

Okay. Yes, thank you. Sorry. You're going to?

MR CHEN: Page 2, Commissioner.

THE COMMISSIONER: 2.

MR CHEN: I'll just draw your attention to paragraph 3 in the first instance. You'll see there that there's a reference to heads of agreement entered with
20 Gows Heat Pty Limited.---Yes.

But your evidence is you'd never heard of such a thing?---That's correct.

No discussion by anyone at any time about it?---That's correct.

And if you look at paragraph 4, representations have been made to Mr Richard John Green.---Yes, I see that.

30 Did Mr Green ever tell you about discussions that he apparently had with Knightsbridge North Lawyers?---No.

Would you turn, please, to page 8 of Exhibit 43, and in particular I just want to draw your attention to clause 20.---Yes.

Just have a read of it to yourself, if you would Mr Hancock first, and I'll ask you some questions about it.---Yes.

40 When you were a board member of the Land Council did you know who Nicholas Peterson was?---No.

Was there any discussion that you were involved in at any time about appointing him an agent?---No.

You obviously knew Mr Green.---Yes.

When you were a board member of the Land Council did you know who William Tofilau was?---No.

Do you know who he is now?---No.

Never any discussion, I'll withdraw that. Was there any discussion by the board at any time about appointing him an agent?---No.

When you were a board member of the Land Council did you know a person called Andrew Margi?---No.

10 Do you know that person now?---No.

Was there any discussion at all by the board at any time that appointed him an agent?---No.

Was there ever any discussion at any time at a board meeting you were involved with about giving Mr Green the authority to execute that agreement?---No.

20 Was there any discussion at any time at any board meeting you attended about delegating the authority of Mr Green to execute that agreement?---No.

You can just close that folder up now for me, Mr Hancock, and I'm going to have folder 1 - - -

THE COMMISSIONER: Just before you go on. You sat on the board of this Land Council - - -?---Yes.

- - - with Mr Green as a co-director?---Yep.

30 And firstly in terms of his intellectual capacity, did he appear to understand what was being, the business of the board and - - -?---Yes.

- - - transactions it was involved in?---Yep.

And did he appear to you to have the ability to read documents?---Yes. I've not been told otherwise.

40 Did he exhibit any difficulties to you in being able to read and comprehend what was in a document?---No. I mean he would always, always look through the minutes and read through the minutes and he, as we'd go around and say if we would accept them as true and accurate he would say that yes, he accepted them as true and accurate, so I believed that he was able to read.

And did you make any general observations about his conduct or attitude during his period of service as a board member during the period that you were also on the board?---Only towards the end where I felt like I was being threatened by him re phone calls and whatnot.

When you say by the end, chronologically what period are we talking about?---So that would have been, it started around December 2014.

And do you know what precipitated that behaviour by him?---No.

He gave you no explanation?---I, no, he didn't give me an explanation, I assumed it was that he and Debbie were supporting each other.

10 And what observations had you made about Ms Dates during the period you sat on the board with her?---She seemed competent. She would always say that I've been a board member for seven years so I know how the Land Right Act work and what's involved in it, yeah, so she seemed to have - - -

And did her attitude change at any stage?---Yeah, around December as well, so that's I suppose where it fell for us is that's when they went in to stand down Steve Slee and that's when I lost confidence in them and that's where the issues started coming up with threats and whatnot from them.

20 And what did you note about her conduct in that period you've just identified, late 2014?---Well, her and her husband were constantly threatening me. I'd get yelled out while I'm walking down the street by her husband. So very intimidation, very, yeah. Even in meetings. That's why I didn't want to attend meetings without a representative either from NSWALC or the Registrar there.

By what name did Ms Dates's husband go by?---Warren Towers.

Sorry?---Warren Towers.

30 Towers.---Yeah.

Yes, thank you.

MR CHEN: And just picking up some of the evidence you just gave a moment ago, in the course of the many meetings I gather that you attended with Mr Green, he engaged in debate and question about issues that arose? ---Correct, yes.

40 Some of it involved land transactions or proposed land dealings, did they? ---Yes, most of them were proposed by Richard.

I see. And similarly Ms Dates as well engaged in debate and discussion across a wide range of matters?---Correct, yes.

And did she appear to you to have a good grasp of the various issues that would come across the board from time to time?---Yes.

Now, I want to just move on, if I can, Mr Hancock, to another document. Folder 1, page 162. And this will come up on the screen as well. This is another or a variation of the fee agreement.---Yes.

Have you ever seen that letter, which is at page 162? That is, the letter directed to the board, 27 November, 2015.---No.

THE COMMISSIONER: Was that ever signed, that agreement?

10 MR CHEN: You'll see the initials down the bottom.

THE COMMISSIONER: 162. Yes.---Yeah.

MR CHEN: "RG". It appears to have been signed by Mr Green.

THE COMMISSIONER: Right.

THE WITNESS: Yes.

20 THE COMMISSIONER: Sorry. What page do I find this at?

MR CHEN: I apologise, I may have misled you, Commissioner, in terms of the correct identification of the exhibit. Would you just pardon me for a moment.

THE COMMISSIONER: That's all right.

MR CHEN: Sorry, it should have been 1A, Commissioner.

30 THE COMMISSIONER: 1A.

MR CHEN: So it's Exhibit 42, folder 1A. That appears to have been signed or initialled, certainly the letter by Mr Green. The initials RG are placed on it in any event.---RG, yeah.

Did Mr Green ever discuss with you that he was liaising with this firm to provide assistance across the kind of matters that are referred to?---No.

40 Was it ever raised by Mr Green at any board meeting that he was having such discussions?---No.

If you look at page 163, you'll see – and ending at page 170 – the fee agreement then appears to have been signed.---Yes.

And that appears to be the signature of Mr Green.---Okay, yeah.

You're not familiar with it?---I've not seen his signature before, so - - -

And have you ever seen that fee agreement which I've just drawn your attention to?---No.

Mr Green never raised with you personally that he was, that he had signed such an agreement?---No.

Never raised at a board meeting at all?---No.

10 Was there any discussion at any board meeting you attended that discussed giving Mr Green the authority to execute an agreement such as that?---No.

Was there any board meeting that you attended involving a discussion about giving Mr Green, or delegating to him the authority to sign such a document?---No.

Thank you. I'm moving on from that now, Mr Hancock. Now, you mentioned just a moment ago that there were some problems involving Steven Slee.---Yes.

20 And he was the CEO from about the beginning of 2014?---Correct. Yes.

And he was suspended from his role in the early part of 2015, about February. Isn't that right?---Yes.

And were you as a board member consulted about whether Mr Slee should or should not be suspended prior to his suspension?---No.

30 Was the factual basis for his suspension ever communicated to you at or around that time by any other board member?---No.

Who told you that he had been suspended?---I believe, I recall that Steve called me and said that he'd been suspended.

Did he tell you by who?---By Debbie and Richard.

And did he tell you why they chose to suspend him?---He said they mentioned something about financials, something wrong with the financials.

40 Were any better specifics ever provided to you at any time by Ms Dates or Mr Green about what those issues were?---No. It was always just an issue with the financials. Nothing specific was mentioned.

I'm just going to show you a letter please, Mr Hancock. Volume 2, page 156. Do you remember receiving this email - - -?---Yes.

- - - from Mr Slee?---Steven Slee, yeah.

Did Mr Slee ask you to table that letter at a meeting of the board?---Yes.

Did you attempt to do so?---Yes. So I provided the letter to the deputy chairperson, Richard Green, as there was a conflict of interest because the letter had referred to the chairperson. So I gave it to Richard Green to table at the meeting but the letter was never tabled at that meeting.

Why wasn't it tabled?---You'll have to ask Richard why he never tabled it but I gave it to Richard for him to table it but there was another letter that was produced and tabled instead which was a complaint against Steve Slee.

10

All right. I'll come to that in a moment but you asked Mr Green to table the letter?---Correct.

And he declined to do so. Is that what happened?---He said he was going to do it and so he took a copy. This was a few hours before the meeting and he said I'll need to copy it so we can put it in the board notes. Then when we got to the meeting his letter wasn't in there but there was another letter that was in the board notes for, which was the complaint against Steve.

20

I see. Who wrote that complaint against Mr Slee?---I think it was, I think it was anonymous. I had my assumptions but - - -

Did you read it?---Yes.

Was it apparent from the tone of what was contained within it that it was from a particular person or persons or you don't know?---Yes.

And did you form the view that it was from somebody?---I, yeah, I believed it was from Candy Towers.

30

And what were the nature of the complaints that were contained within it in general terms?---It was mainly frivolous sort of stuff that was in there and, yeah, it looked like obviously something to combat or counteract the letter that Steve had asked to be submitted to the board.

Had you had in the course of your role as a board member cause to deal with Mr Slee, Mr Steven Slee?---Yeah.

40

With what degree of regularity or frequency?---At the start it was just whenever board meetings were happening but towards the end of that year it was possibly, it was almost daily that I was getting calls from Steve regarding situations that were happening within the office.

Just leaving those situations to one side, in terms of the functions of Mr Slee as the CEO of the Land Council how did you find him in the way in which he appeared to discharge his functions?---He was doing great. Before Steve had started our Community, Land and Business Plan which is what NSWALC sort of looks at us and judges us in terms of making sure that

we're meeting the standards there for us to get our funding, and there's a weight, a number value that's associated with that and when Steve first came on it was quite low. We were actually close to losing our funding but Steve had lifted us up in terms of the Community, Land and Business Plan, the rating, so we were actually getting quite good results from our, from NSWALC.

These are these risk assessments that are performed by the Aboriginal Land Council.---That's correct, yes.

10

I see. And they're performed quarterly.---Yes.

And that's what you're referring to?---Yes.

THE COMMISSIONER: Can we just clarify. You sat as a board member, did you say, from the year 2000?---No, no. 2013. I was a member of the Land Council. I become a member of the Land Council around the early 2000s, yeah.

20

2000. When did you join the board?---That was the end of 2013.

End of 2013. And when did you step down or finish?---I think it was December – oh, no, August 2015.

Sorry?---August 2015, I think it was. Towards the end of 2015.

30 Just take the year 2014, commencing in January 2014 and going through the year, how often did the board meet?---At the start of the year it would have been every second month. I'd say probably around June/July we, there was a few of the extraordinary members' meeting, board members' meeting called, but then towards the end of 2014 it was almost every week that we were being called up to go into the, to the office to meet.

Go into the?---To the office to meet as a board.

I see. So every, did you say, two months to start with?---Yes.

Then it became more regular - - -?---Very regular.

40

- - - about June with extraordinary meetings?---Correct, yeah.

And then with what regularity between July and December?---It felt like during November/December that it was almost every week that we were meeting there. Maybe every second week.

Was there to your perception any marked change either in the number of board meetings or the nature of the board meetings from October 2014 or thereabouts?---Yes, increased.

And what can you say as to the change in any respect from October 2014, so far as board meetings are concerned, did you notice?---So we had the developers brought in for extraordinary meetings. They were called maybe a day before or it could be a few days before. And there was a lot of issues with our housing and what was happening with the housing, so there was more meetings for that as well in regards to our waiting list, and also there was a property that was available that was being allocated to - - -

10 And were there any other changes you noted in October, November, December 2014?---No. I mean, I suppose it wasn't until – and I don't know if I've got the dates right, whether it's December or January/February of 2015. Debbie Dates had put her daughter into one of the houses that was available, and that's when that created a lot more issues and that's when, I believe that's when Steve may have, he didn't stop going to work towards the end of December because of those issues.

You gave some evidence about a change in conduct by both Ms Dates and Mr Green.---Yes.

20

Doing the best you can, when did you notice those changes in their behaviour towards you or their behaviour generally?---Yeah. Would have been - - -

Become apparent.---So the issue, the main issue from our or from my end was when Candy Towers was put into the house without it being approved properly by the board. There was no process of, yeah.

30

When was that?---That would have been around November/December.

Leaving that to one side, was there any other conduct you noted about that - - ?---No.

- - - concerning either or by Mr Green or Ms Dates?---I suppose bringing developers in was the one thing that we thought was out of the ordinary. That - - -

Who brought them in?---Richard Green.

40

Which developers are you talking about?---So there's the one that had the, IBU and I don't know whether it was the same organisation or whether there was another company that come in to talk about the development of a post office because there was another presentation put towards for the post office and I remember the building had a huge glass sort of building on top of it. That was another presentation that Richard had brought in.

Thank you.

MR CHEN: Was that LB, was that their - - -?---That might have been the Elder group.

I just want to move through some of the issues with Mr Slee. He was suspended and what happened in terms of the day-to-day running of the Land Council during the time of his suspension to your observation?---To my observation so when that happened I, from my observation nothing really happened at the office. You still had Candy Towers and Nicole Steadman going to work but nothing was actually able to happen because
10 the board meeting because of the issue with Debbie and Richard standing down Steven Slee.

Did you attend a board meeting on 12 June, 2015?---I believe that that's the one NSWALC had representatives there.

That's in Volume 3 page 112 I'll bring it up on the screen. Do you remember a meeting where there was discussion by a number of board members to try and have Mr Slee reinstated to help the Land Council run it's day-to-day affairs pending the outcome of the investigation by the Registrar?---Yes, yes.
20

Did you support a resolution that Mr Slee be reinstated for that purpose? ---Yes.

So you'll see, do you recognise in front of you these being the typed minutes from 12 June, 2015?---Yes.

If you turn to page 113 point 8 down the bottom.---Yes.

30 Were you one of the board members who voted in favour?---Yes.

Do you know the other one was?---So it would have been moved by Deb and Elliott so if it was the other two, I was the third and without seeing who's actually at the meeting I don't know if - - -

If you look back at the top was it Mr Walsh.---Apologies, see it's got apologies Eleanor it's got her moving that motion.

40 It seems to be from other minutes, but you tell me if this is not right, that Mr Slee would not be invited to participate in voting what is to happen in relation to his son?---That's correct.

So if you assume that that protocol was followed for this particular vote.---It would have went out of the meeting while we had the vote and discussion.

So if you just turn back then to 113 you'll see CEO position at point 7, that's what Mr Slee appeared to do.---Yes.

So is it likely that the fourth person was Mr Walsh?---Yes.

The four against were Ms Dates - - -?---Richard Green, Lenny Quinlan and Jaye Quinlan because Ron Jordan wouldn't have been there.

Did voting sometimes follow blocks or factions?---Yes.

And did those factions or blocks develop over time in the Land Council board meetings?---Yes.

10

When did they become apparent to you that there were certain groups that voted typically as one?---As soon as I was put onto the board.

Were there a number of groups or more than two or what was the position? ---There was one main group and then I suppose the other board members that were left. So there was one main group were mainly family members or family associated.

20

Who constituted that group?---So that would be like Debbie Dates, her family members and Richard Green.

The Quinlan's are family members of Ms Dates?---They are, so Jaye Quinlan is Debbie's sister and Lennie is her nephew.

THE COMMISSIONER: So this was decided by the casting vote of Ms Dates was it?---Correct. Because she was the chairperson she had the casting vote.

30

MR CHEN: And during this time the acting CEO was in fact Ms Steadman was it not?---I believe so, yes.

And she's the partner of Mr Quinlan?---Lenny Quinlan.

Now, the Registrar conducted an investigation into Mr Steven Slee.---Yes.

And he also conducted an investigation did he not into some allegations against Ms Dates?---Correct. Yes.

40

And do you remember that the Registrar convened a meeting at the offices of PKF to - - -?---Lawler.

- - - PKF Lawler to advise the board members of the outcome of his investigation?---Yes.

He didn't provide his report to you at that time though did he?---That's correct. It was verbal.

And did he essentially say that there was no evidence to support the allegations against Mr Steven Slee?---That's correct.

And did he also advise the meeting that there was evidence of misconduct as that term is understood under the Act on the part of Ms Dates?---Correct.

And did he also recommend that the board reinstate forthwith Mr Slee to his position?---Yes.

10 Mr Ian Sheriff was in attendance as well was he not?---Yes.

And who had requested him to attend that meeting do you know?---It possibly was me or a group that wanted him there so there was a representative. I'm not 100 per cent sure though.

Mr Sheriff in any event provided some advice to the board did he not? ---Correct.

20 And was that to the same effect that the board should look carefully at Mr Wright's recommendations?---Yes.

And follow them - - -?---Correct.

- - - unless there's good cause to the contrary?---That's correct, yes.

Did a vote take place?---Yes.

30 And who proposed – I withdraw that. Was it proposed that Mr Slee be reinstated or not?---I believe the motion was to have Steve reinstated, yes.

I'll bring this up on the screen now. So it's in volume 3, page 210. Do you recognise that as the minutes of the meeting, Mr Hancock?---I believe that the minutes were taken by PFK Lawler on the day so they're different to what I'm used to seeing.

Anyway, acquaint yourself if you feel you need to with them.---Yeah. Yeah.

40 All right. They appear to be the minutes of the meeting held on that day?--- Yeah. Yes.

I'll just draw your attention quickly to page 211. So 4.4, you will see there's a summary of the Registrar's investigation.---Yes.

And you will see at 4.42 there's a discussion involving Mr Sheriff advised he is fully supportive of the Registrar's opinions, et cetera?---Yes.

If you turn please to page 212 and you will see down the bottom of the page there was a discussion and decision regarding Steven Slee's future with the Land Council. Do you see that?---Yes.

There was then a discussion that occurred. Does that accord with your recollection?---Yes.

And if you turn to the next page please you will see that Mr Sheriff weighed in on the debate.---Yes.

10

And again is that consistent with what you recall having occurred?---Yes. Yeah.

And you will see a motion is then proposed by Mr Green. Do you remember that happening?---Yeah, yeah.

And no voting took place and you will see a bit further down the bottom the motion is later put and supported by Mr Leonard Quinlan, the other board member.---Yes.

20

Do you remember at the time whether Mr Green or Mr Quinlan gave any explanation as to why they thought in light of what the Registrar had found and Mr Sheriff's advice why he should be sacked or terminated?---No.

Did you ask him why?---In the meeting, no, I don't think so.

THE COMMISSIONER: Did you have any understanding as to what was motivating Mr Green in moving the motion?---No.

30 MR CHEN: And what about Mr Quinlan in seconding it? Did you ask him anything about it?---No.

Did you have any understanding of his motivations for seconding the motion?---No.

Anyway, a vote occurred and it was carried, wasn't it?---Yes.

And he was terminated on that day.---Yeah.

40 Now, after that time are you aware that Mr Slee brought a proceeding for or a claim alleging that he was unfairly terminated?---Yes.

And he had been defamed by the board.---Yes. I heard that after, after it went into action. So I wasn't informed beforehand.

So were you aware as a board member that he was paid substantial damages by the Land Council in consequence of the claim he made for being wrongfully terminated and defamed?---No.

Were you asked to participate in any decision at all to give consideration to paying him money?---No. No.

Do you know who did authorise the approval of those monies to Mr Steven Slee after he was terminated?---No.

10 Not disclosed in any meeting you were involved in with the board at all?
---No, because we only had I think two meetings that year, which was the one at the start with NSWALC and the one with the Registrar.

Anyway, you decided to resign later in the year, didn't you?---Yes.

But in the background, though, Mr Hancock, you were concerned, weren't you, with how the board was functioning?---Yes.

20 Independently of the dispute that was arising in relation to Mr Slee and various board members, you had concerns with issues of governance, didn't you?---Yes.

And financial regularity?---Yes.

Commissioner, I tender a folder of material described as Sundry Documents Shown to Directors.

THE COMMISSIONER: Thank you. Yes, the folder Sundry Documents Shown to Directors will be Exhibit 53.

30 **#EXH-053 – SUNDRY DOCUMENTS SHOWN TO DIRECTORS**

MR CHEN: Mr Hancock, I'm just going to ask you to turn, please, first. They're a little bit – they're not in chronological order but there's, I think, a reason behind that. If you have a look at, please, page 15, you'll see that there is an email that you have sent to a number of what appear to be television organisations or media outlets, dated 27 July, 2015. And it's described as Media Release, Awabakal Local Aboriginal Land Council.
---Yeah.

40 You remember sending that email, do you?---Yes.

And you remember sending it on behalf of and with the approval of the other board members who are recorded on page 16, namely Mr Walsh, Ellie Swan, Larry Slee and Deb Swan?---Correct, yes.

And it's evident from the document itself, but you thought it was necessary to provide such a media release because of other matters that have been aired by other board members, in particular the chairperson?---Yes.

That she had spoken, it appears, to the Newcastle Herald on the 20th of July, 2015.---Yes.

And made a number of allegations.---Yeah.

10 Now, do you see in the third paragraph of that letter that it refers to you having sought the guidance of the Registrar?---Yeah.

That's Mr Wright, the Registrar, who you'd been in contact with---Steve Wright. That's correct, yes.

And he had given you some advice, had he, to meet less frequently, is that so?---Correct.

20 Now, there's also a reference here in the media release to the way in which these meetings were arranged by the board. Now, in this time period, in the middle of 2015, how did you as a board member receive notice that a board meeting was called or to be convened?---So if it was a meeting that was scheduled like an ordinary board meeting, they would be sent out by letters, sent out to us. At the start that I was on the board, I remember that. By this time, however, I don't know whether we had gone to text messages, especially for extraordinary board members' meeting, because they were called at the drop of a hat. So there was only like a 24-hour notice need to be given for extraordinary board meetings, and text message I think at that time was how we received the notification.

30 Was there any consultation or discussion about when the meetings were to be held?---Ordinary board meetings, yes, but not extraordinary board meetings. They would usually be called up and said that the chairperson has called an extraordinary board meeting, can you attend, or a text message.

So what you are referring to in this paragraph though is a complaint and that extraordinary meetings, as you've called them, were often scheduled with insufficient notice, no consultation and matters of that kind - - -?---Yes.

40 - - - and with little information. Is that the issue that was concerning you at that time, and if so, what was the problem that you were facing?---So that was the, this was after Steve was stood down, so Richard and Debbie would notify that there's meetings - - -

Would it always be one or other of those?---Yes, yeah. Sometimes it could be the receptionist ringing up and saying that the, well, a board meeting was being called. So maybe Candy Towers or Nicky that would call and say that there's a meeting.

I'll move on. Mr Hancock, would you turn, please, to page 11. And you recognise that as being an email chain that you had on behalf of a number of other board members with the Registrar, Mr Wright, commencing on 18 May, 2015.---Yes.

And ending with your response dated 21 May, 2015.---Yes.

10 And that's where you raise a suggestion of trying to allow Mr Slee to return to work.---Yes.

If you turn please now to page 8 you'll see that that is the end point of an email that you have sent to Mr Wright, the Registrar?---Yes.

But it has an email thread or chain going back to and ending on page 10. ---Yes.

20 The email that ends on page 10 is really an email sent on 24 April, 2015, 4.46pm by it appears Debbie Dates or somebody with an email address conrad4000.---Conrad4000, yes.

And what was happening in this exchange is that you and Eleanor Swan, Debra Swan, Mr Slee and Mr Walsh were being accused of not participating in board meetings or not attending board meetings by Ms Dates.--- Yes.

And you saw fit to provide a response to that in the email - - -?---Yes.

30 - - - on 24 April, 2015 at 5.39pm. What had occurred is, she had suggested that you were, had effect given up your role as board members. Do you remember that?---Yes.

And what did you say to that?---Well, they, they said that we hadn't been attending meetings, but meetings weren't officially called because all the information was still with the Registrar and Steve Wright said not to meet with, you know, as much as we can, so I suppose that's what I would have been referring to in there.

But you still made yourself available to attend to board matters - - -?---Yes.

40 - - - if and when required to do so?---Yes.

And if and when there was reasonable notice for you to do so?---Yes.

You hadn't abandoned your role or communicated you had abandoned your role to Ms Dates?---No, not at all, no.

Or to Mr Green?---No.

And so far as you're aware, the other members, Mr Walsh, Mr Slee and Debra Swan and Eleanor Swan had taken the same position?---Yes.

Commissioner, thank you, that's the examination of this witness.

THE COMMISSIONER: Yes. Does anybody want to ask Mr Hancock any questions?

10 MR PETROULIAS: Yes, yes, some quick questions.

Mr Hancock, if you remember those, just do you remember the minutes where there was the addition of lot number in relation to Hillsborough Road and it sort of went up - - -?---Yes.

You've got that (not transcribable) in your mind? You said that wasn't - - -

THE COMMISSIONER: Just so we're clear about it, I think you're referring aren't you to, I'll just get it on the record.

20

MR PETROULIAS: Certainly. It's page 2 of the brief, volume 2.

THE COMMISSIONER: Page 2, is it?

MR PETROULIAS: Yeah.

THE COMMISSIONER: I'm not sure about that. Just a moment. We'll just turn it up. It's - - -

30 MR CHEN: So it's volume 3, page 2, Commissioner.

THE COMMISSIONER: 3 of 3?

MR PETROULIAS: Oh, okay.

MR CHEN: Volume 3, page 2.

THE COMMISSIONER: Yes.

40 MR CHEN: And it's the minutes - - -

THE COMMISSIONER: We'll get that up on the screen.

MR CHEN: For the record, it's the minutes, the handwritten minutes dated 28 January, 2015.

THE COMMISSIONER: Sorry, volume 3 - - -

MR CHEN: Page - - -

THE COMMISSIONER: Page - - -

MR CHEN: Page 2.

THE COMMISSIONER: Page 2, is it? Sorry. This is volume 3.

10 MR CHEN: So page 1, Commissioner, of that volume should be - - -

THE COMMISSIONER: Yes.

MR CHEN: So in terms of - - -

THE COMMISSIONER: My volume, I'm sorry, starts at page 135. Sorry, have we got the right volume? Yes, I've got it.

20 MR CHEN: So if the page is put in horizontal, Commissioner, it's on the right-hand side.

THE COMMISSIONER: Yeah. All right. Okay, Mr Petroulias, we've got it up there.

MR PETROULIAS: You can see that?---Yeah.

Now, just to be clear, that's, that's not your handwriting?---Those minutes are my writing?

30 No, that addition, "Lot 1 Deposit" - - -?---That's correct. That's not my writing.

And someone inserted that?

THE COMMISSIONER: Well - - -

MR PETROULIAS: Yeah, so do you see anything sinister in that?

40 THE COMMISSIONER: No, I reject that. You can put whether it was unusual or - - -

MR PETROULIAS: Certainly. Was that unusual?---I, I, yeah.

Do you understand that as simply trying to correct and clarify?

MR CHEN: Well, I object - - -

MR PETROULIAS: More accurate?

MR CHEN: That, he couldn't possibly - - -

MR PETROULIAS: I'm trying - - -

THE COMMISSIONER: Well, he can't speak for whoever did it.

MR PETROULIAS: Do you understand what – what do you understand that to intend to do?

10

MR CHEN: Well, I object to that again, Commissioner.

THE COMMISSIONER: Mr Petroulias, I don't think we can have it that way.

MR PETROULIAS: Oh, well, I'm trying - - -

THE COMMISSIONER: Because it's trying to ask the witness to get inside the mind of somebody who wrote it, and he doesn't know who it was.

20

MR PETROULIAS: Okay. Now, you said that the presentation by Cyril, IBU, was called promptly and so basically you came to a meeting, there was no advance notice?---That's correct.

You didn't know who was presenting, where they came from?---That's correct, yeah.

I understand. So no advanced board papers at all or anything to - - -?---Not that I recall.

30

Or that even you were proposing to sell land.---Correct.

Okay. Right. So Cyril comes along but you get enough of an impression from what he represents to you that he's some sort of association and you assume NSWALC, is that correct, some association - - -?---No, it was presented that he was associated with NSWALC.

Actually said the words that he's associated with NSWALC?---NSWALC.

40

He actually said those words or did he say some sort of association of Land Councils?

MR CHEN: I think you should ask, let the witness answer is one important thing.

MR PETROULIAS: Oh, sorry.

MR CHEN: He should let the witness answer and he shouldn't ask multiple questions.

THE COMMISSIONER: Yes. Just put it slowly, you're talking very fast, just put it slowly to the witness, or when I say slowly, clearly.

MR PETROULIAS: Okay. From what description of words that he used you got the impression that it was something like NSWALC?---Yes.

10 Right. Now, if, if those words were association of Land Councils, indigenous organisations, that would be something that he would have said?

MR CHEN: I object.

MR PETROULIAS: That gave you that impression?

MR CHEN: I object to that, Commissioner. I mean this is just speculative.

20 THE COMMISSIONER: It's not a question of what he would have said, we're just trying to find out what was said.

MR PETROULIAS: Well, he, he made an assumption so what can you - - -

THE COMMISSIONER: Sorry, go on, try again.

MR PETROULIAS: Sorry. What kind of words, what kind of words did he use to made you reach the conclusion that it was NSWALC, to the best of your - - -?---I can't remember what words were actually said but I had the impression that he was from NSWALC.

30 Yeah.---Yeah.

Okay. Good. Thank you. Now, the minutes of 31 October with the wavy lines, where you put the wavy lines through, do we need to show it? The handwritten minutes, 31 October.

THE COMMISSIONER: Get that on the screen if we can. Yes, very well. Page 129.

40 MR PETROULIAS: Yeah.

THE COMMISSIONER: What's the question?

MR PETROULIAS: I understand that you said that Debbie Dates asked you to cross that out which you did, obviously because you thought that that was more correctly reflecting what you agreed.---Yeah. So what I've written - - -

MR CHEN: I object, Commissioner. I'm sorry, Commissioner, that's not the evidence at all of this witness.

MR PETROULIAS: So, okay. Debbie Dates asked you to cross it out. Why did you cross it out?---I don't know if I said Debbie Dates asked. I believe it was crossed out.

Yeah.---And I was told to cross it out. I don't know who told me to cross it out.

10

And you crossed it out because?---Well - - -

Was it a proper correction?---Yeah, a correction.

Then you said that Richard Green then dictated the next set of words.---Yes.

And you wrote them because you thought they better reflected what your understanding was?---Well, I wasn't moving the motion so I needed it to be clear so we could go into the motions so - - -

20

Okay.---Yeah.

Great. And then you see it says the word, it says, "sale to be contracted", it's a bit confusing, "contract of sale and the sale is going to include the contracts for landscaping, fencing, apprenticeships, traineeships." That's a lot of contracts. And then it says, "sale to be at minimal, minimal value rate". You're not intending to sell land at the minimal rate are you?---I didn't move this motion so I - - -

30

Yeah, but you're not trying to sell the land at the minimum possible but that's what it says, right?

THE COMMISSIONER: But he's not selling the land.

MR PETROULIAS: No, I get it but is that, is that the motion to sell at the minimal?---That's what it says in the motion.

Yeah. Okay. Do you think, is that accurate that you want to sell at the minimal, the minimum value?---(No Audible Reply)

40

Okay. Now, you're then, then you saw this resolution that was typed up that said heads of agreement was sticking out the side. Do we need to put that up.

THE COMMISSIONER: Heads of agreement. Mr Petroulias, it really assists the questioning if you can direct the witness to a particular document

MR PETROULIAS: Yes.

THE COMMISSIONER: - - - that you want to use rather than - - -

MR PETROULIAS: Sorry, I just - - -

THE COMMISSIONER: - - - leave it otherwise the staff have got to try and track it down.

10 MR PETROULIAS: I mean I don't have it on me.

THE COMMISSIONER: It just delays things that's all.

MR PETROULIAS: I don't have them all.

THE COMMISSIONER: One moment. We'll see if we can find it.

MR PETROULIAS: It's the resolution that talks about a heads of agreement and it sticks out the side, the little cut around. There we go.

20

THE COMMISSIONER: 31 October.

MR PETROULIAS: Now, do you understand or the best, tell me what best recollects your words. Do you understand that a heads of agreement is a more simple set out and contract is a more complex thing?---Yes.

And that the contracts would come after the heads of agreement?---Yes.

30 Particularly when the contracts are going to involve landscaping, fencing and all sorts of other stuff?---Ah hmm.

So the intention is go to the community, get an agreement whether they want to do it all - - -?---Ah hmm.

- - - and then if they do - - -

MR CHEN: I object.

40 MR PETROULIAS: - - - do the contracts.

MR CHEN: Commissioner, I object because intent and what's to be derived from that is not a matter with respect - - -

THE COMMISSIONER: Sorry.

MR CHEN: Intent, the question which is what Mr Petroulias is asking this witness is really not a matter for this witness.

THE COMMISSIONER: Yes.

MR PETROULIAS: I'm trying to understand, if you can really understand
- - -

THE COMMISSIONER: You've got to formulate the question so that
you're not inviting him to try and get in the mind of somebody else.

10 MR PETROULIAS: No, no, no. I'm trying - - -

THE COMMISSIONER: I'm just pointing out the difficulty that's all.

MR PETROULIAS: Certainly, Commissioner. We're trying to understand
is what better reflects the agreement or the discussion in the board is, is,
does it better reflect the discussion of the board go to the community first,
get agreement whether they want to do it and then draft all the contracts?
---Yes.

20 MR CHEN: I object. It's been, I mean, Commissioner - - -

MR PETROULIAS: We'll move on. On - - -

THE COMMISSIONER: Mr Petroulias, what are you trying to get at, are
you trying to ascertain the normal procedure that is followed in these
matters or are you trying to ascertain what was actually said on this day?

30 MR PETROULIAS: There seems to be a refinement because it's a
refinement of what the discussion was which the minutes are trying to
reflect.

THE COMMISSIONER: You move on.

MR PETROULIAS: Okay. This is the last kind of thing, we come to the
last document 1 December, 2014 and you know, IBU have accepted
proposal. So someone's told you to write that, obviously, some discussion
has happened. Now what was said that, whoever accepted was ready to go,
had the financial capacity ready to go?

40 MR CHEN: I object, Commissioner, for a couple of reasons. One is, the
introduction of the irrelevancy in the last matter but secondly, the witness
has given evidence that he has no recollection of this particular matter and I
asked him question about it already, so his evidence - - -

THE COMMISSIONER: I'll let Mr Petroulias put it to him.

MR PETROULIAS: I'm simply trying to prompt what was said at the time
to make you write that. So for someone has accepted that must be
significant because that's something to take to the community?

THE COMMISSIONER: Mr Petroulias, you're lapsing into the problem that we discussed yesterday of making statements to the witness.

MR PETROULIAS: Yes, I'm for comment.

THE COMMISSIONER: If you can just formulate in the form of a precise question so the witness can understand the point.

10 MR PETROULIAS: Was the prompting to you along the lines of there is now something that they've accepted, they're ready to take it to the community?---My, yes, what it says there I've, they've accepted the proposal, I'm not quite sure in what terms - - -

THE COMMISSIONER: Just - - -

MR PETROULIAS: Absolutely, absolutely. Thank you. The last question is so when all this Steve Slee drama occurred, it started off rumblings what about December?---The rumblings would have been around - - -

20

December 2004?---Earlier than that around the October/November.

And so around Christmas things were not looking good. When did you sort of stop attending regular meetings?---After the CEO was stood down and we were waiting for the Registrar to get back to us in regards to when we can meet again.

So at least by February 2015 you're out of there?---Yes, there were no board meetings that happened from January.

30

Right. So after that time obviously you couldn't have possibly have had discussions with Richard or Debbie about Knightsbridge or about Sunshine or about anybody because you weren't there?---And if there was any other board member - - -

THE COMMISSIONER: That doesn't follow.

THE WITNESS: - - - there was no board meetings actually convened.

40 MR PETROULIAS: Thank you.

THE COMMISSIONER: We'll take the luncheon adjournment. You may step down Mr Hancock. Are we finished with this witness?

MR CHEN: I have Commissioner, yes.

MR OATES: I have a couple of questions Commissioner, I can do it in two minutes.

THE COMMISSIONER: All right. You go ahead.

MR OATES: Mr Hancock, I represent Mr Slee. Do you recall a meeting you had at PKF?---Yes.

How much notice did you receive of that meeting?---I can't recall.

10 Days, hours?---It would have been days because it would have had to be with what's his name? Steve Wright, because he was coming down and was organised through PFK, PKF so, I think it was a few days' notice that we would have received for that.

Do you have an understanding that there was going to be a recommendation presented at the meeting that Mr Slee be reinstated?---Yes.

Do you understand other board members had the same understanding?
---Yes.

20 After the recommendation was delivered and there was a motion put by Mr Green to dismiss Mr Slee.---Yes.

Was there some discussion on that topic?---Yes.

How did Mr Green introduce the motion?---I can't recall.

Did Mr Green speak to the motion?---No, I, I believe it was just his motion that he put up to stand down Steve.

30 Was there any discussion by Ms Dates as to why that motion was being put?
---No, not that I recall.

Can you recall any conversation or discussion concerning that motion and how it conflicted with the advice of Mr Wright?---No.

On the board there was a committee, was there not, to deal with housing?
---Yes.

40 Ms Dates was on that committee was she not?---Yes.

In the latter part of 2014 Ms Dates' daughter Candy Towers was an applicant for a residence owned by either the Awabakal Local Aboriginal Land Council all within your control?---Yes.

Ms Dates supported that application?---Yes.

Mr Slee opposed it.---Correct.

Nothing further.

THE COMMISSIONER: Yes thank you.

MR CHEN: Nothing from me Commissioner.

THE COMMISSIONER: Mr Hancock, thank you for your attendance. You may step down you excused.---Thank you.

10

WITNESS EXCUSED

[1.05pm]

THE COMMISSIONER: We are to resume at 5 past 2.00.

LUNCHEON ADJOURNMENT

[1.05pm]