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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 2.08PM

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

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

MR CHEN: Commissioner, before we resume with the next witness, I wanted to draw, Commissioner, to your attention and to others' a matter which occurred yesterday. Commissioner, yesterday a witness was called, a Mr Omar Abdullah, and, Commissioner, his evidence ended at approximately lunchtime yesterday. Commissioner, after the luncheon or during the luncheon adjournment, Commission staff were provided by the solicitor for Mr Slee with the documents that now appear at Exhibit 52. Commissioner, before those emails which are Exhibit 52 came into the possession of Commission officers, at that time the Commission did not have those documents, I did not have those documents, hence I did not explore through Mr Abdullah initially what his recollection was after the meeting on 31 October, 2014. Commissioner, you would remember that Mr Abdullah's evidence yesterday approximately at about page 142 of the transcript, was to the effect that after the presentation on 31 October, 2014, everything went quiet and nothing eventuated. Exhibit 52 puts a slightly different complexion on what occurred immediately thereafter, but ultimately does not detract from the fact that nothing did develop further in terms of a proposal between the Land Council and IBU. I think so much is clear from other evidence that was called, namely from Steven Slee and indeed from Mr Gabey.

Commissioner, when that material was provided to Commission staff yesterday at lunchtime we did attempt to contact Mr Abdullah by telephone without success. I understand that he's overseas now. Commissioner, in view of the way the evidence has unfolded after that time it does not impress me as being necessary or important for him to be recalled, but if indeed any party considers that there is a need for any issues of that kind to be, sorry any issue to be ventilated through Mr Abdullah then they should approach Mr Broad, the solicitor, with any application and we'll give consideration to that, Commissioner, if that would be convenient to you.

THE COMMISSIONER: Yes. Very good. Thanks for that, Mr Chen.

MR CHEN: Commissioner, subject to that I seek to call Bernard Michael Walsh, otherwise known as Mick Walsh.

THE COMMISSIONER: Yes. Thank you, Mr Walsh. Mr Walsh, do you want to give evidence on oath or an affirmation?

MR WALSH: Oh, an affirmation.

THE COMMISSIONER: Affirmation. Very good. My associate will administer that.

THE COMMISSIONER: Take a seat there, Mr Walsh. Mr Walsh, you are entitled to give evidence on objection. That means that if you object to answering questions the transcript and evidence can't be used against you in future proceedings, be they criminal, civil or disciplinary proceedings. That's a right available to you. If you wish to give evidence under objection then I'll make a declaration to that effect, but it's entirely a matter for you.
10 Would you prefer to do that?---Mmm.

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

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

30 THE COMMISSIONER: Yes, thank you, Mr Walsh. Now, you'll be asked some questions firstly by Counsel Assisting.---Can I, can I just say something first, please?

Yes.---I have a very sick wife, she's had a stroke.

Yes.---And I have cancer meself.

40 Yes.---And at the time of this, a lot of this, I can't remember a lot of it.

Right.---Yeah.

Well, Mr Walsh, yes, I understand you've had some illness and - - -?
---I remember a lot of it but I'm not, not - - -

Well, look, if you can't remember all you have to say is - - -?---Yeah.

- - - you don't remember. If you don't remember you can't say anything else, can you. So I understand.---I can only tell the truth.

That's right. And so just do your best and then we'll try and get you away as soon as we can today. All right.---Thank you.

MR CHEN: Thanks, Mr Walsh. Would you state your full name for the record, please.---Yeah. Bernard Michael Walsh.

10 Mr Walsh, are you currently a retired gentleman?---Yeah.

And you were a member or still may be a member of the Awabakal Local Aboriginal Land Council?---Was.

When did you first become a member?---Eight years ago. I was eight years on the Land Council.

I see.---I can't remember when I started.

20 Are you talking about when you were a board member?---Yeah, when I was a board member.

Did you start, or did you commence first as a board member in about 2008 and you finished on 20 July - - -?---Yeah, something like that, yeah.

And you finished on 20 July, 2016?---Yeah.

Now, just on your health. I'll go through it pretty quickly I'm sorry but - - - ?---No, you're right.

30 You've had cancer haven't you?---Yeah.

And you had surgery and treatment for that initially?---Yeah, I did.

And you were also diagnosed were you not with a melanoma some months later?---True, true.

And you were first diagnosed with cancer in July, 2015?---Yeah.

40 And with the melanoma about three months after that?---That's right.

You've had obviously a lot of treatment for those conditions have you? ---Yeah. That's what I'm saying. I can't, mightn't be able to remember everything.

All right. Okay. We'll just see how we go and - - -?---Yeah.

- - - and if you can't remember as the Commissioner said you just say you can't remember. Now, you remember going of course to various board meetings with the Land Council in the year 2014 and '15?---Yeah.

And do you remember in 2014 there were some land proposals that came before the board?---Yeah.

Do you remember any particular names of entities or organisations that came before the board in 2014?---No, none.

10

If I suggest a name LB Group does that assist you in recalling whether or not they presented?---Yeah, I just can't remember. I think it was but I just can't remember exactly.

Do you remember a presentation by a group called IBU?---I can remember talking to three, there was three men I think it was but I don't know where, I think it, I think they were from there. Would that be right?

20

Well, I'm not here to give the evidence. You are, Mr Walsh.---Yeah. Yeah.

I can ask the questions but - - -

THE COMMISSIONER: What do you recall about that meeting?---Oh, they were talking about the land dealings, yeah. It was up in Hillsborough Road I think somewhere there or something.

MR CHEN: And do you remember one of the gentlemen might have had a connection to the Torres Strait?---Yeah, I think there was.

30

Is that the same person that you're referring to, sorry, was that person in the same presentation that you've referred to that talked about property in Hillsborough Road?---I think it was.

Anyway, have you heard of the name Indigenous Business Union?---No.

I'll just show you a document if I can, Mr Walsh. Volume 2, page 67. It's on the screen in front of you. If you prefer a hard copy, Mr Walsh, we can arrange for that to be put in front of you but have you ever seen that document before?---I don't think so.

40

THE COMMISSIONER: You will see the name under the heading Introduction, Indigenous Business Union Pty Ltd (IBU). Anyway, you're just being asked whether you remember seeing the document at any time. ---Not quite sure of it.

MR CHEN: Thank you. Aside from the discussion about Hillsborough Road and there being three gentlemen, do you remember anything else about what was discussed, Mr Walsh?---No. I can sort of just, just sort of

remember they're talking about, I think it was Hillsborough Road. That's all I sort of remember about it.

THE COMMISSIONER: Talk about what sort of things, what were they, were they proposing that the council does something with the land?---A matter of fact I said well, if you want to do any deal, like talk about land well, go to the members first.

Right.---Yeah.

10

So it has something to do with the Land Council land?---Yeah.

And what, something to do with selling it or developing it or what, or both? ---Development I think, yeah.

And you said you said something.---I said well, let it go to the, we'll put it to the members.

Right.---Yeah.

20

MR CHEN: I'm just going to put a document in front of you now to see whether this assists your recollection at all, Mr Walsh. Would you look up on the screens. This is volume 2, page 64. Mr Walsh, would you prefer this in a hard copy or are you content to read this on the screen?---Oh, I can read it.

All right. So just have a look at point 3, would you, please, of the minutes of 31 October, 2014.

30 THE COMMISSIONER: That's point 3, "development proposal".

THE WITNESS: Newcastle Post Office wasn't mentioned.

THE COMMISSIONER: Yes. See the people in attendance, the attendees? Includes – your name is up there. So your attention is being drawn to this meeting, said to have occurred 31 October, 2014. And item 3 was "development proposal". "Proposal presented by Omar Abdullah from Indigenous Business Union Pty Ltd," et cetera. Does that bring it back to you at all?---Does ring a bell there somewhere. I just can't – no, I'm sorry, I can't - - -

40

Do you have any recollection of a presentation to the board about a development proposal about that time?---Yeah, well, as I said, I think there was something there but I just, I was one of them who said, "Well, put it before the members if youse want to talk about it."

MR CHEN: Just in terms of the three people who you thought attended, there may have been a gentleman who was from the Torres Strait who was

perhaps there, and also Omar Abdullah may have been of an Asian background. Does that assist you at all in - - -?---Yeah, there was something sort of – I don't know about Torres Strait Islander but I knew they were new Australians somehow. Yeah, yeah, I knew, yeah. He looked like something like that, yeah.

Anyway, telling you that's the individual, that doesn't help assist you in recalling this meeting at all?---No.

10 Would you just look at the next page, at point 7. If you wouldn't mind just reading it to yourself. Do you see that development proposal?---Oh, yeah. Yeah, that's what I, that's what I said, put that one to members to - - -

All right. So - - -

THE COMMISSIONER: What's the reference?

MR CHEN: Page 65, volume - - -

20 THE COMMISSIONER: Of volume - - -

MR CHEN: 2.

THE COMMISSIONER: 2. Yes.

MR CHEN: So you'll see there that you seconded a motion.---I thought I, I'd second that, put it to the members.

30 Well, it does say that, "If agreed, then put to members."---Yeah.

But in any event what this records is that you seconded a motion - - -?---No, I didn't, that, that, I'm sure that's wrong, that.

Right.---Yeah.

What part do you - - -?---I, I said, I got angry and said, "Yeah, we'll, we'll put, you put that to the members."

40 I see. So - - -?---And I, I never said, I never agreed to the other.

Is it just the order, then, that is the issue that you have with that? Namely what you were suggesting is put it to the members first and thereafter, if they agree, propose a sale?---(No Audible Reply)

You have to answer, sir. It's being recorded.---Yes, I, yes.

Is that what you say the error in this motion is here?---Yeah.

So if you change the order of it, it's otherwise consistent with what your best recollection is, is that so?---That's right.

But otherwise you've got no – well, I withdraw that. You understand the minutes are taken down in a minute book?---(No Audible Reply)

You have to answer, I'm sorry, Mr Walsh. So it's being recorded.---Yeah, yeah.

10 Yes. And subsequent to the meeting, they're then typed up, aren't they?
---Yeah.

And then - - -?---Well, basically, yeah.

Well, that's, anyway. And thereafter they're put to the next meeting, aren't they, to confirm that the minutes are accurate?---Yeah.

And that's the usual course that would occur, would it not?---Yep.

20 And if all the attendees agree then they would be approved as the minutes of the meeting held.---Yeah.

Isn't that right?---Yeah.

So aside from that slight correction though you've got no reason to doubt the correctness of what's in these minutes, do you?---Sorry, what do you mean?

30 Well, aside from you say the order was slightly different, you said put it to the members first and - - -?---Yeah.

- - - then propose a sale - - -?---Yeah.

- - - you've got no reason to doubt the correctness of what is recorded in the minutes, do you?---No. Oh, this here you mean?

Yeah, and what's recorded in 7 or the proposal in point 3 that you read earlier?---Yeah, well, I, it's on here about IBU, no, I didn't agree with that.

40 Well, what you didn't agree to is to propose a sale. Is that what your evidence is today?---Yeah, yeah.

You said put it to the members first.---Put it to the members.

And if they agreed, then propose a sale?---Yeah, yeah.

Aside from that matter, that correction, otherwise you accept what's in the minutes, do you?---Yeah, yeah.

All right. Now, do you have any recollection about what happened after this meeting in relation to this proposal with IBU at all?---No, I don't know what happened after that.

Do you recall at any stage during this meeting there being any discussion of an entity called Gows Heat Pty Limited?---Never heard of 'em.

Never heard of Gows before?---No.

10

You have to answer, sorry, sir.---No, sorry.

Did you say no?---No, I've never heard of them, no.

With the minutes, they're taken down by somebody, in this case Mr Hancock, in a book are they not?---Yes.

And you would never have, in the ordinary course, access to that book, would you?---No.

20

Did you ever in the course of you being a board member ever have reason to open up the minute book and write in it?---No.

When resolutions are passed by the board, they're recorded separately in a different book or folder, aren't they?---(No Audible Reply)

Or you don't know?---No, I don't know that. I don't know.

30 Do you know where the resolutions of the board were kept at any given time whilst you were a board member?---No. In the office somewhere. I don't know.

Did you ever have access to the resolutions of the board when you were a board member?---(No Audible Reply)

You just have to answer I'm sorry, sir?---No, no, sorry.

40 That's all right. And during the time that you were a board member you had never had reason to have access to the book of handwritten minutes of the board?---No.

Definitely not?---No, definitely not.

Did you ever see the resolution that was prepared by the board following this meeting on 31 October, 2014?---No, I don't think so, no.

In the ordinary course of you being a board member, you wouldn't have reason to look at the resolution book for what had occurred?---No, I didn't.

And you didn't.---No, I didn't.

I just want to show you something, Mr Walsh. Would you look at volume 2, page 66, please. It will come up on the screen.---Yeah.

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

Nobody had ever discussed it with you before?---No. No.

10

At any time that you were a board member of the Land Council, did Mr Green ever speak to you or tell you that he'd signed an agreement with Gows Heat?---No.

Had you ever seen a document purporting to be an agreement between Gows Heat and the Land Council?---No.

Are you sure of that?---Yeah.

20

At any of the meetings that you attended as a board member of the Land Council, did Mr Green ever say I've signed an agreement with Gows Heat?---No.

At any of the meeting you attended of the Land Council was Mr Green given the authority to sign an agreement on behalf of the Land Council with Gows Heat?---No, no.

30

At any of the meetings that you attended of the Land Council or the board of the Land Council, was Mr Green given a delegation to execute an agreement with Gows Heat?---No.

I'll just show you, Mr Walsh, volume 3, page 123. Have you ever seen, that's the first page, that agreement before, Mr Walsh?---No.

Mr Walsh, whilst you were a board member of the Land Council had you ever heard of an entity called Sunshine Property Investment Group Pty Ltd?---No, I haven't.

40

Not at all?---No.

During the time that you were a board member were you aware of any agreements that had been entered into involving Land Council land between the Land Council and Sunshine Property Investment Group Pty Ltd?---No, no.

Were you aware in your time as a board member of any agreement or proposed agreements between the Land Council and Sunshine Property Investment Group?---No.

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

Did Mr Green ever raise that he'd signed agreements with any of those entities at any time with you whilst you were a board member?---No. No.

Not in any personal capacity did he raise it with you?---No.

10

Are you aware of an entity called Solstice Property Corporation Pty Ltd?
---Haven't heard of them.

And I take it from that you never heard of them - - -?---No.

- - - at all during the time you were a board member?---No.

Never seen an agreement involving Solstice Property Corporation Pty Ltd?
---No.

20

Mr Green had never told you at any meeting that he'd signed an agreement with that entity?---No.

Ms Dates never told you at any meeting that she'd signed an agreement with that entity?---No.

At any meeting that you'd had of the board of the Land Council had there been any discussion about giving Mr Green the authority to sign such an agreement?---No.

30

What about Ms Dates, any authority for her to sign such an agreement?
---No.

What about giving either of them delegation to execute the agreements?
---No.

During the time that you were a board member were you aware of who the lawyers were that were appointed?---No, I don't know.

40 Do you know the name Emery Partners?---No.

Do you know Ian Sheriff?---Yes.

How do you know Mr Sheriff?---Well, he was the, he was our lawyer.

Did you know of any other lawyer during the time you were a board member?---No.

Mr Walsh, I want to just show you volume 10, page 7. Do you recall, Mr Walsh, going to a meeting when there was a discussion about ratifying some of the decisions that the board had made in the past?---Sorry, just, can you repeat that.

Of course. Do you recall going to a board meeting when there was a discussion by some of the board members about ratifying some of the decisions that the board had made in the past?---There's a lot of decisions made but if you mean that, that like half the board didn't agree with sort of
10 thing. Is that what you - - -

I'm just going to draw your attention to something please, Mr Walsh. On the screen in front of you are the typed minutes of a board meeting of the Land Council on 11 January, 2016. Do you see that?---Yeah.

And it says there that you were in attendance, Micky Walsh.---Yeah.

And if you turn, please, to the next page, page 8, you'll see there – about the middle where the cursor is – your name, Micky Walsh, raising a matter.
20 And if you just go down to the next paragraph, I'll read it to you, “Richard Green read board resolutions that Awabakal Local Aboriginal Land Council formally ratifies the appointment of Knightsbridge North Lawyers to act for Awabakal LALC.” Do you see that?---Yeah.

And it was moved by Mr Green and seconded by Lenny Quinlan. Do you see that?---Yeah.

Do you recall this meeting, Mr Walsh?---No, I can't.

30 Do you know or can you assist in what Knightsbridge North Lawyers were going to act or to represent the Land Council for?---Yeah, I think it was that because Ian Sheriff was gone, I think.

Right.---Yeah.

He was no longer providing services, you mean?---Yeah, yeah.

I see. Before you attended meetings of the board, were you normally given an agenda?---Yeah. Oh, not all the time. Not all the time. Nearly all the
40 time.

And do you have any recollection now about whether or not this item was on the agenda before this meeting or not?---I'm not sure of that.

Would you have asked any questions about it?---Well, I must have asked one question there about the AGM.

Did it often happen that board members would simply read board resolutions without notice?---What do you mean read? Read - - -

Well, just announce to a board meeting, “This is a resolution or a motion I’m moving,” and read it out without giving notice. Would that happen at all or not?---Well, I think it did happen.

In relation to what?---Oh, a lot of things there, really.

10 Are you able to be more specific than that?---No, I, well, I, I can’t say the wrong thing, I don’t suppose.

I’m sorry, I didn’t hear that, sir.---Oh, no, I’m not sure.

All right. Do you recall any other meetings, Mr Walsh, where – I’m sorry, I withdraw that. Do you know what “ratify” means? So when the board purports to ratify something, do you understand what that means?---Oh, yeah, sort of, yes.

20 It just means approved after the event, doesn’t it?---Yeah, sort of.

Is that the way you’ve understood it before now?---Yeah.

Are you aware of whether this has happened on any other occasions at meetings you’ve attended to?---Board meetings?

Yes.---Yeah.

30 It has?---I do.

THE COMMISSIONER: Seems to be a defect in that so-called resolution. There’s an omission to say what the appointment of the lawyers was in terms of what business Knightsbridge Lawyers would be acting on behalf of the Land Council.

40 MR CHEN: Mr Green, I’m just going to have put on the screen page 100. So these are the typed minutes – they’ll come up on the screen in a moment – of the board, the minutes of the board meeting of 8 March, 2016. And you’ll see that you’re an attendee. I’m not asking you to read anything at the moment, I just want you to agree that they’re the minutes and you’re in attendance?---Yeah, yeah.

All right. If we just go to the next page please, page 101. You’ll see point 6, Resolutions by Board. Do you see that?---Yeah.

And if you go down a bit near where the cursor is to number 3, Ratification and Regularisation of Decisions Made. Do you see that down the bottom? ---Yeah.

Just have a read of that if you would to yourself.

THE COMMISSIONER: It was what you might call a blank cheque ratification.

THE WITNESS: I just don't - - -

10 MR CHEN: Just let me know when you've read that, Mr Walsh.---Yeah. I just don't understand that. What, board ratifies and - - -

Regularises.---Yeah.

The decisions and payments during the period of dysfunction when the board did not meet - - -?---Yeah.

20 - - - and is being made in furtherance of the LALC continuing function including all other decisions, payments made and explained to Kelvin Kenney as investigator of Awabakal under the cover of Awabakal's lawyers, Knightsbridge North Lawyers, 20 January, 2016. Now, do you remember this issue being raised?---No.

You don't remember any discussion at all about - - -?---No.

- - - how it came about?---No.

Who proposed it?---No.

30 It certainly wasn't you though, was it?---No, it wasn't me.

Would you look down please to the next pages at point 5. I just want to understand the order of this. It's got there point 5, quote, "Larry Slee and Micky Walsh abstained from voting so no motion was tabled or carried." Do you see that?---Yeah, I remember that, yeah.

Was that in relation to the resolutions generally or was that in relation to the resolution referred to above, namely to give Debbie Dates money for telephone and internet usage?---Yeah, I think it was, yeah.

40 Which one?---It's the one up top I think.

I see.---Yeah.

Now, Mr Walsh, I want to take you to another set of minutes, those of the extraordinary board meeting Friday 8 April, 2016. Volume 11 page 312.

THE COMMISSIONER: Thank you.

MR CHEN: You recognise those at least at the first page of the minutes of that date, Mr Walsh?---(No Audible Reply)

I'm not asking you to read any of it at the moment.---Oh.

I just want you to identify whether they are the minutes of that meeting. Do you agree with that?---Well, I'm not sure.

10 Well, it's got the date there and it appears to be a document created by the Land Council. We'll show you the last page and see where it's signed. Do you see that?---Yeah.

You'd accept having regard to the fact that it's been signed that they're the minutes, would you not?---I can't remember that one.

You don't remember the meeting?---No.

20 I haven't asked you any questions at the moment about the meeting yet. I just want to get you to accept the proposition that they're the minutes based on the fact that it appears to be so and it's been signed by the chairperson. ---Yes, I do remember up the top there.

When you say "up the top", what do you mean? You're looking at page 315. This is the discussion, is it – is that what you're referring to?---Yeah, about the top, about, I, I do remember asking about Waratah Day Hospital there.

So you remember this meeting, do you?---Yeah, I do.

30 I want to go to the beginning and just take you through it, if you would. I'll come back to that. So you accept, though, that they're the minutes, don't you?---Yeah.

You do?---Yeah.

Now, under point 2 you'll see "Visitors. Nicole introduced to the board Nick Pearson and Despina Bakis, both from Knightsbridge North Lawyers." Do you remember that occurring?---No.

40 Do you remember a gentleman, who perhaps might be in the hearing room behind me, attending?---Yeah. Yes.

Is that the person who attended?---Yeah, it is, yeah. Yeah, the Peterson, when you said Peterson, that's not the person in the room. That's not his name, is it?

Well, I can't categorically say whether that's right or not.---I don't know neither.

But it's Mr Petroulias. Is that who you're identifying in the room, Mr Walsh?---Yeah.

So he attended, did he, on that date with Despina Bakis from Knightsbridge North Lawyers? You remember that, do you?---Yeah, well, I knew he attended but I didn't know it was with Knightsbridge Lawyers.

10 Did you know before the meeting that he would be there?---No.

Did anybody explain to you why he was there and why he was coming?
---Richard Green, yeah.

What did he say?---He said he's a new lawyer.

That's what he told you?---He told the board.

He told the board?---Yeah, what board was there.

20 And did – after that introduction and what Mr Green said – Mr Pearson or Mr Petroulias give a talk to members of the board?---Did he talk to us?

Yes.---Yeah.

And so too did Ms Bakis?---Sack us?

See a Despina Bakis?---Oh, yeah, I, just only sort of Richard or Nick introduced her but, yeah, and that's as far as I know. I don't know what, what happened after that.

30 Well, what I was asking you was whether she did any of the presenting at all or spoke to the board members.---She did say something, yeah.

Do you remember what?---No, I can't, no.

So I just want to draw your attention, then, to 313, and you'll see further ratification. And in about the third paragraph, you'll see that you in fact raise with some others why another resolution was required. Do you see that?---Yeah.

40 Does that assist you in recalling what went on in relation to this resolution and what the discussion was about?---No.

The minute goes on to record that Ms Bakis, or Despina, and Nick then spoke and discussed matters relating to the effect of the resolution, which I drew your attention to, of 8 March. Do you see that?---Mmm. I can't remember, I can't remember, I'm sorry.

Anyway, Nicole Steadman then read a resolution according to the minutes. Do you see that?---Yeah.

Who was Nicole Steadman, Mr Walsh?---She was acting CEO.

And did you have any notice of that resolution prior to it being read by Ms Steadman?---No.

10 THE COMMISSIONER: Mr Chen, is it known as to who – if the assumption is made that the ratification was valid and had legal effect – who would benefit from it or what payments or actions it was intended to apply to?

MR CHEN: Some indication is given in the paragraph immediately above, Commissioner, that it's dealing with the subject matter, I think, principally but perhaps not exclusively with the Kelvin Kenney report. And, Commissioner, you'll remember there was the letter in the previous minute of 20 January, 2016, but precisely what's in that letter is something that I'm not in a position to assist you with at the moment.

20

THE COMMISSIONER: Right.

MR CHEN: But that is something that's been looked at.

THE COMMISSIONER: Okay. Thank you.

MR CHEN: So you'll see just at the bottom of that page, Mr Walsh, page 313, that you abstained from that motion. Do you see that?---Yeah.

30 You need to audibly answer, I'm sorry, Mr Walsh - - -?---Yeah.

- - - rather than shake your head.---Yeah.

I'm sorry, it's being recorded.---Yeah.

You agree?---Yeah.

And is that, you recall doing that?---Yeah.

40 So let's go to page 314 where you remember part of this discussion or you said earlier you remember part of the discussion. You'll see that there's a reference in the first line to apparently a resolution, a unanimous resolution to sell most, if not all of the land. Do you ever recall such a resolution?
---No, no.

Do you think a resolution of that kind was ever passed by the board?---No.

You'll see in the second line there's a reference to consortium partners such as Gows. Was there any resolution so far as you're aware - - -?---No.

Just let me just ask the question again. So far as you're aware there was no resolution at all to do with Gows?---No.

You're agreeing with me?---Yeah.

10 Now, you'll see in the second paragraph there's a reference to Able Consulting Pty Limited. Do you see that?---Yeah.

Who's Able Consulting, Mr Walsh?---I'm not sure.

You've never heard of them before?---No.

Did anybody provide you or table a copy of the report from Able Consulting at all, so far as you can recall?---Don't think so.

20 You don't think so?---No.

Did anybody explain to the meeting who had retained Able Consulting to provide a report?---No.

Did Ms Dates say that she had requested Able Consulting Pty Limited to provide a report?---No.

Did Mr Green say that he had retained Able Consulting to provide a report?---No.

30 You'll see as well that there's a reference to Sunshine agreements were discussed.---Mmm.

Do you remember what was discussed about the Sunshine agreements?---Never heard of Sunshine agreements.

Right. Well, it says there that you moved to reject - - -?---I moved it.

Yes. What were you moving to reject?---Dunno.

40 You don't know?---I don't know.

Right. Well, are you able to, well, is there any reason that you can offer why you would move to reject, according to these minutes, Sunshine Group when you know nothing about them?---No.

Do you believe you did move to reject them?---No.

You'd want to have some information before you, wouldn't you - - -?

---Yeah.

- - - such as the nature of the agreements?---Yeah.

And you've never seen any?---No.

Do you know what the Salamander offer with David Hee related to?---No.

10 Again it's got that you moved the motion to reject their offer. Do you see that?---No, never heard of it.

Do you believe that you moved the motion to reject their offer?---I don't know anything about it.

Before you would move a motion I take it as a board member you'd want to know a bit about - - -?---Yeah, yeah.

- - - the organisation and what they were doing?---Yeah, yeah.

20 And did you have that information?---No.

So if we move to the next page you'll see that the Solstice agreements were discussed. Do you see that?---Yeah.

Do you know, what was the discussion about the Solstice agreements, Mr Walsh?---No, I don't know. I can't remember that one.

30 Well, do you remember there being some discussion involving Lenny Quinlan asking questions of Nick?---No.

The person who was providing the information about these agreements and proposals was Mr Petroulias, wasn't it?---I don't know. Don't think so. I don't know.

Well, who was telling everybody about the Solstice agreements, the Sunshine agreements?---I don't know Sunshine agreement.

40 No, but somebody was telling the board about them and it appears if you read the minutes to be Nick. Do you have a recollection about that or you don't?---No, I don't.

Now, you will see a resolution again on page 315 that the board approves the establishment of Awabakal LALC Trustees et cetera for the ultimate sale to Solstice or such other party in substitution to Solstice on comparable terms should that relationship fail. Do you see that? I've paraphrased it. ---Yeah, I don't know anything about Solstice at all.

What about - - -?---My name's there.

It is and what about Awabakal LALC Trustees, who are they, Mr Walsh, do you know?---No. I don't know.

Was there any discussion about who lay behind those companies or that company?---No.

Did Mr Green say he had any involvement with them?---Oh, he used to do all the talking but I can't remember what he said there.

10

Well, do you know, did Mr Petroulias say he had any link to it?---Oh, he had a lot he'd say too but I don't know. I can't remember what they were really talking about.

Well, do you think you actually seconded that motion or not?---I don't think I did.

Why is that?---Well, I know I, I never.

20 I'm sorry?---I know I never.

I see. Thank you.

THE COMMISSIONER: Why do you say that, why would you have not - - -?---Well, I wouldn't have seconded Debbie Dates for a start.

Why is that?---Because I know that Debbie hadn't been up to real good, I know she'd been up to no good.

30 Right.---I don't know, I can't prove it.

No, but that's your belief at the time - - -?---That's my belief.

- - - at the time of this - - -?---And I wouldn't be seconding it. No way.

So back in April, '16, on 8 April, '16 would you have had sufficient trust in Debbie Dates in moving a motion - - -?---No way.

- - - to deal with land?---No way.

40

No way. And did anybody ever explain to you looking at the page on the screen again what the Awabakal LALC Trustees Limited, described as Trustee, was all about?---No.

No discussion?---No.

And I think you said before, this talks about an ultimate sale to Solstice. ---Yeah.

You didn't know who Solstice was?---No, I don't know who they are.

And would you have been happy to have supported this resolution not knowing anything about the Awabakal LALC Trustees Limited or Solstice about the sale of - - -?---No, no.

- - - Land Council land?---No.

10 Would you ever believe you would have supported that sort of proposition?
---No.

Mr Chen, are there written minutes of this meeting?

MR CHEN: I believe there are, Commissioner. I do. They're the handwritten detailed ones.

20 THE COMMISSIONER: Well, if it's not convenient to refer to them now I can do it another time.

MR CHEN: Sorry, they're at the volume, 310.

THE COMMISSIONER: Volume 3 is it?

MR CHEN: Volume 11.

THE COMMISSIONER: 11?

30 MR CHEN: Volume 11, page 310.

THE COMMISSIONER: Thank you. I don't know whether you propose to go to that now or not but I just wanted to know where we would find them, that's all.

40 MR CHEN: I wasn't proposing to take this witness any more to them, Commissioner, but I just want to carry out with, take up a few issues just before we leave that meeting. Ms Bakis was identified as being from a firm of solicitors Knightsbridge North Lawyers and in attendance at that meeting. You saw that noted didn't you in the minutes?---Sorry?

I'll just have it brought up on the screen for you, Mr Walsh. Just bear with me a moment.---Yeah.

Now, remember this was the minutes. So it's volume 11, page 312. And point 2, Despina Bakis. Nick Pearson and Despina Bakis, both from Knightsbridge North Lawyers. I think you've agreed you remember them both being there?---Yeah.

Did Ms Bakis give the board any advice about the merits of this transaction that was being moved by the board members?---I just can't remember that. I just - - -

Do you remember whether she tabled any written advice about the merits of this transaction or otherwise?---No, I can't, I don't know. I don't remember.

It's the practice, is it not, if material is tabled before the board to note it, isn't that right?---Yeah.

10

And if indeed advice was tabled, then there should be a note of it in the minutes, either the written minutes but most certainly the typed minutes. Do you agree or not?---Yes, I do.

THE COMMISSIONER: This was a very busy meeting, wasn't it, on the 8th of April, '16.

MR CHEN: It was.

20 THE WITNESS: Sorry, what year was that?

MR CHEN: 2016. Now, Mr Walsh, I'm just going to have put up on the screen the minutes of the board meeting of 6 May, 2016, volume 14, page 198. Do you see up on the screen there in front of you, Mr Walsh, the minutes?---Yeah.

And do you see you're referred to, Micky Walsh, as being in attendance? ---Yeah.

30 Now, we're going to scroll down a few pages to page 201. Take it back a page to 200 first. And I'm just going to give you the sequence of the motions that were moved. The minutes of previous meetings were dealt with at the top. Do you see that?---Yeah.

And if you go down the bottom there's a motion relating to housing. ---Yeah.

40 And if we go to the next page, which is what I wanted to draw your attention to, you'll see there are two resolutions there. Just read them to yourself first, if you would. Have you read those, Mr Walsh?---Yeah.

I'll just ask you some questions or do you need a bit more time to finish reading them?---No, you're right.

Now, the first resolution says that "Owing to a failure to come to terms with the Solstice Group entities, that the Solstice proposal be rejected." And it seems to be, by the way the structure of the minutes are, that you were the

person who moved that motion. Do you see that?---I've never heard of Solstice.

And do you believe that you moved that motion?---No.

Is it the case that you'd want to know more about Solstice Group before you would propose a motion to reject a proposal?---Yeah. Yeah.

10 And your position, Mr Walsh, was that at that time you'd never heard of them or what they proposed.---No. No.

Similarly for resolution 2, do you know anything about that resolution?---I never, I never moved it, anyway.

Do you know where they came from?---I don't know.

You don't know who may have put the wording before the board at any point?---No.

20 Could you answer, sorry.---No. Sorry.

Anyway, it's certainly not you?---No. That's for sure.

Now, I want to take you now to some minutes on 2 June, 2016. So volume 15, page 73. Do you recognise those as the minutes of the board meeting on 2 June, 2016, Mr Walsh?---Yeah, I think so.

30 I'm just going to draw your attention – sorry, I withdraw that. You will see that you were in attendance albeit by phone.---Oh, by phone. Yeah, sorry. Yeah.

Do you remember this meeting?---Yeah. From Dubbo.

And would you turn then to page 74, point 5. I'll just read it out. "Despina spoke about resolution that they would like for board to pass." Do you remember Despina speaking about a resolution that they, meaning she, wanted to pass?---(No Audible Reply)

40 Just read on a bit then the motion.---Yeah. I just, I can't understand that Tony Gallagher and - - -

No, sorry, we're at cross-purposes. So point 5, the motion is beneath it. ---Oh, sorry. Yeah, yeah.

So you will see point 5, the cursor is near it, and the motion do you see, I'll read it. "That Awabakal LALC board agrees to the replacement of Advantage for Solstice for the collaboration and development of Awabakal

Land Council and the Advantage transactions.”---No, I don’t know anything about that.

Could you recall whether there was any discussion about that resolution?
---No.

By that do you mean you don’t believe it happened or you just have no memory?---I don’t believe it happened.

10 And prior to what the minutes record Ms Bakis speaking about such a resolution do you believe you had any notice of a resolution of that kind before that meeting?---No.

You don’t believe you were given notice?---No.

And you don’t know anything about what its referring to I take it?---No, I don’t.

20 Do you know why Jaye Quinlan was moving it?---No. No, I don’t really.

THE COMMISSIONER: Was Jaye Quinlan as it were aligned with any group on the board or any member of the board or members of the board? Do you know what I’m talking about?---I think I know what you’re talking about. A relative or anything, a relative?

No, no, no. There were sort of groups on the board sometimes weren’t there, factions if you like?---Yeah.

30 That’s what I’m talking about.---Far as I know.

Was Jaye Quinlan to your knowledge - - -?---And it was seconded by her son.

Pardon?---And it was seconded by her son.

Well, all right. I’ll leave it to you.

40 MR CHEN: Well, I mean do you have any explanation as to why she would be moving such a motion or why Mr Quinlan would be seconding it?
---Well, her sister was chairperson.

Sorry, to assist the chairperson?

THE COMMISSIONER: No, he said her sister.

MR CHEN: Oh, the sister was - - -?---Her sister.

I see. Right.

THE COMMISSIONER: So that's Debbie Dates is it?---Yes.

So Debbie Dates and Jaye Quinlan you say are sisters?---Sisters.

Right.---And Lenny Quinlan is Jaye's son.

I see.

10 MR CHEN: Now, Mr Walsh, do you remember a meeting shortly thereafter when a number of people came along to give a presentation on behalf of a group called Advantage?---No.

Don't recall it at all?---No.

I want to show you some minutes. Volume 15, page 95. I'm sorry, what I'm going to draw to your attention first, Mr Walsh, just to show you that you were an attendee at this is page 93, volume 15. So just on the right-hand side where the cursor is you can see that it's the meeting of 7 June,
20 2016. Do you see that?---Yeah.

And also your name is there as well as being in attendance amongst the other three. Do you see that?---Yes.

And also beneath that there are a number of visitors, one is Nick Pearson from Knightsbridge.---Yeah.

As well as some others. Now, the Nick Pearson from Knightsbridge is Mr
30 Petroulias who is here in the hearing room.---Yeah.

Is that right?---Yeah.

And there's another gentleman called Hussein Faraj, Peter Soulios, Rose Zhao and Karrar. Do you remember a meeting with those persons attending?---No.

Well, if you just accept that the minutes record that you did attend that meeting and participate in it, I want to now take you to the actual minutes of the meeting. So page 95, and you'll see here some resolutions, Mr Walsh.
40 Resolution 1. Now, I'll just read the heading for you. 1. Update on Sale, Development and Joint Venture Collaboration with Advantage Property Experts Syndications. It then goes on to list a number of things that Advantage did and the objects of their proposals, and it then has in bold letters down the bottom, near where the cursor is, "Resolved that agreements with Advantage affecting previous board resolution be executed." Do you see that?---Yeah.

And it has, “Moved, Lenny, seconded, Michael.” Now, you appear to be the only other Michael at the meeting.---I’m the only Michael there.

Yeah. Did you second that resolution?---No.

Why do you say that?---Well, I wouldn’t have agreed with it.

Why wouldn’t you have agreed with it?---Well, I don’t know, I don’t know Advantage for a start.

10

Are you sure about that, you didn’t second it?---Yeah.

You need to answer, I’m sorry, sir?---Yes.

You are sure?---Yes.

For you to second such a motion, what would you have required or wanted? ---I, I just never, that, I never, I never second that. I know that for sure.

20

Why do you know for sure, what’s the basis for you saying that?---Well, I didn’t know Advantage Property, yeah. I just kept quiet there.

Before that meeting do you think you were given an agenda?---I’m not sure.

Do you think you were told that Advantage was going to be turning up at this meeting and presenting?---Well, yeah, I’m not sure about that neither.

30

If somebody said, well, we’re going to have a presentation by certain people, would you have asked any questions or not about who they are?--- Yeah, well, I would, I don’t remember that. I don’t. I definitely don’t now.

I’m sorry. There was one other matter I just needed to draw your attention to in those minutes. You’ll see on volume 15, page 96, there was a reference to – at point 4 – “litigation against Minister”. Do you see that? It’s near the cursor down the bottom of the page.---Oh, yeah, sorry.

Did you know that there was litigation afoot between the Land Council and the Minister in June of 2016?---Yeah.

40

You did, did you?---Yes, he wouldn’t do anything about what, what we were talking about. We tried to get help off him to do something sooner. Wouldn’t have got to this stage if he would have.

I’m going to just correct some things that I think – so we’re not at cross purposes. I’m going to come to it in a moment. You wrote a number of emails with a number of other board members - - -?---I haven’t got email.

I’m sorry?---I haven’t got email.

Well, your name has been added to emails sent by others on your behalf. I'll show you them. Mr Hancock, Ellie and Deb Swan, and Mr Larry Slee sent emails to the Registrar, to the Minister and a few other individuals, complaining about what was going on. I will show you them.---Oh, yeah, sorry. Yeah, I know what you mean.

10 But this is a different issue. This is about the Land Council bringing proceedings to stop the appointment of an administrator and to bring proceedings challenging the report of the Registrar and another investigator's report by Kelvin Kenney. Now, I'll explain it. Do you recall that litigation or those court proceedings or not?---Yes, faintly, yes.

Now, you remember the Registrar did a report looking at the conduct of Mr Slee and Ms Dates?---No.

You don't?---No.

20 Do you remember a Mr Kelvin Kenney did an investigation into some of the financial affairs of the council?---Yeah, I can remember him along the line there somewhere, yes.

And do you remember that the Minister wrote to the board following her receipt of that report, indicating that she was proposing to appoint somebody to come and run the Land Council instead of the board? An administrator. Do you remember that occurring or not?---No, I can't, no.

30 Do you know, well, does that note in the minutes, at point 4, assist your recollection in what was going on at the time and why proceedings were being commenced to stop the appointment of an administrator?---Yeah, we didn't want an administrator to go in there, but - - -

You didn't?---No, well, we didn't really but it had to happen.

But did you have a say in whether the proceedings should be commenced to stop the administrator being appointed?---No.

You didn't?---No.

40 Do you know anything about the legal advice that lay behind the decision to try and challenge the appointment of the administrator?---No, I don't.

Did you know that within about three months of those proceedings having been commenced the Land Council discontinued the claim against the Minister? Did you know that?---No, I didn't.

Did you know that the council spent substantial sums of money on legal advice and lawyers, following on this resolution, to try and stop the

appointment of an administrator but then discontinued the claim?---Who did this, though?

The Land Council or the board of the - - -?---Yeah, but who, who, what, who, who, who was, who was running the Land Council?

Well, I'm just going to ask you to turn over, then, to page 5. And the motion has been passed by Jaye, which is Jaye Quinlan.---Yeah.

10 And Lenny Quinlan. Do you see that?---Yeah.

Do you have any recollection now about why they were moving such a motion and why they wanted to pursue such proceedings?---No. No.

I asked you some questions about Knightsbridge North Lawyers and fee agreements. Do you remember I asked you some questions earlier about that?---Yeah.

20 Did you ever see a later fee agreement between Knightsbridge North Lawyers from November of 2015?---No.

Did Mr Green ever tell you that he had signed another fee agreement with Knightsbridge North Lawyers in November 2015?---No.

So far as you were aware, was that ever raised that he would have the authority to do so at any board meeting?---No. No.

30 Was it ever raised that he would be given the delegation to execute a contract by or on behalf of the board with Knightsbridge North Lawyers at that time?---No.

I'll just show you the cost agreement now. This is volume 1. Sorry, folder 1. Folder 1A, Exhibit 42. You've never seen this before, Mr Walsh?---No, no.

Exhibit 42, page 173. Sorry, Commissioner, would you just pardon me. There are two versions of that document and I think I need to show him the one that's got the correction on it.

40 THE COMMISSIONER: Yes.

MR CHEN: Volume 15, page 162. So, Mr Walsh, you'll see that that is a document described as Confirmation of Variation of Retainer and Engagement, dated 7 June, 2016.---Mmm.

Do you see that in front of you?---Yeah.

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

I'll just show you the signatures on the bottom. It appears that they're the signatures of Richard Green and Debbie Dates down the bottom. Do you recognise those two signatures?---Oh, I don't recognise them, but - - -

All right. We'll just assume for the moment that that's who purportedly signed those agreements. Was there any discussion with you at any board meeting of the Land Council about them entering into this agreement?---No.

10 No discussions with you personally about them entering into the agreement?---No, no.

No board meeting that you went to where this would be discussed, that they would have authority or delegation to enter in such agreement?---No.

Mr Walsh, you became concerned about the way in which the board of the Land Council began to function in about late 2014 didn't you?---(No Audible Reply)

20 You need to answer I'm sorry, Mr Walsh.---Yeah, sorry, sorry, sorry.

And did that coincide with about the time that there was an issue concerning Mr Steven Slee?---Yeah, yeah.

And did you understand that he came to be suspended?---Yeah. Well, we found out later that he was suspended.

30 You weren't asked to participate in any decision as to whether or not he should or should not be suspended?---No. Didn't know nothing about it, no.

Did you find out later that he'd been suspended?---Yeah.

And who told you that?---I think someone off the street told me. I'm trying, one of the members or something.

And who suspended him, was it Ms Dates and Mr Green?---Debbie Dates and Richard Green.

40 And did they ever tell you specifically what the allegations were against Mr Slee?---Never. We asked, yeah, but they, no, no, no.

Did you ever find out what they were?---No, I don't know. I don't know.

And you know that an investigation was conducted by the Registrar into Mr Slee and Ms Dates don't you?---I heard. I heard.

And do you remember going to a meeting when the Registrar was ready to provide his, or to tell you what he'd concluded from his investigation?---No, I just can't remember that.

Can I suggest that you went to a board meeting where Mr Sheriff was in attendance, the Registrar, Mr Wright, was in attendance as well as other board members. Does that assist you in your recollection?---I don't think so.

10 I'll just bring the minute up for you. I'm sorry, I may have put – you were in fact absent from that meeting.---Yeah.

Did you find out subsequently - - -?---What date was this?

6 August.---I was in hospital. I had me lung removed.

I'm sorry. Okay.---Yeah.

20 Did you find out subsequently that he'd been terminated, Mr Steven Slee?
---Yeah, someone told me on the street, yeah.

THE COMMISSIONER: Mr Chen, can I just interrupt. You've got two other witnesses waiting haven't you?

MR CHEN: I do.

30 THE COMMISSIONER: It only leaves half an hour. What's the best course, is to either release those witnesses being on the Easter break now, because unfortunately I can't sit on beyond 4 o'clock today.

MR CHEN: Commissioner, I believe that I'll be finished with Mr Walsh in the next five minutes and I'd like to make a start if I can on one of them if that would be convenient to the Commission.

THE COMMISSIONER: We'll do that.

MR CHEN: I certainly won't finish.

40 THE COMMISSIONER: No.

MR CHEN: But I'd certainly like to use the time if I can.

THE COMMISSIONER: Yes. Very well.

MR CHEN: In any event you found out that he'd been terminated?---Mmm. Yeah.

And did you find out after that that in fact he'd put in a claim that he'd been wrongfully terminated and defamed?---No, I didn't know anything about the claim.

Did you find out subsequently that a payment had been made on behalf of the Land Council to Mr Slee?---Yes, I heard that too.

And were you involved in that decision?---No.

10

And were you asked to participate in the decision to pay him money?---No.

Do you know who did agree to pay him the money?---I think, I think it's pretty obvious that Richard Green and Debbie, or it must have, it must have been from there. I don't remember it.

THE COMMISSIONER: What was your opinion of Mr Slee as the CEO when he was there?---I think he was quite all right.

20 Do you think he did a good job or not? ---I think he, well, he never had time to do much of a job, but he was doing all right while he was there.

Okay. Thanks.

MR CHEN: Commissioner, that will be the evidence of this witness, thank you.

THE COMMISSIONER: All right. Before I release Mr Walsh, any questions from anyone?

30

MR PETROULIAS: Just a couple. Mr Walsh, do you remember swearing an affidavit to a firm of solicitors called Chalk & Behrendt?---Yes, I do, yes, I do.

In that affidavit do you remember swearing that you saw the Advantage proposal?

THE COMMISSIONER: No. Hang on. Wait a minute.

40 MR CHEN: I object.

MR PETROULIAS: Do you remember what you swore in that affidavit?

THE COMMISSIONER: No, no, wait a minute. Mr Petroulias, hang on. If you're going to cross-examine him on his affidavit you should produce the affidavit.

MR PETROULIAS: No, I'm just trying to remember what he remembered then.

THE COMMISSIONER: No, no, did you hear what I said?

MR PETROULIAS: Yes. Okay. On that point, Commissioner - - -

10 THE COMMISSIONER: But have you got the affidavit?

MR PETROULIAS: (No Audible Reply)

THE COMMISSIONER: I'll permit the questioning if you've got the affidavit.

MR PETROULIAS: Commissioner, I do not have it.

20 THE COMMISSIONER: You don't. Okay. Well, let's move on to something else.

MR PETROULIAS: There's thousands of documents. I asked, I sent emails to Mr Broad saying can you please make application, whatever I need to do, how can I access these documents.

THE COMMISSIONER: Okay. Well, let's move on to the next question.

MR PETROULIAS: So - - -

30 MR CHEN: Commissioner, can I just point out, I'll simply deal with it this way. We don't accept, Commissioner, that we've not provided any material that he's requested. Whatever request he's made we've made reasonably available and he presumably has access to the document as he's purporting to ask questions based on the content of it.

40 THE COMMISSIONER: Well, the Commission is not a storehouse to provide material for people unless of course it's part and parcel of the brief of evidence that's going to be used or that the Commission otherwise does hold, but without notice firstly there's going to be problems if the Commission's staff is not given notice that some particular document is required in advance of questioning put, but if the cross-examination is to be based on other documents the Commission may not hold or does not hold then it's up to the party cross-examining to give notice as to the Commission staff that he needs the document or she needs the document.

MR CHEN: Thank you, Commissioner.

THE COMMISSIONER: If we can obtain it, we will. All right. Yes, next question, Mr Petroulias.

MR PETROULIAS: What do you remember telling anyone else about the Advantage agreement?

THE COMMISSIONER: About what?

MR PETROULIAS: Do you remember speaking to anyone else about the Advantage agreement?---I don't know Advantage.

10 Okay. Thank you.

THE COMMISSIONER: All right. Thank you, Mr Walsh. Sorry, yes, yes Mr Oates.

MR OATES: Thank you, Commissioner.

Mr Walsh, I represent Mr Slee. It's fair to say, isn't it, that you were a diligent and regular attendee at board meetings?---Yeah, I never missed one.

20 Thank you. Well, you missed one and you just said a moment ago - - -?
---Oh, I did, I'm sorry, yeah.

- - - that you were, you were ill in hospital.---I was in hospital, yeah.

You had a serious operation.---Yeah.

You also said that Mr Slee was a good CEO and was doing a good job.
---Yeah, he was good.

30 By that do I take it that if there had been a vote in your presence for the reinstatement of Mr Slee - - -?---Yes.

- - - that you would have voted to reinstate him?---Course I would have, yes, I would.

Your views about Mr Slee were well-known I assume to other board members?---Yep.

40 Particularly to Ms Dates and Mr Green?---Apparently.

Yeah. Do you recall when you went to hospital, sir, for your operation, how many days prior or weeks prior to the - - -?---No, the day before.

- - - meeting on 6 August?---5 August I had the operation, the 5th.

Did you have notice of the meeting coming up at - - -?---Yes, I did.

Yes. Sometimes you would attend meetings by telephone. Correct?

---(No Audible Reply)

We heard of one instance today where - - -?---Once, once I did, once I did.

Once. Now, I'm not suggesting you should have attended this meeting, I'm not being critical in any way.---No.

But it was possible, your health allowing - - -?---Mmm.

10 - - - that you could attend, could have attended this meeting by telephone?
---No, I couldn't have.

You were that unwell, were you?---No, I was, I was on cloud nine.

Okay.---Yeah.

20 Did anyone speak to you prior to the meeting about whether you were going to it?---Well, I'll be honest. I said I don't want them to know I'm going to hospital because we would not have had the votes, like, to vote, yeah. I said I'd rather not know, but they found out. They had it on that day. They knew I was going to hospital so they had it.

When you say they, to whom are you referring?---I'm talking about Debbie and, Debbie Dates and Richard Green.

Nothing further, Commissioner.

THE COMMISSIONER: Nothing else?

30 MR CHEN: No, Commissioner. Thank you.

THE COMMISSIONER: Mr Walsh, thank you for your attendance here today.---Yeah, thank you.

You're free to go and I wish you well. Happy Easter.---Thank you.

Yes.

40 MR CHEN: Thank you, Commissioner. I call Eleanor Swan.

THE COMMISSIONER: Ms Swan, do you take an oath or an affirmation?

MS SWAN: The oath.

THE COMMISSIONER: Thank you.

THE COMMISSIONER: Yes, just take a seat there, Ms Swan. Yes.

MR CHEN: Commissioner, the witness may – I'm not sure whether she does want the benefit of a section 38 declaration.

10

THE COMMISSIONER: Yes, thank you. Ms Swan, witnesses such as yourself may give evidence by firstly taking an objection. The purpose of the objection is to make available to you a protection, if you want it, against the use of your evidence in other proceedings in the future – criminal or civil proceedings or any other proceedings. You don't have to object, but if you want to object you're entitled to do so and I'll make a declaration accordingly that the evidence is not to be used against you in the future. ---Yeah.

20 Do you want that?---Yes, please.

You object on that basis?---Yes, I think.

Yes, all right. I make a declaration pursuant to section 38 of the Independent Commission Against Corruption Act that the witness is taking objection, that all her answers given, documents and things produced by her during the course of her evidence in this public inquiry are to be regarded as having been given or produced on objection. Accordingly there is no need for Ms Swan to object to any individual question or object/document produced, and that she will have the benefit of the provisions of section 78 in respect of her evidence.

30

I MAKE A DECLARATION PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT THAT THE WITNESS IS TAKING OBJECTION, THAT ALL HER ANSWERS GIVEN, DOCUMENTS AND THINGS PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE IN THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION. ACCORDINGLY THERE IS NO NEED FOR MS SWAN TO OBJECT TO ANY INDIVIDUAL QUESTION OR OBJECT/DOCUMENT PRODUCED, AND THAT SHE WILL HAVE THE BENEFIT OF THE PROVISIONS OF SECTION 78 IN RESPECT OF HER EVIDENCE.

40

THE COMMISSIONER: Yes.

MR CHEN: Thank you, Commissioner. Ms Swan, are you currently a health worker?---I am.

You're a member, are you, currently of the Awabakal Local Aboriginal Land Council?---I am.

When did you first become a member?---I can't recall but it was – I moved to Newcastle in '94 so maybe 95/96.

10 Did you become a board member of the Land Council in early 2014 by a casual vacancy initially?---Yes, yes.

And did you become a permanent or confirmed board member at September, sorry, in September of 2014?---Yes.

Did you remain in that role until 20 July, 2016, when your term expired?---Yes.

20 When you were a board member, were you in employment at that time?---Yes.

Were you working full-time?---Yes. Oh, no, sorry, part-time. I work permanent part-time.

I see. In the latter part of 2014, many of the meetings of the board of council appear to be held during the day, quite often in the mornings.---Yes.

30 And that presented some difficulties with you professionally, attending to your work commitments and the board commitments, did it not?---It did.

And you raised that at a board meeting, didn't you, about - - -?---I raised it at a board meeting and specified that I don't work on Fridays. I could, could we have the meetings on a Friday, all day, any time Friday or of an afternoon? And the board did agree to me, and then Debbie and Jaye put in objections and scheduled meetings when I could not attend.

40 And so quite often the case – and this will be apparent from the minutes – the meetings of the board were usually held on days where you were working?---Yes.

But also it was held in the morning. So sometimes from 10.30 or 11 o'clock or 12 o'clock.---Yes. So I could even take time off in the, yeah.

And that affected your capacity to discharge your duties as a board member?---Yes.

And meant that quite often you were simply unable to attend.---Yeah.

Now, it's the case, isn't it, that although you remained a board member until July of 2016, the last actual meeting that you attended of the board was 6 August, 2015. Does that sound right?---Was that the day Steve got sacked?

It was.---Yeah, that was the last one, yeah.

And I'll come back to the arrangements after that time.---Yeah.

10 I'm just going to skip ahead if I can to a couple of other issues first before I come back to that. When a meeting was called how were you notified as a board member that a meeting was to occur?---The majority of the time I didn't get notification but when I did it was a text message, or when Nicole Steadman took over as the CEO – which she was never appointed to but she took over – she'd put a letter in the mailbox the day, the afternoon before.

Were you ever consulted about the times when these meetings were to happen?---No. No.

20 And did that impact again the way that they were arranged on your ability to attend?---Yes.

And discharge your functions as a board member?---Yes.

Did you raise that concern with anybody on the board?---I raised it several times, yeah.

30 With who?---With John, with the five board of directors, John Hancock, Micky Walsh, I raised it also, the five of us and Richard Green and Debbie Dates as well.

And when you did raise it with Mr Green - - -?---And Steve Slee as well, sorry.

And when you raised it with Mr Green and Ms Dates the way these meetings were scheduled and organised what was the response you got? ---They can't make meetings just for me because Jaye goes to uni so we need to make it when Jaye can come.

40 I see. Now, the minutes of meetings were recorded in a book were they not by hand?---Yes. Yes.

And during the course of, or most of the time during the course when you were a director the minutes were taken by John Hancock were they not? ---Yeah, and they were also recorded.

Well, just in relation to the minutes. They were written into a minute book were they not?---Yeah, the red book, yeah.

And do you know of any other person other than Mr Hancock who actually took the minutes in the book?---I think Jaye Quinlan started after John was, after Debbie and Richard objected to him taking the minutes then Jaye Quinlan took over and did the minutes.

Are you able to say when approximately that was when Jaye took over? Now, Mr Hancock ceased being a board member in December, 2015.---No, it was before that. It was after they alleged that John took minutes home and destroyed.

10

I see.---That's when Jaye took over.

Does 15 December, 2014 appear to be the date then that she may have taken over?---Yeah, maybe, yeah.

In any event when the minutes were taken in the minute book where was that book kept?---I honestly couldn't tell you.

20

Did you ever have access to it?---No.

Did you have access to it during the course of any meeting?---No.

Did you have any reason to have access to it as a board member?---No, I didn't have any reason to have access.

When resolutions were passed were they separately recorded from the minutes with the minute book?---No, it's in the minute book.

30

And how were they prepared, were they typed as well or were they written? ---I've never ever seen that document John was talking about where the resolutions was kept. I've never seen that one. I've only seen them in the, in the minute book and then the typed ones that we got the next meeting.

I see. The typed minutes you're talking about?---Yes, yeah, yeah.

So what happens is that the minutes are written into that book?---Yeah.

They're then typed up. Is that right?---Yeah.

40

They're presented to the next meeting?---Yeah.

Approved as correct and signed by the chairperson?---Yeah. But even if you objected in the meetings because there was quite a few times I had objections and they weren't noted in the meeting so I'd bring that up to be changed and ratified and they look like they've never ever been done.

I want to take you to the period 2014, in particular the second half of it which is the period just before Mr Slee - - -?---Ah hmm.

The issues arose with Mr Steven Slee. Do you remember a number of developers approaching the Land Council and presenting at that time?
---Yeah, I remember one lot come in, yeah.

Who is the one lot you remember come in?---The only way I remembered it was a Torres Strait Islander bloke and a Chinese bloke or an Asian bloke.

10 And do you know their name or - - -?---No.

- - - who they were presenting for?---No. Afterwards I found out that one was Cyril.

Cyril?---Yeah. And then still the Asian bloke I've got no idea.

20 Do you remember what they talked about or what their proposal was?
---They came with the proposal of, to sell the property. They come up with all these glossy magazines and proposals. Because I've made an objection that day to Richard Green, how the hell are these people here. We haven't even discussed selling land so why are they now here presenting. This is, I said to him this was, I thought it was insider trading. Where did this come from. Like I said, all my objections were said but not noted in the minutes.

I'll just bring up on the screen for you now the material. Is that the material that you were provided?---Yeah. This was the stuff that they presented and we weren't allowed to take it with us. It had to be just left at the office.

THE COMMISSIONER: The witness is being shown?

30 MR CHEN: I'm sorry, Commissioner. It's volume 2, page 67. Thank you. And you recognised that as the material that was handed out?---Yes.

And then had to be given back?---Yes.

And you see the name on the top right-hand side under the heading Introduction, Indigenous Business Union Pty Limited?---I must admit I probably didn't even read that bit, but I just remember the, 'cause I was so annoyed that they were there in the first place.

40 Does that - - -?---I can't remember the name of the people, no, but I remember this documentation.

I see. Do you remember anybody else presenting on that day to you, other than the Asian gentleman and the Torres Strait Islander fellow?---No, I think there was only them two, I think. I can't recall.

Was there any person or presentation by an entity called Gows Heat Pty Limited?---Not that I can recall.

What about Gows?---Not that I can recall.

Was there any suggestion that this was a presentation by Gows?---Not that I can recall.

Or Gows Heat?---Not that I can recall.

10 THE COMMISSIONER: Mr Chen, can I just interrupt for a moment as to the future course in taking Ms Swan's evidence. Where are you from, what area do you live in?---I live in Islington. Newcastle, sorry.

Is there any prospect of the rest of her evidence being taken by video link? Are you still working?---I am. I took two days off to come here.

Did you. Are you due to work on Monday?---Tuesday, yes.

20 Tuesday. Is it possible to, if I speak to Mr Broad as to whether or not a video link would be possible, I'd be reluctant to bring Ms Swan back if we can avoid it.

MR CHEN: It certainly would be convenient from my perspective.

THE COMMISSIONER: I know there would be difficulties with perhaps
- - -

MR CHEN: Documents.

30 THE COMMISSIONER: - - - showing her documents, but nonetheless we might be able to get around that, if that problem can be resolved.

MR CHEN: Yes, Commissioner.

THE COMMISSIONER: I'm just wondering whether perhaps I might adjourn for five minutes to see what the logistics - I don't want to take up time but we're not going to finish her evidence anyway.

40 MR CHEN: No, we won't, Commissioner. I quite agree, and there's no particular reason why we have to complete this evidence on Tuesday if there's a more suitable time later in the week, if it was to be by video link, Commissioner, but that's - - -

THE COMMISSIONER: Well, if it could be fitted in, I'm just reluctant, you've been waiting all day I suppose, have you?---Yeah, yeah.

To, to cause any more inconvenience to Ms Swan, she's already lost time off work. So what would you like me to do, do you want me to adjourn and we can work out the best way of doing this? One way or the other

unfortunately Ms Swan we're going to have to get the balance of your evidence on another day.---Yeah, that's fine.

MR CHEN: We'll explore that now.

10 THE COMMISSIONER: If the balance of convenience all round is that Ms Swan comes back at a time next week that suits her then we'll do it that way, but if there's another way of taking her evidence and perhaps the other witness you were going to call today by video link for example, then we can explore the possibilities there.

MR CHEN: We'll do that, Commissioner, we'll do that now. It would be convenient to do that now and we can liaise with the witnesses.

THE COMMISSIONER: Yes. Well, do you want me to adjourn?

MR CHEN: Yes, Commissioner.

20 THE COMMISSIONER: Shortly or just for the day or what would you – I'll resume if you like when - - -

MR CHEN: No, no, Commissioner, no.

THE COMMISSIONER: Not necessary?

MR CHEN: I don't think so because I'm not going to be five minutes with the witness as you probably anticipate, so we may as well work through to see if we can sort something out.

30 THE COMMISSIONER: Ms Swan, I think time has beaten us unfortunately.---Yeah, no, that's fine.

I'm sure you understand. So what I'm going to do is I'll complete today's hearing now, shortly, I'll adjourn and the Commission staff will have the discussion with you as to what's the best arrangement all round to get your evidence and the other witness who's - - -?---She comes from Newcastle as well, so yeah.

40 Yes, right. Okay. So what I might do is ask you to step down, just if you wouldn't mind waiting around here though while we work something out and they'll speak to you.---All right.

Thanks for your attendance today.

THE WITNESS STOOD DOWN

[3.49pm]

THE COMMISSIONER: Is there anything else we need to attend to?

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

THE COMMISSIONER: All right. Then I'll adjourn.

AT 3.49PM THE MATTER AS ADJOURNED ACCORDINGLY

[3.49pm]

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