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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION TOLOSA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 3 MAY, 2022

AT 10.00AM

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THE COMMISSIONER: Yes.

MR LEGGAT: Chief Commissioner, I'm very sorry to have to ask this - - -

THE COMMISSIONER: Yes, Mr Leggat.

MR LEGGAT: I have a number of electronic devices that aren't plugged in yet. I wonder if I might have about 45 seconds to get myself ready?

10 THE COMMISSIONER: Yes.

MR LEGGAT: I do apologise but I'm just not quite ready yet. I'm terribly sorry.

THE COMMISSIONER: Mr Leggat, that's all right. I think Counsel Assisting's got a few more questions to raise with Ms Butler. We'll have those done. If you want a bit more time, Mr Leggat, I'm happy to adjourn for a short time.

20 MR LEGGAT: No, that's fine. I just need about 30 seconds now to plug in my devices.

THE COMMISSIONER: Oh, okay. No, that's all right.

MR LEGGAT: So if I'm bobbing under the bar table, I apologise, that's what I'm doing.

THE COMMISSIONER: No, that's fine.

30 MR LEGGAT: Thank you, Commissioner.

THE COMMISSIONER: Yeah. We'll have – you took an oath yesterday, I think, Ms Butler, did you not?

MS BUTLER: Yes, I did.

THE COMMISSIONER: We'll have the oath readministered.

THE COMMISSIONER: Thank you, Ms Butler. Just take a seat there. Mr Darams.

MR DARAMS: Yes. Ms Butler, I just have a couple of final questions this morning for you. The first matter I wanted to raise with you is you might recall yesterday in answer to one of the Chief Commissioner's questions, you referred to master planning and a master plan. Do you recall that yesterday?---Yes.

Are you familiar with that – I'm assuming the document, master plan, is a document, is that right?---Yes, it is a document.

Are you familiar with that master plan that you were referring to?---I was referring to the Rhodes master plan, Rhodes (not transcribable) - - -

Yeah, okay. When I asked whether you're familiar with that, had you seen that document before, had you read it before?---I haven't seen it for a long time but, yes, I, I did peruse it at some points, yeah.

Sure. Could I just show you a document? I'll bring it up on the screen. Now, just scroll, next page. Perhaps if I draw your attention to the table in the bottom left-hand corner. Then if we go across to the right-hand side of the page you'll see the reference to Conybeare Morrison there.---Yes.

Perhaps if we could show you the next page and the next page. I'm going to ask in a moment whether this is the master plan you were referring to in your answers yesterday. I'm just wondering whether you need to look at more pages or whether you're in a position now to tell us - - -?---No, this is the document I was referring to and it's the document that's referred to in the strategic planning report that went up to the council meeting on 17 May, 2016.

Thank you very much. Chief Commissioner, I'd like to tender that document.

THE COMMISSIONER: Yes. What's it's title?

MR DARAMS: I think we can call it Rhodes Station Precinct Master Plan, November 2014.

THE COMMISSIONER: Yes, very well. That will be admitted and become Exhibit, what are we up to?

MR DARAMS: Just trying to find out what exhibit we're at. 19 is the exhibit number.

- 10 THE COMMISSIONER: Become Exhibit 19. Very well. The master plan as so described November 2014 will be admitted and be marked as Exhibit 19.

**#EXH 019 – RHODES STATION PRECINCT MASTER PLAN
DATED NOVEMBER 2014**

- 20 MR DARAMS: Ms Butler, you might recall yesterday I also asked you some questions about the interactions you had with Mr Tsirekas when he was the Mayor of the Canada Bay Council and you were in your position as the Manager of Statutory Planning. Do you recall that?---Yes, I do.

My recollection is that some of your evidence was that Mr Tsirekas would ask questions about the status of various development applications.---Yes.

You said that the usual way that that information or request would come would be through Mr McNamara and then from Mr McNamara to you to obtain that information. Is that right?---That's correct.

- 30 There were occasions when Mr Tsirekas came directly to you though to seek that information.---Those occasions were generally restricted to when I was Acting Director of Planning and Environment myself.

Yes. Could the witness be shown volume 10.1, page 291. I just want to for the moment draw your attention to the email that starts in the middle of the page from yourself to Mr Tsirekas on 1 September, 2016.---Yes, I can see that.

- 40 Perhaps if you could just read the email.---Yes, I, I understand, I remember this email, yes.

That's the question I was going to ask you. Do you remember the circumstances of the request coming from Mr Tsirekas?---If my memory serves me correctly, it was a period of time when the, when Mr Tsirekas was no longer the mayor. Oh, no, sorry. I haven't got my dates right.

No, your dates are correct. This period of time, 1 September, he was not the Mayor of Canada Bay Council. That's right.---Right. That's, yep.

10 Now turn - - -?---Yes. So I remember this email, yes.

Yes. In terms of your capacity at that stage, and when I say capacity, your position, were you acting at this stage or was this an example of there being a direct request being made of you by Mr Tsirekas?---As far as I can recall, I think I may have been acting director. I'm not entirely certain. I may have been but I may not have been.

20 So is this an example that you might have responded to Mr Tsirekas even though you weren't acting in the position of director of planning at that stage?---It may have been, yes, but I, if I was not acting director, it would have been something I was asked to do to answer these questions by the person who, who was the acting director, or it may have been Mr McNamara. I can't quite recall the sequence here. Sorry.

I just want in that regard to draw your attention to the second sentence where you say, "In response to the four matters you asked me about today, please see the following." So my reading of that suggests that Mr Tsirekas and you have had some conversation earlier that day?---Yes, that would sound correct.

30 Can I ask you on the basis that Mr Tsirekas was not the mayor at this stage, can you help us out as to why you would be providing this information to Mr Tsirekas?---That, that's what I was saying to you before about it was most likely something I was asked to do, to respond to it. I certainly at the time recall expressing concern about providing information to someone who at that point was just a member of the public like any other person.

40 So if someone had asked you to respond to Mr Tsirekas, either speaking with him or simply providing the information, who would that have been at that time?---As I said, it would have either been Mr McNamara or anyone

who may have been acting in the role of director if Mr McNamara was on leave at the time.

Do I understand that evidence to mean that someone who was in an employment position who was in the position to give you directions to do something?---Yes.

You also said that you, I think it's my recollection of evidence, it's a short time ago, you expressed some - - -?---Concern.

10

- - - concern about responding to it. Who did you express that concern to? ---It would have been to the person who was asking me to provide this information. As I said, I, I'm sorry. I can't recall whether I was the acting director myself or whether someone else was acting in that position at that time or whether it may have been the general manager who asked me to provide this information but I, I recall expressing concern about providing or, or, or talking to Mr Tsirekas because he was no longer the mayor, yet he was asking similar inquiries to what he would do when he was the mayor.

20 In terms of expressing your concern, was that in a conversation or did you send an email or something to that effect?---It would most likely have been in a conversation, I would say. I don't recall sending an email expressing those concerns in writing.

So in terms of who might have, for want of a better description, given you the direction or asked you to respond to Mr Tsirekas, it's either Mr McNamara if he was the director at that stage or it could have been Mr Sawyer as another possibility?---General manager, yes, or I may have been the acting director myself. And whilst I may, sorry, and if that, in that case, I probably would have expressed my concerns to, to the general manager if that were the case, Mr Sawyer. But I do recall that Mr Tsirekas contacted me directly via a phone call in relation to these matters.

30 So just so I understand that, if you were acting as the director and you were contacted by Mr Tsirekas, then you would have expressed your concern about responding to Mr Tsirekas' request with Mr Sawyer, the general manager?---If I was in the acting director role, yes, that's the person I would most likely have expressed those concerns to.

40 If you were not acting and you were just, well, I don't mean that pejoratively, but you were fulfilling your position at that stage as Manager

of Statutory Planning, then you expressed your concerns either to Mr McNamara or if someone else was then acting in Mr McNamara's position, that person?---Yes.

You did touch upon this yesterday in terms of you said there was a revolve - - -?---A rotating, yeah.

- - - rotating process where you filled the position on an acting basis from time to time. Who else might have been the persons filling the position?---

10 Okay. That would have been either Paul Dewar, who was the Manager of Strategic Planning, or, no, sorry. At this point in time, yes, yes, Paul would have been Acting Manager, possibly, of Strategic Planning. Or it would have been Tony Pavlovic, who was the Manager of Enforcement and Health and Building, or Building Compliance Services. He had a very long title, I can't quite remember the whole thing.

Do you recall when you expressed your concern, what, if any, response you received from the person you expressed your concern to?---Well, for me to have provided this information to Mr Tsirekas, it would have been that I
20 was advised to do so, and in doing so I tried to make my responses very succinct and providing information that I would generally have provided to an applicant or a member of the public who was asking similar questions.

Can I just ask you, if I was a member of the public and I contacted the council and I had these DA numbers, would I be able to request and be provided with that information or responses in relation to them? Just as a member of the public.---Well, not as a general member of the public, but if you were a member of the public who was the applicant for the application or you were an objector to a proposal, council staff would try and provide
30 information to you where they were allowed, within the parameters of what was appropriate and permissible to tell you. And a lot of the information that I have put into my responses here is the type of information that we would generally provide, particularly to an applicant, but we could also bring an objector up-to-date on a DA if they were asking about its progress.

Yeah. Do you recall, in terms of any conversation that you had Mr Tsirekas where he asked you this information, or put this request to you, do you recall whether Mr Tsirekas explained the basis or why he was asking you for this information?---I don't recall exactly but given the responses that I
40 have provided, I would surmise that he was asking on behalf of the applicant. For example, there's a reference to the DA for 25 Cropley Street,

Rhodes, where I've said that a 21-day letter will be sent to the applicant. That would indicate to me that, that the question was being asked on behalf of the applicant. The same again with the one that's at the bottom there referring to 34 Tennyson Road, Mortlake.

Could the witness now be shown page 290? So you'll see at the bottom of the page there is the commencement of the email that appeared over on page 291 as well. This is an email from Mr Tsirekas to you on 7 September.

---Yes.

10

Now, directly above that is an email from Mr McNamara to Mr Tsirekas on 9 September, 2016. Have you seen this email from Mr McNamara before?

---I was shown this email when I was, I was shown this email by ICAC staff.

Now, was that the first time you had seen this email?---Given that I'm not cc'd into it, yes, possibly. That was the first time I saw it.

20 Now, it appears that, well, at least on 9 September, Mr McNamara was at work and in the position of Director Planning and Environment. Does this assist you with your recollection now as to whether you were acting at that particular time when you initially responded to Mr Tsirekas?---It would suggest to me that, no, I wasn't acting director and that Mr McNamara was at work at the time and was the director himself.

Yes. In terms of the request that was made – Chief Commissioner, unfortunately I just need to just stop the cross-examination at this stage. There's some technical issue that we need to - - -

30 THE COMMISSIONER: Okay.

SHORT ADJOURNMENT

[10.25am]

40 MR DARAMS: Thank you, Chief Commissioner. The technical issues have been rectified now. I'm ready to proceed. Ms Butler, I just wanted to ask you about whether you are able to assist us in terms of your recollection of whether the frequency of the requests from Mr Tsirekas in relation to planning matters or development applications decreased or increased or stayed the same during that period that he was not the mayor of the council

as compared to the time that he was the mayor? Are you able to assist us with that?---From memory, I would say it decreased marginally but it was similar, but, yes, did decrease, I think. Yes.

Just one last matter I want to raise with you, Ms Butler, can we please play file 547?

THE COMMISSIONER: There's some problem?

10 MR DARAMS: Yes. Just bear with us. Apologies. I'm trying to bring up a document.

AUDIO RECORDING PLAYED

[10.40am]

MR DARAMS: Ms Butler, this is a recording of a message left on Mr Tsirekas' phone on 7 February, 2018 and we have a transcript of that call that's just been played, or that message that's just been played. Do you
20 remember the circumstances surrounding what appears to be a request again from Mr Tsirekas?---By circumstances, I assume you're referring to why I rang him.

Yes, yeah.---I assume I am replying to a message he may have left on my phone and that it was referring to a question he had about a property in Clements Street and when I went to look for the information about it, I realised that he may have been referring to a property known as 26
30 Clements rather than 25. But I'm assuming again that I may have been acting director, and if not, then someone else would have been. Yeah, I'm sorry, I can't recall much more about that matter than that.

Yeah. So just in terms of your recollection, is it simply based now upon what you've been able to see from the transcript of that?---Yes. I, I don't recall this phone call, but yes. I accept that that was me on the recording.

You don't have any other independent recollection of this matter now?
---No, no, sorry.

40 I'll just ask this last question. Given the period of time, that is February of 2018, do you know now, just looking at the date, whether you might have

been acting or, sorry, whether you were acting or not?---I don't believe I would have been at that time.

Chief Commissioner, I'd like to tender that audio voicemail and the transcription of that. That will be Exhibit 20, if it's accepted.

THE COMMISSIONER: Yes, very well. The transcript of the – perhaps if we could have it back on the screen, please? Transcript shown to the witness, Ms Butler, dated 28 April, 2022 in relation to a voicemail message to Mr Tsirekas in relation to property number E17-1221, just put dot dot dot, be admitted and become Exhibit 20.

**#EXH-020 – AUDIO AND TRANSCRIPT OF VOICEMAIL
MESSAGE FROM NARELLE BUTLER TO ANGELO TSIREKAS
DATED 7/2/2018 AT 1:41:10PM**

MR DARAMS: Last question, Ms Butler. Is this another example of the type of requests that Mr Tsirekas either made directly of you or through some other person to have you provide information in relation to them? ---Yes. I recall that development application. So it would have been, yes, similar to the, the other development application enquiries he would make, yes.

No further questions for Ms Butler.

THE COMMISSIONER: Yes, thank you. Yes, Mr Leggat.

MR LEGGAT: Thank you, Chief Commissioner. Ms Butler, just dealing with that last file that we heard played, file 547, it indicated in your email, sorry, your voice indicated that it was a 15 to 18 per cent exceedance of the FSR. You recall you saying that, didn't you?---Oh, I can read that, Mr Leggat, yes.

15 per cent to 18 per cent of the FSR.---Yes.

Now, just to put this in context, you're aware, aren't you, that the Canada Bay LEP has a clause 4.6 which permits exceedances of that sort of magnitude to be addressed and potentially approved if there are merit

considerations. That's right, isn't it?---Yes. The Canada Bay LEP is like, it takes its clause 4.6 from a standard instrument.

Yes.---And, yes, it does allow for people to seek a variation to a development standard such as a floor space ratio.

Exactly right. Well, putting it another way, and you've referred to the standard instrument, the standard instrument is what might be called a pro forma or a boilerplate published by the NSW Government which the
10 councils are encouraged to adopt as containing provisions in the council's particular LEP at the time.---Yes, I would call it a model. It's a model LEP.

A model. Thank you.---Yeah.

Yes, well, that is more nuance than my description. Thank you for that. Yes, so it's a model. And clause 4.6 of the standard instrument envisages that there can be an application made to approve an exceedance of 18 per cent or sometimes even far beyond 18 per cent in your experience for FSR
20 exceedances?---In my experience that is a significant departure from the floor space ratio standard and not one that would be easily supported.

But put another way, there's a specific process in both the Canada Bay LEP and Environmental Planning and Assessment Act to assess and approve on their merits exceedances of that FSR?---Yes, that framework does exist within the LEP.

Yep. So what we're seeing in file 547 is what might be called bread-and-butter town planning that happens day in, day out. There was nothing
30 inconsistent with clause 4.6 of the LEP, was there, and proceeding in that manner?---Given that I haven't referred to a clause 4.6 as submission here seeking to vary the floor space ratio, I can't remember the exact details of this development application, whether it had one or not, but as I said previously, I wouldn't call that bread and butter when you're seeking quite a significant variation to the floor space ratios as I've said in this message, and I do recall there were other matters with this application that, that made it a bit more complex than your average DA, yes.

Look, I think we're in furious agreement but perhaps slightly at cross
40 purposes. What I'm suggesting is that the request to consider whether an 18 per cent exceedance of an FSR is or is not appropriate is something which is consistent with council's own LEP. There's a mechanism for considering it,

isn't there?---The mechanism definitely exists, yes, but I wouldn't say – I mean, when you say that's a bread-and-butter planning matter, if you're, if you're referring to the fact that it's not that uncommon for people to submit clause 4.6 submissions - - -

Yes.--- - - - yes, they, they were, they were a fairly common occurrence but, yes, depending on the extent of the variation being sought, yeah.

10 Thank you. Let me move on. We spent a little bit of time yesterday looking at Exhibit 2, 1.2 at page 66, which is the minutes of the council meeting of City of Canada Bay Council held on 31 May, 2016 and particular attention was directed to page 66. Now, I wonder, Chief Commissioner, if page 66 might be put on the screen so that Ms Butler can follow what I'm asking, please.

THE COMMISSIONER: It's on its way, Mr Leggat.

20 MR LEGGAT: Thank you very much. Just while we're waiting for that, my client's name is pronounced "Ter-wreckas". I'll spell it phonetically, T-e-r hyphen w-r-e-c-k-a-s, so the letter "s" is silent and it's "Terwreckas" I'm instructed.

THE COMMISSIONER: Thank you, Mr Leggat. We should have been corrected on that earlier in time but, however.

MR LEGGAT: That's fine. Yes, thank you. Now, Ms Butler - - -

THE COMMISSIONER: Apologies to Mr Tsirekas too. Yes.

30 MR LEGGAT: Thank you, Chief Commissioner. Ms Butler, read the clause 9 of the minutes to yourself, please, and then I want to ask you some questions about what we see in the last two lines. Let me know when you've had a chance to read that.---Yes, I've read that, Mr Leggat.

Excellent. Thank you. Now, what clause 9 is saying in part is that there is something called a Rhodes Station Precinct Master Plan, agree? That's apparent, isn't it?---That's correct, yes.

40 Yeah. And we know that's now become Exhibit 19. Now, what the resolution of the councillors has indicated is that the planning proposal of 24 May needs to be considered "in terms of substantial compliance with the

principles of the Rhodes Station Precinct Master Plan". My short form summary, that's accurate, isn't it? I've got that right? That's part of what the effect of clause 9 is?---That's what the words appear to indicate, yes.

Yes. Now, the notion of substantial compliance with the principles of the Rhodes Station Precinct Master Plan require one to identify what is contained in the Rhodes Station Precinct Master Plan and then to consider whether or not the planning proposal complies or doesn't comply and whether or not it substantially complies or doesn't comply. Do you agree with that as a matter of principle?---Yes.

So accordingly you agree with me that the Rhodes Station Precinct Master Plan is a very important document for council planners and for developers to understand. That's right, isn't it?---It's, it's certainly a, a master plan that you would need to be familiar with if you are putting forward something like a planning proposal in, in that precinct or you're doing any planning work on assessing such a proposal for example.

Yes. Thank you. And the requirement, as you've indicated, for familiarity is in part due to the fact that clause 9 says that there needs to be substantial compliance with the precinct plan. And that's right, isn't it?---Yes. It's indicating that the planning proposal should have merit in terms of complying with the principles of that master plan.

Excellent. Now, Commissioner, I'm not sure whether this can be done but is it possible to keep that document, page 66, on the screen and then go to Exhibit 19, page 7? I think, if not - - -

THE COMMISSIONER: I think that can be done.

MR LEGGAT: Thank you. That would be helpful to the witness, I think. I'm sorry, technical officers. Perhaps if we can just leave that on the screen like that. Don't worry about bringing up page 66 yet. Just while we've got that on the screen, Ms Butler, you see in the bottom, left-hand corner of the diagram an oblong block with the number 1 written in it? Do you see that? ---Yes, I do.

And then if one moves in an anticlockwise direction, along Mary Street and then up Walker Street, one sees the number 16. Have you found that? ---Yes.

Now, what we are reading here in relation to the third paragraph concerning the words and the diagram showing us where 16 is, let me just read this for you and see if I understand this correctly. “16 Walker Street is privately owned and it is hoped that in the future this property will be integrated with the adjoining development sites to realise an integrated urban outcome.” Now, the reference to 16 Walker Street is to be understood as the property shown at number 16 in the diagram, isn’t it?---That’s correct.

10 And so what we see here on page 7 of Exhibit 19, the precinct master plan, is an aspirational principle expressing the hope that in the future number 16 will be integrated so that an integrated urban outcome can be achieved for the entirety of the precinct. That’s what we read there, isn’t it?---That’s what the words say, yes.

Yep. Now, whether or not that is a hope of an aspiration with which you agree, its apparent, isn’t it, that if someone was seeking to substantially comply with the precinct master plan, one would at least need to give consideration to the integration that’s identified there. Do you agree with that?---Yes.

20

Yep. Now, can I take you back to the – well, actually it’s not back to. If I take you, please, to page 2 of the precinct master plan. And of course the context is that we have the minute of council and we have clause 9 which requires that substantial compliance with the principles of the master plan be the subject of assessment. Now, on page 2, do you see there on the left-hand column there’s a dot point there which is the last dot point to identify suitable space. Now, I’ll just ask you to read that to yourself, please, and let me know when you’ve done that.---I have. Yes.

30 So “To identify suitable space for small supermarket as an anchor used for the town centre, the supermarket space must involve consultation with relevant landowners/developers.” So the principle, or what’s described there as the study objective, is envisaging what I’d describe as an iterative process whereby the council is seeking to encourage relevant landowners and developers to include a supermarket or space for a supermarket in any development of the precinct. That’s the gist of where that’s going, isn’t it? ---Yes. I would agree with that.

40 Okay. And the reference to anchor use, that’s a town planning description of the vital role that a supermarket plays as an anchor for revitalising and making business prosperity of a precinct in development such as the Rhodes

precinct. Do you agree generally with that? It's probably a bit crude but that's the gist of it, is it?---No, I agree with that. A supermarket is generally considered to be a, an anchor use within a shopping precinct and attracts other businesses.

Exactly right.---Ah hmm.

10 And the way this precinct plan is identifying that as a principle, in practice what that would mean, wouldn't it, is that, as the words are used there, there was going to be consultation with the landowners and the developers where the landowners and the developers are going to be encouraged to identify suitable floor space that can be used as a supermarket, and the developer/landowner would generally seek some sort of concession from council in terms of an uplift in FSR or height or something like that as a bit of a trade-off for supplying the supermarket that the council wants as an anchor. That's generally speaking correct, isn't it, the way I've described it?---No, I don't know that you could say that in this particular instance. It doesn't refer to any follow-on benefit, if you like, for providing that suitable space. It just is an objective that's identifying that council or that these are
20 consultants if, on behalf of council, would encourage a landowner or developer to consider identifying a suitable space within their proposal to allow for a small supermarket to be established.

Right. Yes, look, I think we're in agreement. The encouragement about which you've spoken by council is necessary, isn't it, because council can't require generally a developer or an applicant to develop land for a particular use, that's the developer can decide to ignore that, for example, and say, "No, look, I'd prefer to have home units rather than a supermarket"?---Well, subject to what they're considering as an alternative being permissible
30 within the zoning, then yes, you, and council couldn't force a developer to provide a supermarket.

Thank you. Exactly right. No, that was the point. That was where I was going. So because council can't force a developer to provide a supermarket, but council has a principle in the precinct plan which seeks to encourage a supermarket, one of the forms of encouragement that council legitimately enters into when consulting with landowners and developers is, to put it crudely, what's in it for the developer in providing the supermarket. That's right, isn't it?---That may be one way that someone would be encouraged to
40 provide it.

And there's nothing untoward or unusual, is there, about there being negotiations between council and a developer where the council wants a supermarket and the developer wants some benefit in exchange for providing a supermarket. That occurs daily in local government in New South Wales, doesn't it?---Subject to that consultation and those negotiations following whatever adopted policies the council has in place, then, yes, I would agree that that does sometimes occur.

10 Great. Now, let's have a look on that column on the right-hand side, the project methodology. We see "stage review" and if you'd just read that to yourself, please, "stage 1 review urban planning context". Just let me know when you've read that stage 1 description?---Yes.

Now, we see there, don't we, that there's an express reference to property ownership being part of the project methodology in stage 1. See that? Agreed?---Yes.

20 Now, location and ownership are highly relevant factors when looking at a matter such as stage 1 review urban planning context. That's right, isn't it? ---Sorry? Could you repeat that?

Probably not but I'll ask you a similar question. What I was suggesting is that the reference to property ownership in the project methodology is an acknowledgement that property ownership and the location of properties owned are relevant factors to be considered in this particular stage 1 review?---It is a factor that needed to be taken into consideration. I, I agree that the words say that and I'm, that would be a reference to the fact that we had a lot of allotments involved and that those allotments were owned by different people or different companies.

30 Yes. Exactly right. Thank you. Now, part of the reason why stage 1's expressed in those terms, can I suggest to you, is because the Environmental Planning and Assessment Act, which is the Act under which this master plan is being considered has objects in section 1.3 of the Act and one object of the Act is in 1.3(c), "To promote the orderly and economic use and development of land." That sounds right, isn't it?---That's correct.

40 Yeah. And part of the fulfilment of the object of the Environmental Planning and Assessment Act to promote the orderly and economic use and development of land is to take into account property ownership so that orderly development can be achieved by all relevant owners participating in

the planning process. Do you agree with that as a general proposition?
---You mean in relation to a particular development being proposed or are you talking about in the context of a planning proposal in particular?

No. I was trying to keep it at a high-level generality. The proposition was that it would be, it would not promote the orderly outcome of use in development of land for every property owner to be listening to their own pied piper rather than seeking a precinct type of approach. A precinct approach is more orderly than having 50 people doing their own thing. Do
10 you agree with that as a matter of - - -?---Oh, from a planning perspective, as a council, absolutely you would, you would try to take more a precinct-wide approach if you're trying to encourage, like the consolidation of allotments for example.

Exactly.---And the redevelopment of those consolidated lots, yes.

Yes, yeah. No, look, exactly right. Thank you. Now, we see stage 3. Could you just read that to yourself please and let me know when you've read that?---Yes, I've read that.

20 Thank you. So it says, "Stage 3. Confirm precinct vision, survey and design objective and principles. This stage confirmed and defined the overall precinct vision and desired future character. Identify precinct urban design objectives, market laneways concept and key urban design principles." Now, just pausing there, the reference to desired future character, that again is a phrase that, for you as an experienced town planner, brings with it a lot of experience over the years generated by town planners and councils and consultants in New South Wales as to what desired future character means. So, do you agree with that? I put rather
30 clumsily. What I'm trying to say is that the desired future character is actually a planning phrase which - - -?---It's a planning phrase, if I may - - -

Yes, please.---- - - that you often see included in documents like Development Control Plans, for example, that set out what the council's vision of an area is in terms of either maintaining its existing character or achieving a, a different type of character into the future.

Thank you for helping me out with that. That was very useful. So the council's vision for the future is what desired future character means and
40 there were lots of cases in the Land and Environment Court about how one determines desired future character and what that means and desired future

character of what, things like that, aren't there?---Well that's very, it's important for councils to set out, in words, in their own Development Control Plans, what they see as the divide, desired future character of an area. So you need to be explicit about that and set it out within your controls so that people can follow what council is trying to achieve with, with those sets of controls.

10 Excellent, thank you. And what we see at stage 3 is a reference to this stage defining the overall precinct vision and desired future character, that should be read as desired future character of the precinct, shouldn't it? That's what's being said there?---Yes. It's referring to the overall precinct in both of those references to vision and future character.

All right. And I won't take you back to it now, but remember on page 7 when we looked at number 16 and we saw a diagram, that was diagram of the precinct, wasn't it?---You're referring to the diagram that showed the property ownership?

20 Yes.---Yes, that's a, a diagram of the entire Station Precinct.

That's right. That's right. So when we're looking at in stage 3 the reference to "the overall precinct division and desired future character", and you've agreed it's desired future character of the precinct, it's desired future character of those parcels of land that we saw on page 7 that we looked at and that's what's being referred to, isn't it?---Yes, because this master plan is for that precinct, the Station Precinct.

30 Excellent. Yes, thank you. Now, have a look at stage 5. Could you have a read of that to yourself, please. Let me know when you're there.---Yes, I've read that.

So stage 5 of this precinct master plan it says "the proposed structure for stage 5 for ongoing ownership and management of public domain and the proposed staging of development", can I suggest to you that what stage 5 is seeking to deal with is the promotion of the orderly and economic use and development of land. That's partly where stage 5 is going, isn't it?---Yes, I would agree with that.

40 THE COMMISSIONER: Can I ask you what you understand is envisaged by the reference in stage 5 to "the proposed staging of development" and whether that's something that applies to foreseeing as it were the way in

which particular developments might be expanded for example over time? So if, for example, there was a proposal to allow certain development more or less one stage but then there was the possibility for other aspects of that development to be expanded, is that the sort of thing that this is referring to or perhaps you could help me, what does it mean, what does it embrace?
---Well, the, the reference to “the proposed staging of development” from my understanding of this master plan is that that was referring to or acknowledging that these properties were in different ownership and that some properties had been, or some companies had bought more than one
10 allotment, owned more than one allotment, and that because you had different companies involved in the redevelopment of these sites that it would necessarily, or by necessity I should say, the development would necessarily be staged because you’d have different companies redeveloping their sites at different points in time and those companies may also acquire additional land to, to bring into a development site for example.

Yes, I understand. Yes, thank you.

MR LEGGAT: Thank you, Chief Commissioner. And of course the
20 staging of the development is with one eye firmly on the desired future character of the entirety of the precinct, isn’t it?---True, yes.

Yep. Now, can I take you to the next page, please, which is page 3, and again the context is we’re dealing with clause 9 of the minutes which requires substantial compliance with this precinct master plan and we’re looking at the contents of the master plan. We see in that left hand column about six lines down reference to the Metropolitan Plan 2010. Have you picked that up, Ms Butler?---We’re in the dot, sorry. Okay, we’re on the
30 right page now.

THE COMMISSIONER: Sorry, this is in planning context?

MR LEGGAT: That’s right, yes.

THE COMMISSIONER: Sorry, what are you looking for again? What did you identify?

MR LEGGAT: Yes. So - - -

40 THE COMMISSIONER: The Metropolitan Plan?

MR LEGGAT: I'm at page, it's about seven lines down under that, in the first paragraph. So the first paragraph is headed Population Employment Growth and there's a reference at - - -

THE COMMISSIONER: To the Metropolitan Plan 2010?

MR LEGGAT: Indeed, that's it, yes.

THE COMMISSIONER: Okay, thank you.

10

MR LEGGAT: Have you picked that up, Ms Butler?---Yes.

So the Metropolitan Plan 2010 identifies Rhodes as a specialised centre. Now, the Metropolitan Plan 2010 is a plan for far more than the Rhodes Station Precinct, isn't it?---The Metropolitan Plan is a State Government plan. It's a, it was a Department of Planning document or is a Department of Planning document that talks to the metropolitan area of Sydney.

20 Exactly, yep. No, thank you, that's very helpful. And that plan is said to identify Rhodes as a specialised centre. Do you see that there?---Yes.

Yeah. Now, we're told a little bit more about the Metropolitan Plan if one reads down to that second-last paragraph on the left-hand column. "The Metropolitan Plan sets as a key planning challenge," could you just read that paragraph to yourself, please?---Yes, I've read that.

30 Thank you. You'd agree with me that we are finding principles in the Rhodes Station Precinct Master Plan which include a principle, being that there is something called the Metropolitan Plan 2010 and that the targets in the Metropolitan Plan 2010, including such matters as a target of 770,000 additional homes in metropolitan Sydney by 2036. That's part of the vision in which the precinct needs to be developed. Have I got that right?---It's certainly using the Metropolitan Plan as a guiding document in terms of what the State Government's objectives were for providing additional housing in the metropolitan area of Sydney. And Rhodes, yes, it was identified under that Metropolitan Plan as one of the urban areas, existing urban areas that are referred to in that paragraph – paragraph, sorry. And it goes on in the next paragraph to explain in a bit more detail what the objective was or the target was for dwellings within the Inner West.

40

Excellent, yes, thank you. Thank you for taking me to the next paragraph because it's important, isn't it? So part of the vision for the precinct includes this concept that there needs to be, according to the State Government, an additional 35,000 dwellings planned for the Inner West during the period 2006 to 2036 and "The Rhodes Station Precinct Master Plan sets in place the built-form parameters and public domain structure to accommodate over 100,000 square metres of additional residential floor space that will contribute 1,300 apartments and approximately 100 hotel rooms to the precinct." So there's – what's happening there, I would suggest to you, is that this document, the Precinct Master Plan, is pointing out that in order for the Precinct Master Plan to be consistent with the Metropolitan Plan vision, there needs to be a contribution of about 1,300 apartments in that precinct footprint between 2006 and 2036. That's the gist of it, is it?---Yes, the master plan is, well, that paragraph, sorry, is setting out how the Station Precinct Master Plan would contribute that 1,300 apartments to that target of 35,000 dwellings.

Yes.

20 THE COMMISSIONER: Can I just ask you, in the preceding paragraph your attention was drawn to the key planning challenge, which is in parentheses there, "to grow sustainability, to improve economic and social outcomes whilst protecting our natural environment and containing its urban footprint". What's the reference to containing, this is the, it goes on, as I said, in addition to growing sustainability on the one hand, then later goes on to say "whilst protecting our natural environment and containing its urban footprint". What's "containing its urban footprint" to you mean? ---Well, I think that's sort of spelt out a bit more clearly in the next sentence where it's talking about basically providing a substantial percentage of that target of 770,000 additional homes within existing urban areas. So it's suggesting that would be contained within the urban footprint, if you like, that already exists.

But it's specifically added, more or less, on the other hand, so it's - - -?
---Yes.

- - - on one hand, it's talking about to grow sustainability, et cetera, but then it says, in effect, on the other hand, so it says "whilst", you know, at the same time, in effect, protecting two things, "our natural environment" and the other "containing its urban footprint". What's, to you, it saying about containing, that is, doing something to the urban footprint? Is it talking

about, has anything to do with the concept of not over-developing, so that you destroy or disadvantage the environment or that the urban footprint grows so wildly that you're destroying really the vision that you really want to achieve?---Yeah, I think that it goes to the concept of urban sprawl and trying to contain urban sprawl by providing additional dwellings within existing urban areas.

10 Yeah. Has that been achieved out there at the Rhodes, what is it, the Rhodes Station Precinct, in your view to date?---Certainly, the number of dwellings that are currently contained within the precinct are far in excess of the, the original context proposed here.

20 So containing the urban footprint, did that bring up the question of FSRs, number of levels, heights of buildings, that sort of thing?---Yes, it does because originally with Rhodes and the framework that was adopted under SREP 29, Sydney Regional Environmental Plan 29, the heights of these buildings were much lower. So what you ended up with with this master plan was trying to provide those dwellings within taller, slimmer buildings that minimised their footprints in that respect by, yes, going up and creating additional floor space within that height or those height controls.

And in terms of excessive heights, for example, which interfere with sunlight, shadows and other aspects, that's all part and parcel of trying to contain the footprint, I imagine, is it?---Well, what you see out there today on this precinct, in my opinion, is not consistent with the framework that was trying to be established within this master plan at, at the time that this master plan was created.

30 When was it created again, the master plan?---2014.
'14?---Mmm.

Okay. And a sizeable amount of development has occurred since 2014 in the Rhodes precinct, I dare say?---Yes.

40 MR LEGGAT: Thank you. Chief Commissioner. So, Ms Butler, the next column, the second full paragraph, says this. "The Metropolitan Strategy designates the two precincts – Sydney Olympic Park and Rhodes Peninsula – as jointly forming a Specialised Centre, due to their proximity and potential complementary role. Together these precincts offer major potential to establish" et cetera. So that's providing a little bit more information

about the way in which we understand clause 9 of council's minute and the principles of the Rhodes Station Precinct Master Plan. Do you agree with that?---Not necessarily, no. I mean, that paragraph to me is just identifying that there were two precincts, Rhodes and Sydney Olympic Park, that were very, in close proximity to each other and had a potential complementary role for each other to provide, you know, skilled jobs and to make a contribution to economic growth, growth, sorry, through providing high-skilled jobs for Western Sydney residents.

- 10 No, look, I agree completely. So what we see there is the Rhodes Precinct, the Rhodes Station Precinct Master Plan, is one part of a development strategy for a larger area, which includes the two precincts identified in the paragraph? That seems right, isn't it?---It, yes, I would agree with that. It's a master plan that, yeah, identifies that area.

Okay. The next paragraph, "The aims and objectives of the metropolitan plans", so that's referring to the government 2010 plan, "and the metropolitan plan for Sydney 2036 and the Inner West Subregional Strategy having formed the preparation of the Rhodes Station Precinct Master Plan."

- 20 That again is identifying that the Rhodes Station Precinct Master Plan is part of a development strategy for a larger area. That's what it's indicating, isn't it?---Yes. It's saying that it was prepared under the overarching document of the metropolitan plan.

Exactly. Thank you. Now, at the foot of the page there's a reference there to the State Environmental Planning Policy 65, Design Quality of Residential Flat Development. Now, you know well, don't you, that SEPP 65 is a consideration that needs to be taken into account when assessing development applications for buildings such as residential flat developments

30 where there are a number of levels proposed for residential flat development. I put that rather clumsy but - - -?---No, that's okay.

Perhaps you can help me out. You tell us what you - - -?---Yeah, yeah. SEPP 65 is specifically about the design quality of residential flat buildings in particular and it's, it, it applies to certain, to, to residential flat buildings of certain numbers of units and heights of buildings.

- Thank you, yep. So, let's just look at that from a practical point of view. If a planning policy results in an amendment to the LEP, which increases a
- 40 maximum building height to, say for example, 100 metres, the fact that you might have a maximum building height in an LEP of 100 metres says

nothing about whether SEPP 65 will mean that you can actually achieve 100 metres. That's generally correct, isn't it?---Well, yes. I mean, the, the principles contained in SEPP 65 and the controls contained in it around the things that it refers to here like natural light and ventilation, yeah, and outdoor balcony spaces, things like that, may mean that you may not be able to achieve what the LEP control sets down in terms of things like floor space ratio and building height.

10 Excellent. That was far more elegant and nuanced than I could have achieved. The not be able to be achieved is the important point in what you said. So that is that even though a planning proposal may result in a change to the LEP to have a building height of X metres, that may not be able to be achieved because there is going to be an assessment carried out under SEPP 65 as to whether or not in all the circumstances it's inappropriate to have a building that height. Do you agree with that?---Yes. I mean, SEPP 65 has that role to play but also a council's development control plan would come into play as well and, yes, those maximums that we're referring to about floor space ratio and building height may not be able to be achieved and satisfy all of the controls in those two documents that I just referred to.

20

Exactly right. So, there could be something, my words, not a planning term, of a Pyrrhic victory in a developer achieving, through a planning proposal, an amendment to an LEP which establishes 100 metres, but that's never going to be able to be achieved unless there's a SEPP 65 compliance or satisfaction? That's generally right, isn't it?---Generally correct, yes. If a, a proposal doesn't stack up against those controls then, yes, it may not be able to achieve those maximums that are set out in an LEP.

30 Yep. And that's entrenched in the law in the Environmental Planning and Assessment Act section 4.15, which sets out the matters that are to be taken into consideration before granting a development consent, one of which is a provision like State Environmental Planning Policy number 65. That's correct, isn't it?---If, sorry, my, I haven't looked at the EPA Act for a while but 4.15 as far as I can recall is the heads off - - -

79(c) it used to be.---Yes, the heads of consideration.

Indeed.---Yeah.

40 Yeah, yeah. So - - -?---Yes, well, those heads of consideration must be taken into consideration when you're assessing a development application.

Yes.---And it calls up documents like LEPs.

Yes.---It used to call up DCPs as well but it doesn't anymore.

Yes.---Yes, then you're obliged, you're legally obliged to take those matters into consideration when you're assessing an application.

10 Indeed. And as the town planner you've done a little bit of planning law but
you know that it is a mandatory consideration to take into account a State
Environmental Planning Policy like State Environmental Planning Policy 65
in determining what is the appropriate height of a building, notwithstanding
that an LEP might give you 100 metres as a maximum?---Yes.

Yep.---Yep.

20 Commissioner, would that be a convenient time? I apologise. I'm
overstaying my welcome but hopefully this is of use because of the
importance to the Commission of the minute and clause 9 and the terms in
which clause 9 is expressed.

THE COMMISSIONER: Yes. How much longer is your estimate? I'm not
pressing you. I'm just trying to program matters that's all.

MR LEGGAT: Commissioner, my estimate is another 20 minutes if that's
satisfactory to the Commission.

THE COMMISSIONER: Yes, that's entirely acceptable.

30 MR LEGGAT: Thank you very much.

THE COMMISSIONER: Very well. We'll take the morning tea
adjournment.

SHORT ADJOURNMENT

[11.32am]

40 THE COMMISSIONER: My apologies for keeping everyone waiting. I
was required to deal with another matter in chambers. All right. Ready to
proceed? Yes, Mr Leggat.

MR LEGGAT: Thank you, Chief Commissioner. Now, Ms Butler, if I could direct your attention to Exhibit 19, please, which is the Rhodes Station Precinct Master Plan, Exhibit 19, and to page 4 of that exhibit, please. Ms Butler, you see the last sentence on that page, "The Station Precinct Master Plan is the third and final stage of implementing the strategy." The strategy that's being referred to there is the Canada Bay Local Planning Strategy referred to in the three paragraphs immediately above that sentence. That's right, isn't it?---That's correct.

10

And we also see reference to another planning strategy there, which is Futures Plan 20, and that's referred to in the first paragraph and that's described as a plan which outlines the City of Canada Bay's vision for the next 20 years. Do you see that?---Yes.

And then the third sentence, "This master plan," that is the Rhodes Station Precinct Master Plan, Exhibit 19, "supports Futures Plan 20 outcomes as it satisfies theme 20." So there's a, as described in the last sentence on that page, the Rhodes Station Precinct Master Plan needs to be seen as, needs to be seen in the planning context of those two documents and other documents as well, agreed?---Yes, agreed.

20

Thank you. If we could go to page 5, please, the next page. The Rhodes Station Precinct Master Plan then looks at, in the context of the planning context, the current development controls and notes that all of the properties within the station precinct are zoned B4 mixed use. Now, Ms Butler, you'd agree that that has been a deliberate decision to create one zone and one zone only for the whole of the Station Precinct?---Yes, that's correct.

30

And creating one zone and one zone only is consistent with, and helps to promote a whole-of-precinct approach, doesn't it?---Yes. I would agree with that.

Thank you. Consistent with this whole-of-precinct approach, we see the maximum building height. The maximum building height varies between category S1 and T4, S1 being 23 metres and T4 being 29 metres. That reflects the existing topography of the land. Is that as you understand it? ---I couldn't be certain of that, sorry.

40

All right. The next control at the foot of the page there, the - - -

THE COMMISSIONER: Sorry, just - - -

MR LEGGAT: I'm sorry, Commissioner,

THE COMMISSIONER: No, it's all right. Are you able to say what 23 metres and 29 metres is in terms of levels or can't you? You can't generalise - - -?---23 metres would be approximately seven to eight storeys, something like - - -

10 Sorry, how many?---Seven storeys.

Seven?---Yeah. If you're thinking about a floor-to-floor height of three metres, then that would be about, no, sorry, eight, seven to eight storeys.

Seven to eight, yeah.--- And sorry - - -

29 metres, category T4?---29 would be - - -

20 Just approximately will do.---Approximately 10 storeys.

Thank you. Thank you.

MR LEGGAT: Thank you. And the FSR for the entirety of the precinct is 1.76:1, isn't it? Do you see that in the last sentence?---Oh, sorry, yes. I, I was looking on the table.

Oh, sorry.---I should read the words, that would be easier, given my eyesight. Yes, 1.76:1.

30 Again, a whole-of-precinct consistent approach that we see in the FSR approach as well?---Yes.

Yep. Thank you. Now, on the next page, which is page number 6, dealing here with voluntary planning agreements for the precinct master plan, I just want to get your comment on what we see in line 4. So it says, "Associated with this was council's consideration of submissions from various stakeholders and landowners including those with an interest in the redevelopment of the Station Precinct and requesting that they be included in planning of the whole precinct." Now, do you read that as that it's council requesting that all of the relevant stakeholders and landowners with an interest in the redevelopment of the Station Precinct be

40

included or is it the stakeholders and landowners who want to be included or do you think it's both council and the stakeholders and landowners who want to be included in the planning of the whole precinct? If you don't know, just say that, as well.---Well, from my reading of the words, it suggests to me that it's saying it's a submission from various stakeholders and landowners. It would appear to be those stakeholders and landowners approaching council about wanting to be included. That's my reading of the words.

10 I think that's a fair reading, isn't it?---Yeah, I believe so.

And so whilst the stakeholders and landowners aren't identified, but it definitely goes beyond I-Prosperity, doesn't it? It seems that what's being said is that anyone who's a landowner or a stakeholder wants to be included in the planning of the whole precinct. Is that a fair reading, do you think? ---I, I think it's definitely referring to more than one stakeholder or landowner in, in the case you referred to, I-Prosperity, but again I, I wouldn't know exactly who was, who that statement is referring to in terms of the stakeholders and the landowners, how many of them.

20

No, look, I think that's fair. We've got a bit of information, haven't we, about the landowners in the bottom, right-hand corner, where Billbergia, Hossa and B1 are identified expressly as being landowners. Do you agree with that?---Sorry, the bottom, right-hand corner of this page?

Of the second column, sorry.---The second column. So, yes, I can see that. Thank you.

30 Right. So that will cast light on who the relevant landowners are, wouldn't it, that are being referred to?---Well, the, the sentence before that listing of companies says, "The following sites within Rhodes Station Precinct are currently party to the preparation of VPA as follows".

Yes. So I, sorry. I'm sort of joining the dots. That would suggest those are landowners in the precinct at that relevant date, do you think?---I'm not sure I follow what you're saying. That to me is just referring to the companies that had been a party to VPAs.

40 Yeah. All right. Let's have a look at the sentence above that. "A number of properties have changed hands and Billbergia now controls the majority of development landholdings in the precinct, with Hossa and B1 Group as

the smaller developers.” That casts some light, doesn’t it, on who the relevant landowners are that are being referred to in that first paragraph?
---Yes, that does cast light on that, yes.

Right. Now, back in the left-hand column, see the last sentence in the second-last paragraph. “The community was keen to know what public benefits could be provided through the proposed development uplift.” Can you just describe what that sentence means to you? What’s being described there? What’s happening, as you understand it?---That’s a statement falling
10 out of the public exhibition of the concept plan and indicating that in the responses that they received, that council received, sorry, to that public exhibition that the Rhodes community was keen to, to understand what public benefits were going to be provided as a result of the proposed uplift.

And by “proposed uplift” what did you understand that to be a reference to?---That would be a reference to increased floor space ratios and increased heights of buildings.

Right. So we read that to be conveying the idea that if the height and the
20 FSR is increased so as to provide a better yield to the developers, the community is keen to know what benefit the community gets through the provision of that benefit to the developers. Is that right?---Well, my understanding of that would be that the community was keen to know what was being proposed in those voluntary planning agreements in terms of what public benefits would arise from them.

Right, thank you, yep. And we see in the next paragraph there’s reference there to Meriton, Mirvac and more recently Billbergia. “There seems to be a growing acceptance within the community that the tower forms are
30 acceptable because they,” that is, the tower forms, “are being delivered in tandem with adjacent public space being upgraded,” et cetera. So the way I read that, and correct me if I’m wrong, is that the author in this Rhodes Station Precinct Master Plan has identified that the community is accepting an uplift, which provides a benefit to developers, because the developers are providing benefits to the community. Is that the way you read that?---Yes.

And then on the third – sorry, the column to the right, it speaks there about a planning proposal for Gateway approval. It’s the case, is it, that council had
40 its own planning proposal to give effect to these uplifts and expected community benefits arising from the uplifts. Is that, as you understand it, what’s going on here?---Yes, so as a result of the master plan process, it

would result in a planning proposal being developed by council to execute the objectives of the master plan in relation to how these sites would be redeveloped in the future.

All right. Now, on the next page, which is page 7, we've already looked at that, but just while we're scrolling through, just your confirmation that the land that we see coloured there, that is what is referred to in the Rhodes Station Precinct Master Plan as "the precinct", that's right, isn't it?---That's correct.

10

Okay, thank you. Now, on the next page, please, page 8, under the heading 2.7 Consultation, the first paragraph finishes with the words "There's been extensive consultation with the developers – Billbergia, Hossa, B1 Group – that have interests within the Station Precinct." Now, that doesn't strike you as being unusual, does it, that there would be extensive consultation between the consultants and the developers?---I understand that was part of the process. I wasn't involved in any aspect of this, though, in my role at council.

20 I understand that. I'm looking at a slightly different aspect to that. It's the – the author of the document doesn't appear to be suggesting there's something untoward about extensive consultation, does it? It appears to be noting as an objective fact that there has been extensive consultation and there's no approbation arising from that, is there?---Oh, there's, that's a statement of fact, yes.

Yes.---That the author has said, yes, I accept that.

30 Yes, you'd expect, wouldn't you, that there would be extensive consultation between developers and consultants in relation to projects such as this?---If you're trying to get those developers to work with you so that they're clear about what the objectives are of the master plan, yes, I understand that, yeah.

Great, thank you. And to use your phrase, if you're going to get the developers to work with you, that would frequently occur in discussions that were not minuted in your experience, agreed?---I'm sorry, I don't know what you mean by that.

40 Well, I'm suggesting that the encouragement that may take place during the extensive consultation will not always be minuted. The discussions and the

bargaining and the encouragement will not be the subject of official minutes taken. That's what happens in the real world, doesn't it?---It doesn't happen in my world, Mr Leggat. In the – I would imagine that these, if these were consultations or meetings that occurred between, say, Conybeare Morrison as council's consultants, council's senior, senior council staff, and these companies, these developers, then, yes, those discussions should have been minuted, or should have been, notes should have been taken of those meetings.

10 THE COMMISSIONER: The second paragraph suggests that a Gateway approval issued on 23 December, it says "Has been modified. A small increase in floor space and significant increase in building heights." How did that come about? So, Gateway approval was given just before Christmas, 23 December, 2013 and it was based on, obviously, what was then available but then later it was changed to a significant increase in building heights. Do you know how that could come about? And that, as I understand it, led to the need then to revise the planning proposal in light of the de facto situation that has arisen, amongst other things, with increasing heights after the Gateway approval. If you can't explain that, just say so.

20 But have you some understanding as to what's this indicating happened? ---No, I'm sorry, I, I don't know that I could explain.

No, okay.---Sorry.

That's all right.

MR LEGGAT: Let me have a go. The Gateway and planning proposal is always subject to the minister's intervention or - - -

30 THE COMMISSIONER: Oh, I see. So Mr Leggat, perhaps if we could – you probably can just directly tell me what your understanding is. So do I infer from what you're about to say that after the Gateway comes in a ministerial direction permits this increase in height?

MR LEGGAT: Exactly right.

THE COMMISSIONER: How does that come about? And I hope there's some minuted notes about that.

40 MR LEGGAT: Yes, yes.

THE COMMISSIONER: Anyway, well, I won't side-track you.

MR LEGGAT: Thank you.

THE COMMISSIONER: It's just one of those interesting things to ponder about how these things can happen.

MR LEGGAT: Indeed. Now, let me - - -

10 THE COMMISSIONER: Now, all right. Mr Leggat, I'm not pressing you but I just wondered whether this is - - -

MR LEGGAT: Commissioner, we're on track. I'm not going to jump - - -

THE COMMISSIONER: No, and how it's going to assist me with the issues I've got to deal with, that's all.

MR LEGGAT: I understand. Thank you. I'm keeping that firmly in mind. If I can jump now forward, please, to page 21 of Exhibit 19. Now, you'll
20 see that paragraph 5.3.1 Building Topologies and Heights, the last sentence in the first paragraph, "Council has agreed that uplifting height in the precinct is appropriate." Now, just focusing on the word "appropriate". Yesterday my note of an answer that you gave was to the effect that you thought it was inappropriate that the councillors, at the meeting of 31 May, 2016 basically overturned the approach that you and your Strategic Planning Department staff had adopted. Have I got that right?---I was referring to the fact that the Strategic Planning staff, of whom I am not the manager by the way, were, had written up a report recommending a refusal of the Billbergia planning proposal.

30

Right.---That report is the one that went up to the meeting on 17 May, 2016.

Right, thank you. And so you saw the majority of councillors voting the way they did on 31 May as, I think I made a note of the quote yesterday correctly, basically overturning the approach of the Strategic Planning Department. Is that what you were trying to convey yesterday?---Yes. I mean, if the council put forward a different motion to the recommendation that was adopted by council on 17 May, then they had changed their position.

40

Right.---Ah hmm.

Yep. And in your view, that change of position was inappropriate, wasn't it?---Well, that change of view, in my opinion, wasn't based on that very detailed report that had been submitted to the 17 May meeting by the Strategic Planning Team, which, which had a lot of detail in it, it was a very well-considered report. I didn't think, in my opinion, it was appropriate for council to change that resolution that they had made on 17 May.

10 Thank you. Your use of "appropriate", so you've just used the word there, you spoke about the action taken by councillors being inappropriate and we see here in the master plan 5.3.1 the uplift in height being appropriate. Planners use "inappropriate" to really mean I disagree or I've got a different opinion. That's what planners mean and that's what you meant yesterday, isn't it, when you were using the word "inappropriate"?---I didn't think that council's resolution was appropriate on 31 May because it didn't appear to me to be based on any, or the, the same level of assessment and review and scrutiny that the Billbergia planning proposal as submitted to council in the report of 17 May had been.

20 All right. Let me move on. The heliostat is referred to expressly in the Rhodes Station Precinct Master Plan and we find that at page 32. If I can take you to page 32, please. Now, you expressed yesterday your view that dealing with overshadowing by the use of a heliostat was inappropriate or very inappropriate. Can you remember expressing that view yesterday? ---Yes.

And what you meant to convey by use of the word "inappropriate or very inappropriate" was that you disagreed with that particular approach. That's what you were - - -?---Yes. Yes.

30 Thank you. Now, we see here in 5.4.1 on page 32 that the author of the Rhodes Station Precinct Master Plan is describing the heliostat as providing, this is line 2, "providing a distinctive crowning feature for the peninsula". So I take it that you think that's overstated, that it's, you described it yesterday as an unfortunate addition, not as a distinctive crowning feature for the peninsula. Have I got that right?---Yes. Correct.

40 So when you're using the words "inappropriate", you're conveying the fact that you have a different view and you would do things differently whilst accepting that reasonable minds may differ. Do you agree with that?---Yes, I would agree with that.

So, similarly, when you expressed the view yesterday that Mr Tsirekas' involvement in amending a motion was very inappropriate, you were conveying the view that you would have done it differently, and like the distinctive crowning feature of the heliostat, you disagreed with the approach that was being taken by Mr Tsirekas. Do you agree with that?
---Are you referring to the email that Mr Furlong sent to Mr Tsirekas with the draft motion attached?

10 Referring to all aspects of Mr Tsirekas' conduct concerning the meeting of 31 May, 2016, but I'm more than happy if you want to focus on any particular conduct but I'm happy to deal with the entirety of his conduct associated with that meeting of 31 May.---Sorry? But I, I'm not quite sure that I did say a great deal about Mr Tsirekas' conduct in relation to that meeting, that council meeting of 31 May.

Right.---I, I was taken to the fact that Mr Furlong sent an email to Mr Tsirekas and I said that was inappropriate, in my opinion, and that I had not seen that happen before, that a planning consultant forwards something to a
20 councillor in that manner.

And by describing it as "inappropriate", you were expressing the view that you disagreed with that approach?---Yes.

THE COMMISSIONER: All right. Now, why did you disagree with the approach?---As I explained yesterday, I did not think that it was correct or appropriate for a private planning consultant, acting on behalf of a property developer, to forward a draft motion to one councillor for their use.

30 Yes, thank you.

MR LEGGAT: As a general proposition you accept, don't you, that councillors are voted into their position often because of the political perspectives that they bring to planning issues and future planning issues?
---I don't know that a lot of councillors or prospective councillors in local government run their election campaigns on their understanding of planning issues that relate to an area very effectively, in my opinion. But I understand that a person running for the office of a councillor on a local
40 council would take on board community perspectives and try to promote their understanding and support for the community as part of their election campaign, if I could put it that way.

Indeed. And the community, of course, includes developers, doesn't it?---It does.

Yeah, so, for example, if a Greens councillor was elected on a promise that there would be only low-rise development in the future, you wouldn't see any problem with the Greens councillor getting assistance from an appropriate Greens town planner to help with putting together a motion to try to keep low-rise buildings in the area at a council meeting? There'd be
10 nothing inappropriate with that, would there?---Sorry, are you referring to someone's election campaign or - - -

No, no, no.--- - - - a person who's been voted on to the council?

The next stage. Yeah, a person who's become a councillor - - -?---So - - -

- - - but on a particular policy, and I've given you the example of Greens.
---Yes, I would. I would have a problem with that because I don't think it's
20 appropriate. What I'm - I'm not talking about the content of that draft motion. I'm talking about the way that it was forwarded to one councillor and one councillor alone from a private planning consultant who was intimately connected to the planning proposal that that motion was referring to.

You see, I want to challenge that.

THE COMMISSIONER: Mr Leggat, you're not suggesting, are you, that dealing with the matter at hand - that is, the email that was sent to Mr Furlong - was in effect carrying out some political promise made during an
30 election period?

MR LEGGAT: No. I'm - - -

THE COMMISSIONER: Well, why are we, why - I just don't - - -

MR LEGGAT: I'm developing a cognate submission, which is that it is part and parcel of everyday life for a councillor to seek input from consultants in an endeavour to influence other councillors and in fact council staff as well, and that there's nothing inappropriate with that.
40

THE COMMISSIONER: Well, there's a right and a wrong way to do that, I think you would agree.

MR LEGGAT: Yes, indeed.

THE COMMISSIONER: There's a, I'd suggest we'd all be in furious agreement - - -

MR LEGGAT: Yes.

10

THE COMMISSIONER: - - - for such matters to be carried out with the requisite transparency and accountability.

MR LEGGAT: Yes.

THE COMMISSIONER: With the rationale, being documented, would be quite appropriate to do what you're suggesting.

MR LEGGAT: Yes.

20

THE COMMISSIONER: But not to do it in that way, to do it in what might be said to be a closed manner, not an open manner, may well carry problems with it. Though politicians they be, councillors are bound by their code of conduct, and integrity trumps convenience - - -

MR LEGGAT: Yes, indeed.

THE COMMISSIONER: - - - I think in summary. So I don't want to spend too much time on this.

30

MR LEGGAT: No, no.

THE COMMISSIONER: If you're not going to be putting, trying to put forward an approach that this is just politics at work.

MR LEGGAT: I am. I am.

THE COMMISSIONER: It can't be just politics at work. Obviously in certain matters but not all. But not all.

40

MR LEGGAT: Yes, yes. We're in furious agreement.

THE COMMISSIONER: There may be a political aspect to decision-making.

MR LEGGAT: Yes. Yes.

THE COMMISSIONER: All right.

MR LEGGAT: The devil will be in the detail, Commissioner, as they say.
10 And ultimately, Chief Commissioner, it will be a matter for you. I was just giving the witness the opportunity to respond to the proposition that you've articulated, and it strikes me that reasonable minds will reasonably differ, and where one draws the line will depend on the nature and the circumstances.

THE COMMISSIONER: But proper process and integrity do not lend themselves to minds that may differ about how they operate in the local government context. True it is, it's based on a democratic system but I do not believe integrity is a matter upon which minds might differ.
20

MR LEGGAT: We're in furious agreement there. But it's a question of where one draws the line in the sand and that would depend on all the circumstances.

THE COMMISSIONER: All right.

MR LEGGAT: Yes. But there's nothing - - -

THE COMMISSIONER: Anyway, if you could try and finish before lunch
30 I would be grateful.

MR LEGGAT: Yes. No, Commissioner, I have concluded. That's all I wish to - - -

THE COMMISSIONER: All right.

MR LEGGAT: Oh, I'm sorry, no, look, there is a further matter which is this. Ms Butler, during the course of your studies in employment with council, have you been introduced to the Myers-Briggs workplace
40 management approaches, has that been part of your council training?---I, I have heard of Myers-Briggs but - - -

Yes.---And I think I've been tested under it once.

I suspect you would have.---But I can't remember when that was, Mr Leggat, sorry.

All right. Let's see if this jogs your memory. Under the Myers-Briggs testing that you think you went through, and which you probably did, you could be classified as having one of 16 workplace leadership styles. Now, I
10 suggest to you that your style is ISTJ. Does that ring a bell for you?---No.

All right.---Sorry.

Another workplace style is that of a manager, which under Myers-Briggs is likely to be ESFP. The characterisation is that some people like working behind closed doors, other people have an open-door policy where they like to talk things out and brainstorm them, and with Myers-Briggs in the local government areas envisage that there is room for differing approaches because of the different gifts that human beings have. Is that consistent with
20 the study that you did in relation to Myers-Briggs, and how it translates in the local government arena?---I didn't do any study of Myers-Briggs that I can recall but I, I may have been tested under it once a, a long time ago,

Right, right.---Ah hmm.

And can I suggest to you that your style of working is one that doesn't comfortably adapt to Mr Tsirekas' open-door, anyone can come in and chat about anything they want at any time, you find that an inappropriate style of working for yourself. Do you agree with that?---I would say that my role in
30 council was significantly different to Councillor Tsirekas' role, and whether or not I had an open-door policy is based on the work that I did with my staff. Certainly in terms of engaging with members of the public as part of my role, I would not say it was an open-door policy. It would be a, a policy of meeting with people when and as required as part of the development assessment process that I managed for and with council in relation to my team members.

You would accept, wouldn't you, that Mr Tsirekas personality and leadership style is foreign to your leadership style?---I don't know what you
40 mean by leadership style for Councillor Tsirekas. He didn't lead, he was not responsible for the day-to-day management and leadership of the staff of

the council. I was responsible for day-to-day leadership and management of the Development Assessment Team and the Statutory Planning Services Team. They're two distinctly different things in my opinion.

Indeed. But you would concede, wouldn't you, that as mayor he had a leadership role in the council?---He has a leadership role in terms of the political life of the council, yes, and, and in terms of serving the community of Canada Bay.

10 Yes. And you would accept, wouldn't you, that the way he led is not the way that you would lead if you were in his position as mayor because you have very different types of personality. Do you agree with that?---Oh, I, I really wouldn't comment on that. I'm, I don't know, Councillor Tsirekas that well to comment on personality types. I don't believe he knows me that well to comment on personality, my personality type either.

Right.---I don't know, I don't see the relevance of that question.

20 Do you bear any grudge to Councillor, Mayor Tsirekas for the failure of yourself to be promoted to a director's role during the course of Mr Tsirekas' involvement with the council?---I never applied for a director's role.

All right. Well, whether or not you applied, do you hold Councillor Tsirekas responsible in any way for you remaining in the roles that you reported to in council?---No.

30 All right. There's no grudge or no ill will?---I, as I said, I never applied to go beyond the position that I held within council. So, no, I wouldn't agree with that statement.

All right. Do you consider that Mr Tsirekas is a person who you dislike?---I do not dislike Mr Tsirekas, no.

Very well. Thank you very much. Thank you, Commissioner.

THE COMMISSIONER: Thank you, Mr Leggat. Mr Darams, anything else?

40 MR DARAMS: No, nothing further for this witness and Ms Butler can be discharged.

THE COMMISSIONER: Very good. Thank you very much for your attendance, Ms Butler.---Thank you, Commissioner.

You are excused.---Thank you.

Thank you.

10 **THE WITNESS EXCUSED**

[12.41pm]

MR DARAMS: Yes, so the next witness is Mr Frank Bruzzano. I call him.

THE COMMISSIONER: Very well. Mr Bruzzano. Mr Bruzzano, just come forward. Mr Bruzzano, do you take an oath or an affirmation to give evidence?

MR BRUZZANO: An oath.

20

THE COMMISSIONER: Thank you. I'll have the associate administer the oath.

THE COMMISSIONER: Just take a seat, Mr Bruzzano. Mr Bruzzano, you come here in answer to a summons you received from the Commission?

---Yes.

You're not legally represented here today?---Yes, I am.

10 Sorry?---Yes, I am.

You are?---Yes.

I'm sorry, I've overlooked that.

MR HALL: Chief Commissioner, if I could just announce my appearance.

THE COMMISSIONER: Yes.

20 MR HALL: It's Hall, H-a-l-l, and I seek authorisation to appear as his legal representative.

THE COMMISSIONER: Yes, I grant leave to you to appear on Mr Bruzzano's behalf.

MR HALL: Thank you, Chief Commissioner.

THE COMMISSIONER: Is there anything else you want to raise?

30 MR HALL: Not at this stage.

THE COMMISSIONER: All right. We'll get the formal details from Mr Bruzzano and then I'll raise with – sorry, there is something?

MR HALL: In relation to the - - -

THE COMMISSIONER: Could you speak into the microphone. Sorry, I just - - -

40 MR HALL: Chief Commissioner, in relation to the direction - - -

THE COMMISSIONER: Sorry, just I draw attention to everyone at the bar table, these microphones need to be drawn towards you if you stand up. Unfortunately it doesn't pick up the volume very well. Now, I'm sorry, would you start again.

MR HALL: Yes, Chief Commissioner, just in relation to the protection, the standard objection.

THE COMMISSIONER: Sorry? I'm sorry, I didn't catch what you said.

10

MR HALL: He wishes to seek the declaration.

THE COMMISSIONER: Yes, I see, very well. Mr Darams, would you just get from the witness formal details first and then I'll deal with the question of the section 38 declaration.

MR DARAMS: I think we need to swear the witness in. Sorry, can you please state your full name.---Frank Bruzzano.

20 Yes. And as Chief Commissioner said, you came here in answer to a summons to give evidence.---Yes.

Yes.

THE COMMISSIONER: Very well. Mr Bruzzano, I understand from what has been said that you desire to give evidence on objection and the reason for that has been explained to you, that the Independent Commission Against Corruption Act permits a witness to make objection and the effect of that is to give some protection in the sense that the evidence you give
30 here can't be used in any other future legal proceedings. You understand?

MR BRUZZANO: Yes.

THE COMMISSIONER: Very well. You, of course, may object to answering questions or to producing any items or documents, but though a declaration, which I'll consider making in a moment, entitles you to object, the effect is that, as I say, the evidence can't be used in future proceedings, such as criminal, disciplinary or civil proceedings, but the exception to that is that if a witness commits an offence under the Independent Commission
40 Against Corruption Act and is prosecuted for such an offence, such as intentionally giving false evidence to the Commission, then the evidence

can be used in such proceedings on prosecution. You understand what I'm saying?---Yes.

The offence of giving false or misleading evidence can be subject to a term of imprisonment of up to five years. The effect of making a declaration is to make it unnecessary for you to object to each question that's put or document you're required to produce. Pursuant to section 38, of the Independent Commission Against Corruption Act, I declare that all answers given by the witness, Mr Bruzzano, and any documents or things that may be produced by him in the course of this public inquiry are to be regarded as having been given on objection or production of documents on objection. There is accordingly no need for the witness, Mr Bruzzano, to make objection in respect of any particular question put to him or requirement to produce any item.

DIRECTION AS TO OBJECTIONS BY WITNESS: PURSUANT TO SECTION 38, OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THE WITNESS, MR BRUZZANO, AND ANY DOCUMENTS OR THINGS THAT MAY BE PRODUCED BY HIM IN THE COURSE OF THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN ON OBJECTION OR PRODUCTION OF DOCUMENTS ON OBJECTION. THERE IS ACCORDINGLY NO NEED FOR THE WITNESS, MR BRUZZANO, TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR QUESTION PUT TO HIM OR REQUIREMENT TO PRODUCE ANY ITEM.

THE COMMISSIONER: Yes. Very well. Mr Darams.

MR DARAMS: Yeah. Mr Bruzzano, what are your professional qualifications?---I'm an accountant.

Do you currently operate or work as an accountant?---Yes.

How long have you done that for?---Approximately 30 years, including as an employee.

Do you currently operate the business by the name of Bruzzano & Associates?---Yes.

That's an accounting business?---Yes.

How long have you operated that business?---12 years approximately.

Do you operate that in partnership?---Yes.

How many other partners do you have?---One other.

10 What's the name of that partner?---Kitty Lo.

Have you operated that Bruzzano & Associates with Ms Lo from its inception?---Yes.

So in terms of operating Bruzzano & Associates for approximately 12 years, that's since about 2010?---Yes.

20 Were you employed as an accountant prior to 2010 or did you operate as a partner in an accounting business?---I was a partner in another accounting firm.

For how long?---Seven years.

Were you an employee before that period?---Yes.

In relation to Bruzzano & Associates, so does Ms Lo work in the business as well?---Yes.

30 Excluding yourself and Ms Lo, how many other persons work in the business?---10.

Of those 10, are they all accountants or work as accountants or are some administrative staff?---Two admin.

So there's eight other accountants and two administrative staff?---Yes.

Now, you know Mr Tsirekas?---Yes.

40 How long have you known Mr Tsirekas?---Approximately, eight years.

Can you recall the circumstances where you were introduced to Mr Tsirekas?---Not, not clearly, no.

THE COMMISSIONER: In what context did you come to meet him?
---Through another client, as a referral.

What, in relation to a business matter?---No, no. On, on, on the street, on the street of Drummoyne.

10 So it's just a casual introduction?---Casual, it was a casual meeting and, yeah.

I just might ask you to keep your voice up - - -?---Yes.

- - - and move a little closer to the microphone.---Yes.

It's not just you. I ask all witnesses to do that, otherwise the voice may not carry to the back of the hearing room.---Yes.

20 Yes.

MR DARAMS: Who was the other client that introduced you?---I believe it was Joseph Jacob.

Mr Jacobs was a client, Mr Jacob was a client of yours at that time?---Yes.

Mr Jacob is a director and owner of Prolet Constructions?---Not a director.

30 An owner of Prolet Constructions?---I'd have to check the record. I can't quite remember.

You know him to be associated with Prolet Constructions?---Yes.

Associated with Prolet Constructions with his brother Pierre Jacob?
---Correct.

In terms of Mr Joseph Jacob, are you or Bruzzano & Associates his personal accountant?---Yes.

40 Are you or Bruzzano & Associates the personal accountant for Mr Pierre Jacob?---Yes.

Any other members of the Jacob family that Bruzzano & Associates are the personal accountants for?---No.

What about companies associated with Mr Joseph and/or Pierre Jacobs, including Prolet Constructions? Are Bruzzano & Associates the accountants for those companies?---Yes.

10 Do you know offhand how many companies associated with Mr Joseph and Pierre Jacob Bruzzano & Associates are accountants for?---There's a number of them. I don't remember offhand.

How long have Bruzzano & Associates been the accountants for Mr Joseph Jacob?---Oh, look, I'd say 15 years.

Is that how you came to know Mr Joseph Jacob, that is through your professional relationship? Or did you have a personal relationship or other relationship with him before that?---No, professional relationship.

20 Did someone in – can you recall whether someone in particular introduced Mr Joseph Jacob to you?---No. No one did.

So just going back to the introduction of Mr Tsirekas by Mr, I think you believe Joseph Jacob.---Yes.

Do you have any belief that it was anyone else other than Mr Joseph Jacob? ---Not that I recall.

30 In terms of the circumstances, do you recall that Mr Joseph Jacob introduced Mr Tsirekas on the basis that Mr Tsirekas was looking for personal accounting services? Or was it more general, "Here's Mr Tsirekas, a friend of mine"?---Oh, it was just very, very general, "This is Mr Angelo Tsirekas."

Right. Did you know who – whether you'd met him or not, did you know who Mr Tsirekas was at that time?---At that particular time, no. But Joseph Jacob explained it to me.

40 Did you not know that he was the Mayor of Canada Bay Council at that time?---At that time, no.

Where does Bruzzano & Associates operate its business from?---Do you want the address?

Yes, please.---109 Victoria Road, Drummoyne.

How long has it operated from that premises?---Since its inception 12 years ago, approximately.

10 Now, is Mr Tsirekas a client of either yourself or Bruzzano & Associates?
---No.

Has he ever been a client of Bruzzano & Associates?---No.

Has Bruzzano & Associates ever provided any accountancy services or other professional services to Mr Tsirekas?---Not tax related that I'm aware of, no.

20 THE COMMISSIONER: What sort of work, if any, have you done for –
your company, your firm, I should say - - -?---Yes - - -

- - - has done for Mr Tsirekas?---Yeah, one of my accountants assisted him with a couple of returns for the Electoral Commission.

You'll have to keep your voice up and move closer to that microphone, as I asked you to. Yes.---Yep. One of my accountants assisted him with some electoral returns.

30 That's the sum total of the work your firm has done for him?---Yes. I have referred a solicitor to him for some personal matters.

Sorry, you've referred a solicitor?---Yes.

To who?---To Angelo.

In what context or for what purpose?---Oh, he needed a family lawyer.

Sorry? I can't hear you.---He needed a family lawyer.

40 I see. All right.

MR DARAMS: Can you recall when you made that or gave that referral?
---I don't recall.

Can you give us an approximate time? For example, did you do it in 2019 or did you do it in 2012 or - - -?---Oh, look, I believe it was, it was before COVID.

So prior to 2019?---Yes.

10 Can you tell us how the, how you came to – did you recommend the services of some solicitor or just gave a name?---I recommended.

Can you recall the circumstances as to how you came to recommend that solicitor now?---Oh, we had a conversation. He said, "I'm going to need to see a solicitor. I, I need to wrap up my family law matters." He said, "Do you know anyone?" I said, "Well, I do."

THE COMMISSIONER: Over time have you developed a friendship with Ms Tsirekas?---Well, we, we became acquaintances, yes.

20

What does that mean in factual terms, what sort of context are you talking about?---Oh, well, I see him on the street, we, I greet him, I've had coffee with him, I've had a drink with him. I'm friendly towards him.

I'm sorry, the last bit?---I'm friendly towards him.

Yeah, okay. It's a friendship of a kind?---Of a kind, a business friendship.

Sorry?---Business, business.

30

You keep dropping your voice.---Oh, a business friendship or an informal friendship, yes.

Yeah, okay.

MR DARAMS: When you say a business friendship, maybe I misunderstood an answer you gave before, but I didn't understand that Mr Tsirekas was a client of Bruzzano & Associates. So - - -? - - -No, he's not.

40 So when you say a business friendship, what business are you talking about?---No, I'm just, it's the best way I can describe it.

So what sort of, just teasing this business friendship out, what sort of – we’ve got the returns. I just want to ask you about that.---Yes.

Can you recall when that occurred? Was it in relation to the federal election or was in relation to a local government election?---Oh, it’s, it’s in relation to his, his election, local government.

Sorry?---Local government, his election.

10

Okay. Can you remember, was it the most recent one or was it the one before that or the one before that?---Oh, I, I don’t recall.

Are you able to assist us with an approximate period of time? So, for example, there was an election last year in December. Was it in relation to that?---I don’t think so.

Okay. So not in relation to that. What about the one before that?---Yes, possibly.

20

So 2017?---Ah hmm, yes.

Are you able to assist us with any further information about what those services were?---Oh, no. I, I didn’t see it. I, I just got one of my accountants to, to do that for him and - - -

But how does that come about? Does Mr Tsirekas ask you to help him out and then you ask Mr Tsirekas, “Well, what do you need” to determine who might be able to do that?---Yes. He asked me if, if we could help him out.

30

Yep. Can you assist us as to what he explained to you or what he asked you to do?---“Could, could you help me out to full these forms?”

So, did he show you the form?---I never saw the forms, no.

Right. How did you make the assessment that – sorry. Who was the employee, it was an employee in your office, was it?---Yes. Sean in my office.

Sean. How did you make the assessment that Sean could fill out these forms?---Well, Sean's an accountant and I didn't, I don't gather these forms are overly difficult, so I believed he could do it.

Did you oversee the work undertaken by Sean or not?---No. No, no. They were fairly simple from what Sean tells me.

Sorry, from?---From what Sean tells me, yeah, it's fairly simple.

10 Yep. Now, just going back to – so we've got this one instance of assistance being provided to Mr Tsirekas but in terms of describing it as a business relationship, why would you, based upon that, describe it as a business relationship?---Because that's what I have generally with most people. It's my best form, a friendship to me is someone that you have affection or esteem, that's a friendship, anything other than that is business or an informal friendship. I don't know how to describe that but I have a clear definition in my mind as to what a friend is.

20 THE COMMISSIONER: All right, Mr Bruzzano, just see if you can help us this way. I think you described your relationship with Mr Tsirekas as a business friendship. Is that right?---I said that, yes.

Okay. I think we can all understand what friendship is. It's a relationship of an informal kind, might be recreation or something of that kind. Business is different. It involves transactions or being involved in some way, to advise people about business matters. So in the context of your description, business friendship, what's the business element in the relationship? And if you direct that by speaking up and giving some specifics as to what you're referring to?---Okay. Well, then, on, on reflection, I should retract that.

30 And it's not business friendship. It's another form of friendship.

Well, what sort is - - -?---Other than a close personal friendship, like I have with my clients.

Okay. So, well - - -?---I don't, I don't know them - - -

- - - with your clients, you have a professional relationship?---A professional relationship.

40 You might have a friendship with some them, I suppose, as well?---Yes, I do, sir.

Well, what's the circumstances of your relationship with Mr Tsirekas? It's a fairly straightforward topic.---Mmm.

Can you just answer it?---Well, I'm finding it difficult to answer that question because - - -

But why?--- - - - he's not a client, so it's not business.

10 He's not a client. All right.---No, he's not a client.

Okay.---It's not business. He's not a personal friend of mine where we share a personal relationship. He's somebody that I know, that I'm friendly with, I generally like. How you describe that, I don't know.

In any event, I think that you're trying to say to me on your oath is you do not have and never have had a business relationship with Mr Tsirekas. Is that correct?---That's correct.

20 Okay. Time? Thank you. We'll take the luncheon adjournment. Mr Bruzzano, if you'd be back here for a 2 o'clock re-start?---Yes.

Thank you. I'll adjourn.

LUNCHEON ADJOURNMENT

[1.01pm]