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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION TOLOSA

Reference: Operation E17/1221

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 16 JUNE, 2022

AT 10.30AM

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

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

THE COMMISSIONER: Yes. Now, Mr Darams.

MR DARAMS: We'll continue, Chief Commissioner, with Mr Tsirekas in a short while but I just want to tender some documents before we continue.

THE COMMISSIONER: Yes.

MR DARAMS: So could I tender volume 8.2, pages 188 through to 294 inclusive - - -

10

THE COMMISSIONER: To 294?

MR DARAMS: Yeah. And volume 8.3. That will become Exhibit 80.

THE COMMISSIONER: What number are we up to?

MR DARAMS: 80.

THE COMMISSIONER: Yes.

20

#EXH-080 – PUBLIC INQUIRY BRIEF VOLUME 8.2 PAGES 188 TO 294 INCLUSIVE AND PUBLIC INQUIRY BRIEF VOLUME 8.3

THE COMMISSIONER: Yes.

MR DARAMS: The next thing I would like to do, Chief Commissioner, is to vacate or discharge the directions made under section 112 of the Act in relation to the compulsory examinations of Mr Tsirekas on 24 March, 2022, and 7 April, 2022. The Commission has at various times revoked the 112 direction in relation to certain pages but I'd like at this stage now to revoke them in their entirety and then I'll tender the - - -

30

THE COMMISSIONER: Yes. Very well. In relation to the transcript of the compulsory examination conducted on 24 March, 2022, and the transcript of the compulsory examination conducted on 7 April, 2022, I consider that it is desirable and necessary in the public interest for the directions made under section 112 of the Independent Commission Against Corruption Act in respect of both of those compulsory examinations to be vacated and I so order.

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**VARIATION OF SUPPRESSION ORDER: IN RELATION TO THE
TRANSCRIPT OF THE COMPULSORY EXAMINATION
CONDUCTED ON 24 MARCH, 2022, AND THE TRANSCRIPT OF
THE COMPULSORY EXAMINATION CONDUCTED ON 7 APRIL,
2022, I CONSIDER THAT IT IS DESIRABLE AND NECESSARY IN
THE PUBLIC INTEREST FOR THE DIRECTIONS MADE UNDER
SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST
10 CORRUPTION ACT IN RESPECT OF BOTH OF THOSE
COMPULSORY EXAMINATIONS TO BE VACATED AND I SO
ORDER.**

THE COMMISSIONER: Accordingly, the transcript of the compulsory examination on 24 March, 2022, is to become Exhibit 81.

**#EXH-081 – COMPULSORY EXAMINATION TRANSCRIPT OF
20 ANGELO TSIREKAS DATED 24 MARCH 2022**

THE COMMISSIONER: Transcript of the compulsory examination conducted on 7 April, 2022, will become Exhibit 82.

**#EXH-082 – COMPULSORY EXAMINATION TRANSCRIPT OF
ANGELO TSIREKAS DATED 7 APRIL 2022**

30

MR DARAMS: May it please, Chief Commissioner. There are the administrative matters that I wish to deal with at the commencement - - -

THE COMMISSIONER: Just in relation to programming, tomorrow morning, I indicate that the recommencement of the hearing will be not before 10.30 tomorrow, not 10 o'clock.

MR DARAMS: May it please, Chief Commissioner.

40 THE COMMISSIONER: Yes.

MR DARAMS: With that, I'll recall Mr Tsirekas.

THE COMMISSIONER: Thank you, Mr Tsirekas. Mr Tsirekas, I'll get you to take the oath again.

MR TSIREKAS: Yes, Commissioner.

THE COMMISSIONER: If you wouldn't mind standing, please. There's a Bible there.

10

THE COMMISSIONER: Yes, thank you. The direction I made under section 38 on the previous occasion will continue to apply to the evidence of Mr Tsirekas today. Yes, Mr Darams.

MR DARAMS: Could I ask that Mr Tsirekas be shown volume 5A.3. Page, start at page 9, please. Mr Tsirekas, I'm showing you the statement
10 from your parents' bank account for the period March 2015 to 17
September, 2015. Do you see that?---2016 or - - -

2015.---'15, yes.

Yeah. This was the period of time in which you said your father was giving you amounts of cash that you were handing to Mr Colacicco to deposit into the Machonic bank account. Do you recall that evidence?---Correct.

Mr Tsirekas, there were a number of transactions in this statement that
20 appear to be made at the Wests Ashfield. Do you see that?---Yes.

I think in answer to some questions some time ago, you indicated that your father liked to catch up with friends at clubs. Do you recall saying something to that effect?---Yes.

Was Wests Ashfield one of those clubs?---Correct.

Did you ever attend the Wests Ashfield with your father?---No.

30 You don't know what your father did at the Wests Ashfield, did you? If you never attended there with him, you don't know what he did other than catch up with his mates?---That's correct. I understood that he enjoyed company with his mates. I think dinner and he'd occasionally gamble.

You don't know the extent to which he was gambling, though, do you?
---Only what he told me but I don't know the extent, no.

40 Because if you didn't attend the Wests Ashfield with him and you're not sitting there or standing there alongside him, you have no idea, really, other than what he may or may not have told you about the extent of his gambling?---Correct.

Could I just ask you be shown the next page. Can I ask you about the entry on 16 April. There's a direct debit for something referred to as "Hollard/Real". Do you have any idea what that might be in relation to?
---No.

Just if you look at this page, Mr Tsirekas, you can – I'll put this proposition to you. It seems that other than some regular, smallish direct debits, it seems that your parents were withdrawing cash out of this bank account.
10 Do you accept that as a proposition?---They were withdrawing, I accept that, yes.

It doesn't, if one looks at this, at least in this statement period in any event, it doesn't look like your parents were, for example, going to somewhere like Woolies or Coles and paying for their groceries with an electronic transaction. Do you see that?---Yes, I can't answer that because I wasn't there at their shopping with them at all.

No. What I want to suggest to you, Mr Tsirekas, to see whether you could
20 comment one way or the other, it looked like what your parents were doing was withdrawing money from this bank account to use for their living expenses. So, for example, their groceries, their utility expenses, their entertainment. Would that accord, that process, or using their cash for that purpose would accord with what you understood they were doing?---Can't answer that, no.

THE COMMISSIONER: There are a number of withdrawals I think there from the CBA ATM at Ashfield, not large amounts, but there seems to be a pattern there. I take it the Ashfield Mall is a shopping centre mall.
30 ---Correct, Commissioner.

MR DARAMS: Is it also the case that you wouldn't have attended with your mother or father at the times that they were withdrawing cash from these teller machines that appear to be located at the Ashfield Mall?---No, I wasn't.

To the best of your recollection?---Best of my recollection, yes.

If I was to suggest to you that the withdrawals of cash from this bank
40 account tend to suggest that your parents were doing a couple of things. One was that they were withdrawing cash to spend on their living expenses.

Would you accept that as a reasonable proposition?---It's a reasonable proposition.

The second proposition that I wanted to put to you is it appears that, particularly while your father was still alive, that there were amounts being withdrawn regularly at Wests Ashfield. Do you accept that?---I accept that.

10 One explanation for that is that your father was using that – sorry, I withdraw that. That the purpose who was withdrawing that cash at the Wests Ashfield was using that or spending that money at the Wests Ashfield. Would you agree with that as a likely proposition?---Could be a proposition, yes. I'd accept that.

Do you know whether your mother attended the Wests Ashfield with your father or was it from your understanding that your father attended by himself?---To the best of my knowledge or understanding was there was a group of friends that attend regularly and sit and have coffee or dinner together.

20 What about your mother, though? That's what I asked. Do you know whether she attended?---Not, not on all occasions but I know that there was a group of friends that would catch up there, dad's friends, and on occasion dinner, coffee and I know he'd spend a bit of time in front of the machines.

Did you ever have a conversation with your father about the amount of time he did spend in front of the machines? When you say machines, you mean the poker machines.---Yeah, yeah.

30 Did you ever have a conversation with your father about how much time he was spending in front of the poker machines?---Yes, I did.

Did you come to understand from what he told you that he might have, in the vernacular, had a problem with the pokies?---Yes. He'd say to me, "Don't get caught up in spending your money on poker machines."

So did you understand from what he said to you to that effect that he had it might be referred to as gambling problem or an addiction to the poker machines?---I wouldn't like to say that about my father.

40 Sorry, you wouldn't?---I wouldn't like to say that about my father but I did understand that he had a habit.

I can take you to the other statements that came into effect after your father passed away.---Sure.

But one can see if we go to those that withdrawals from the Wests Ashfield cease almost entirely. Would that, I suggest that's consistent with the fact that - - -?---Yeah, I don't think my mother attended after dad passed away to Wests Ashfield.

10 THE COMMISSIONER: I don't think anybody is suggesting he was an extravagant gambler, is there?

MR DARAMS: No, no, I didn't - - -

THE COMMISSIONER: No.

MR DARAMS: That proposition is not being put.

THE COMMISSIONER: In other words - - -

20

MR DARAMS: Did you understand, though, from any of these conversations with your father, that he might also have been withdrawing money or drawing down on the reverse mortgage for the purpose of the gambling that he was undertaking? Did you understand that from any discussions you had with him?---No, I didn't understand that he was gambling all that money.

THE COMMISSIONER: Mr Tsirekas - - -?---Sorry, Commissioner.

30 No, that's all right. Did you know that your parents had taken out a reverse mortgage or did you only learn of that more recently?---More recently, Commissioner.

In the course of this inquiry?---After, yes.

MR DARAMS: Just so I'm clear about that, as a consequence of information in this inquiry, you've come to understand that your parents had a reverse mortgage. Is that right?---This inquiry and after, yes.

40 Could I now ask that you been shown Exhibit 69?

THE COMMISSIONER: Sorry? Which one?

MR DARAMS: Exhibit 69. I just want to ask you some questions, Mr Tsirekas, about the first table. If we could just scroll down slightly? Zoom out slightly? Zoom in, zoom out? Mr Tsirekas, the table here shows transfers of money between bank accounts of yours and Mr Colacicco's. If we look at the last entry, which is dated 17 July, 2020, this is an amount transferred from your bank account to Mr Colacicco's bank account. Do you see that?---The, the, yes, I can.

10

The \$21,000?---Yes.

Your evidence is that this was the repayment of the loan that Mr Colacicco gave you which is, that is the loan was constituted by the transfer from Mr Colacicco to you of \$10,000 on 11 January, 2018. That's right?---Yes.

Also constituted by the transfer of the \$5,000 from Mr Colacicco to you on 14 January, 2018. That's right?---No.

20 No. So I think I understood your evidence to be that Mr Colacicco had lent you \$21,000?---Yes, in, not a five, you mentioned a \$5,000 amount.

I'm getting to how you get to \$21,000.---Yeah. It was 15 and there was two lots of three, yeah, which made 21.

Yes. So what I'm suggesting to you is the 15,000 is made up of those two transfers in January 2018, see, 10,000 and 5,000?---Yes, that's 15. Sorry. Yes. Yes.

30 So what I'm suggesting to you is the \$21,000 that you transferred into Mr Colacicco's - - -?---Yes.

- - - bank account in July 2020 - - -?---Yes.

- - - that was, on your evidence, the loan which comprised the \$10,000, the \$5,000 plus the two \$3,000 cash transactions?---Correct.

You accept all of that?---Correct.

40 The entry on 24 August, 2017, was \$5,000 transferred from Mr Colacicco's bank account to your bank account. Can you tell us what that \$5,000 was

for?---No, I can't recall that. I was taken aback when it was showed up here when Mr Colacicco gave evidence. So it looks like I've completely missed that amount.

You don't recall why in August 2017 Mr Colacicco transferred \$5,000 to your bank account?---I really can't, no.

You don't know whether it was a gift from Mr Colacicco to you?---I really can't recall.

10

You don't know whether it was a loan from Mr Colacicco to you?---Again, I, I can't recall why he would have done it. I, I really can't think back to that stage and give an answer.

Is it the case that Mr Colacicco has provided or given money to you on so many occasions, you just don't recall what this occasion is in relation to? ---No, incorrect.

20 Was this a payment Mr Colacicco gave to you or provided to you because you had done some favour or exercised some function in favour of Mr Colacicco or someone on behalf of Mr Colacicco?---Again, I can't recall back to that particular time, and the only reference to it was when Mr Colacicco gave evidence. When it appeared, I've completely missed that.

My question was slightly different, though. The question I asked you was was this some payment being made by Mr Colacicco to you because you did some favour or exercised one of your functions on behalf of, and when I say functions, I mean one of your official functions on behalf of or for the benefit of Mr Colacicco?---No.

30

How do you say that confidently when you don't have any recollection as to what this payment is for?---Well, I can only go back on what I said before, is I, I can't recall but I wouldn't have accepted money like that for a favour or doing something. I think just if I can expand a bit, the description does say a loan, but I can't recall asking for the loan back then. So I've completely missed it.

40 Could the witness be shown volume 6.5, page 222. Mr Tsirekas, these are an extract of text messages between yourself and Mr Colacicco. You understand?---Yes, I can see that.

The blue balloon is the messages from Mr Colacicco to you.---Yes.

Can you please read the first balloon, the blue balloon?---Yes.

In this message on 28 February, 2018, Mr Colacicco asks you a couple of things. Do you see that?---Yes.

10 The second of the things he asks you to do is to organise a meeting for Mr John Bartolotta to meet the new GM and a person referred to as “John Onslow” regarding 231 Victoria Road. Do you see that?---Yes, I can.

Do you understand the reference to “John Onslow” to be John Onslow?
---Yes.

Can you tell us why Mr Colacicco was asking you to arrange this meeting for Mr Bartolotta?---No.

20 Did you have a conversation with Mr Colacicco about who Mr Bartolotta was?---No.

So are you saying that this text message in effect comes, can I say this, out of the blue in relation to organising this meeting for Mr Bartolotta?---No.

Had you had a conversation with Mr Colacicco before this text message on 28 February, 2018, where you discussed Mr Bartolotta and Mr Bartolotta’s involvement, for want of a better description, with 231 Victoria Road?---I may have. I can’t recall all the conversations but there, there may have been a telephone conversation.

30 During one of those conversations did Mr Colacicco tell you about his involvement in the purchase of 231 Victoria Road?---No.

What is set out in this text message, is this another example of Mr Colacicco throughout your friendship with him asking you to do certain things such as organise meetings on behalf of either himself or persons he knows?---Yes.

Was it your standard approach, if Mr Colacicco did ask you to do these things, for you to do what he was asking you to do?---Not all the time.

Would it be fair to say that on the vast majority of times that Mr Colacicco asked you to do something like this that you would do something like that?
---Not all the time, no.

I'm asking, I know you said not all the time, but I'm asking you would it be the vast majority of the times he asked you?---No, no.

How many occasions do you recall not doing or not agreeing to do something that Mr Colacicco asked you?---I, I can't.

10

Can you recall the particular requests now?---No, but if I can give you an example of, if there was a request, I'd on occasion say, "Well, you ring up the general manager. You ring up the director yourself."

Can you remember what that was in relation to, an application or which location?---I can't. I can't. And if I can just explain a bit. This is standard for a mayor to get requests like this, and my standard procedure would be to try to assist where I could and if I could, and not only from Frank Colacicco but from anyone in the community.

20

Could the witness be shown in this volume page 123.

THE COMMISSIONER: What's the volume number?

MR DARAMS: So it's volume 6.5, page 123. Mr Tsirekas, this is an extract from, an extract of messages passing between you and Mr Furlong. Well, the first two that we see. Do you see that?---Yes, I do.

30 These messages are time stamped 15 May, 2018. Do you see that?---Yes, I do.

In the second message Mr Furlong says, "Hi, Ange. Tried to ring and left a message. Would you mind giving me a ring please regarding tonight. Thanks. David F." Do you see that?---Yes, I do.

Do you have any recollection now of what Mr Furlong might have wanted to speak to you about?---No, I can't recall.

40 You respond, "Ring you 30 minutes." Do you see that?---Yes.

Just taking yourself back to this time in May 2018, was it your usual practice that if you had said to someone that I'll ring you in 30 minutes that you would follow through with that?---My practice would be that I'd try to get back to people, yes.

10 So can we assume that if you say to someone, in effect, I can't speak now but I will ring you shortly or in 30 minutes, that you would, in effect, follow through with what you said you would do?---Yeah. Look, depending how busy I was, I, I can't really recall. I'd try to ring back people. I get a lot of requests but, you know, I can't recall this particular one, sorry.

I understand you can't recall that.---Yeah.

I'm just asking you whether or not you as a person, when you say these things, it was generally your style or your approach or your practice to follow through if you said you would ring someone?---Yes, I'd do my best.

20 I take it that you don't have any recollection if you did speak with Mr Furlong about what that conversation was about?---Look, I can't think back. That period of time, a lot was happening. But, no, I can't recollect that particular phone - - -

When you say "a lot was happening" what was happening in this period of time in May 2018?---I think I was still going through my family settlement and I was in a bit of a pickle with certain family issues around that period. But I, I, I would say David was ringing on behalf of, of a client.

30 How many clients, well, what clients did you know David Furlong was acting for at this time?---I, I don't know if it, he had a few clients in the area that he was assisting at that time. But if you want to put it on the table, he may have still been working for I-Prosperity back then.

Well, that's what I wanted to ask you. You knew at this time that he was acting for I-Prosperity?---Look, I can't, I can't tell you if he was still acting for them.

Could the witness be shown volume 1.3, excuse me, page 1? These are the minutes of the council for 15 May, 2018?---Yes.

Again, consistent with the evidence you've given before, it was your experience that if the minutes noted you as being present, then you were present at a meeting. Is that right?---Yes.

If you go to - - -

THE COMMISSIONER: So that first page of the minutes of 15 May, 2018, indicates the meeting commenced at 6.07pm. That's more or less standard time, is it?---Correct, Commissioner. Around 6.00pm, yes.

10

MR DARAMS: If I could ask that the witness be shown volume, sorry, page 2? I just draw your attention to item 2. You see "Station Precinct planning proposal"?---Yes.

Station Precinct planning proposal, the station precinct being that area where I-Prosperity had the land that it was seeking to redevelop. Correct? ---Correct.

20 Could I ask that you be shown page 4? A number of councillors disclosed interests at this meeting but we see that you didn't disclose any or declare any interest. That's right?---Correct.

Can we then go to page 5? See item 2, "Station Precinct planning proposal"?---Yes.

You see under that Mr Furlong is identified as representing Plan Urban Services, address to council? See that?---Yes.

30 Given that it appears Mr Furlong attended this council meeting, it's likely that the conversation that Mr Furlong was seeking to speak to you about earlier in the day was about this meeting, correct?---No.

Well, why do you say that with any degree of confidence, Mr Tsirekas?---I think I, to the answer before, I said I can't recall having a conversation with Mr Furlong regarding this matter.

40 If you had a call with Mr Furlong because you had followed through with your statement that you would ring him in 30 minutes, let's make those assumptions, what I want to suggest to you is that the content of your conversation was going to touch upon or deal with I-Prosperity's planning proposal.---No.

That's a fair assumption to make, isn't it?---No.

Why not?---In regards to any item before council, the, the matter would need to be discussed before council. Proponents/applicants may try to contact mayors or councillors regarding the issue. But I understand that David Furlong at that meeting spoke and, again, I can't recall having a conversation about this item with Mr Furlong.

10 That's not an answer to my question, though, Mr Tsirekas, because if we step back a little bit in relation to the evidence you've given, you accepted that at that period of time, in May 2018, it was your general practice to follow through and ring people back if you said you would ring them. You accept that?---That I'd try to ring them back if I could.

On the assumption that you did ring Mr Furlong back because he had asked to speak to you about "tonight", then it's likely, isn't it, Mr Furlong, sorry, Mr Tsirekas, that the conversation that you had with Mr Furlong was about the planning proposal, which was going to be discussed before council that evening. Isn't that right?---It may have well been, and it may have well been that he was advising me that he was going to turn up to speak, and that's what I would suggest to people. If they are going to represent an appointment, the best way would be to make sure that you're at the council meeting to discuss the matter before council decides on a vote of the matter.

It's clear from – I can show you the next page if you would like. Let's just do that. A number of things are obvious from this, aren't they, Mr Tsirekas? The first is that this resolution dealt specifically with I-Prosperity's planning proposal.---Correct. As part of the master plan, yes.

30 It's also obvious that council had resolved to endorse the planning proposal for Gateway Determination, correct?---Correct. Are these, can I ask, are these the minutes or the report?

These are the minutes, Mr Tsirekas.---Right, okay. Correct.

THE COMMISSIONER: Sorry, just to be clear about it, we're talking about, yes, the foot of the page.---Yes.

40 Yeah.---The minutes, referring to the minutes, thank you, Commissioner.

Yeah, 15 May.

MR DARAMS: So that's the other thing that's obvious about these minutes and the resolutions passed by council that evening, that it directly relates to I-Prosperity's planning proposal.---Correct.

Council endorsing it for referral for Gateway Determination, correct?
---Referral to Gateway, yes, correct.

10 If we go to page 7 one can see that you voted in favour of the resolution on this evening.---Correct.

You accept you made no disclosure of any, disclosure or declaration of any interest arising out of your relationship with I-Prosperity?---I didn't have a relationship with I-Prosperity.

My question was slightly different so could you answer that. You accept you made no disclosure or declaration arising out of your relationship with I-Prosperity at this stage?---No.

20

In circumstances where you had by this time attended Harry Huang's wedding. Correct?---Correct.

You had attended the I-Prosperity Christmas party in December 2016.---I can't recall that.

30

Let's make the assumption that you did attend their Christmas party in December 2016 even though you can't recall it. On that assumption, let's say you did go to it, had that as another circumstance?---I won't accept that assumption. I can't remember.

There are a number of things you can't remember, Mr Tsirekas, and I've shown you documents which suggest to the contrary, but I showed you some photos of you and Mr Chidiac on a harbour cruise with some Asian people in the background. Do you remember that?---I do.

40

So just make the assumption for the purpose of my questions, okay. I'm only asking you to make an assumption. So you've been to Harry Huang's wedding in January 2016.---I was invited to a wedding and I did attend that wedding, yes.

You travelled outside Shanghai on that trip in January 2016 on a trip paid for by I-Prosperity.---No. I thought Joseph Chidiac was paying for everything.

You knew at this stage Mr Chidiac – when I say this stage, in January 2016 – you knew Mr Chidiac had some involvement with I-Prosperity.--- A limited understanding, yes.

10 Make the assumption that you’ve gone to the I-Prosperity Christmas party in December 2016, make that as an assumption.---I don’t want to assume anything because I can’t remember.

I’m asking you to though.---Yes.

You had prepared a written reference for Mr Huang and his family.---That was a draft and it was never sent.

20 You accept that you were involved in that process of preparing the draft and seeking Mr Huang’s approval for that draft.---Yes.

You had met Ms Li in China on a number of trips that you had taken to Shanghai before May 2018.---I wouldn’t say a number. I can’t recall the occasions.

More than once?---More than once.

30 You had also met and been taken out by Mr Chun Zhou on a number of your trips to China by this stage.---No, I don’t think taken out. We, we saw him at locations but not taken out.

He arranged for you to attend places like the Linx nightclub.---Yes.

You saw him at those locations.---On occasion.

Well, you knew all of these things in May 2018 yet you made no disclosure of any interest arising out of your relationship with I-Prosperity.---I didn’t have a relationship with I-Prosperity.

40 That’s the evidence that you now give.---Yes.

That’s right?---Well, I don’t have a relationship with I-Prosperity.

Are you saying to this inquiry that you actively turned your mind in May 2018 to all of those circumstances and weighed them all up and said I don't have anything to declare here. Is that what you're telling this inquiry?

---Yes.

10 So you thought about all of these matters and you deliberately chose not to declare or disclose an interest arising out of your relationship with I-Prosperty. That must follow, wasn't it?---Look, I can't remember what I was thinking in 2018 but I, I took that approach 'cause I thought it was the right approach back then.

What if it was suggested to you, Mr Tsirekas, that it was obvious as at May 2018 that you did have a conflict of interest arising out of your relationship with I-Prosperty that you were required to declare or disclose?---No.

20 What if it was suggested that it was so obvious that you had a conflict of interest at that stage, that you deliberately chose not to disclose or declare it because you understood it meant you would not be able to vote on that resolution or have any involvement in that matter going forward, what would you say to that?---I, I'd disagree.

THE COMMISSIONER: Just to be clear about it, what resolution?

MR DARAMS: The one on 15 May, 2018.

30 THE COMMISSIONER: You understood that, Mr Tsirekas, that that last question was put, that you deliberately decided not to declare an interest because it would mean if you did, you would not be able to vote on the resolution of 15 May, 2018, you replied "No". That's what you understood was being put to you?---I, I do understand.

I just wanted to make sure that you understood.---Yes, Commissioner.

MR DARAMS: Could the witness be played session 09112? This is a call from 18 February, 2019 - - -

THE COMMISSIONER: Sorry? Date again?

MR DARAMS: 18 February, 2019. And the transcript is at volume 7, page 77. Chief Commissioner, we need a short adjournment to deal with a technical issue.

THE COMMISSIONER: Take the morning tea adjournment now. 20 minutes.

MR DARAMS: May it please, Chief Commissioner.

10

SHORT ADJOURNMENT

[11.19am]

THE COMMISSIONER: Yes. Very well.

MR DARAMS: Yes. So could I ask that the witness be played session 09112?

20

AUDIO RECORDING PLAYED

[11.44am]

MR DARAMS: Mr Tsirekas, that's a conversation between yourself and Mr Furlong. You accept that?---Correct.

If I could ask you to be shown page 77 of volume 7? Just a couple of questions about this conversation. You're obviously talking to Mr Furlong about the I-Prosperity planning proposal. That's right?---Yes, I think.

30

When you, in the third from the bottom comment where you say, "Oh, yeah, I know, I know," you refer to Belinda. You're referring to Belinda Li. Correct?---It, it appears to be Belinda Li, yes.

Well, how many - - -?---I, I, I agree with you, yeah.

So you obviously knew Ms Li at this stage, that is 18 February, 2019, was associated with I-Prosperity?---Yes.

40

I just want to suggest to you, Mr – I'll come back to that in a moment. It's clear that Mr Furlong wasn't intending to attend the council meeting. You accept that?---He does say that in, in, in the conversation, yes.

So you, in effect, had to convince or persuade or ask him to attend the meeting and speak about the I-Prosperity planning proposal. Correct?---I, I did say it would be a good idea if he did attend, yes.

Why would you be doing that as the mayor if you should have been totally disinterested, one way or the other, in whether or not Mr Furlong attended the meeting?---You ask why?

10 Yeah.---The, the mayor is the chair of the meeting. The, the mayor needs to know what's on the business paper, who's attending to speak and make sure that people that are directly affected are aware that items before council are being put on the night.

Is another explanation that you were by this stage part of the, if I can say this, I-Prosperity team, ensuring that this planning proposal proceeds smoothly through council?---No.

20 Isn't it the case that because of your relationship with I-Prosperity and those acting on behalf of I-Prosperity at this stage, you were interested in ensuring the planning proposal proceeded through council and back for Gateway Determination?---No.

That's what explains why you were wanting Mr Furlong to attend this council meeting on 18 February. That's right?---No. Again, if I could explain? The mayor, the mayor is the chair of the meeting. He needs to know who will be there to talk on items. The mayor has only one vote. There are eight other councillors there. It needs to be debated and voted on. The mayor does not have the, the majority and we don't caucus on planning
30 matters. It's a free vote. I, I did not have any direct influence on the outcome of, of these matters.

Well, what I want to suggest to you, Mr Tsirekas, is by this stage, you shouldn't have had any involvement at all in this matter. What do you say about that?---No, I disagree.

Because you had the relationship with I-Prosperity and those acting on behalf of I-Prosperity, including Mr Furlong, by this stage, that you should have firstly not - - -?---Yeah.
40

- - - engaged in this conversation with Mr Furlong. Do you agree with that?---No, I disagree.

You also should have declared or disclosed your conflict of interest arising out of your relationship with I-Prosperity and those acting on behalf of I-Prosperity at the meeting. What do you say about that?---No, I, I disagree.

10 See, this, I want to put this to you. This conversation with Mr Furlong does in fact suggest a close relationship between you and I-Prosperity and its planning proposal such that you were wanting to ensure that the planning proposal proceeded out of council and back for Gateway Determination. What do you say about that?---No, I disagree.

THE COMMISSIONER: Just before you go on, just before we leave that transcript. Mr Tsirekas, when matters come before council in formal session, they would usually I imagine involve not just one but a number of current matters. Is that right?---Yes, Commissioner.

20 Some of them would be for issues to be determined by resolution of the council in formal session and an agenda is prepared and the staff of the council prepare a briefing note, I'll call it that, you might call it something else, in relation to the business items for the forthcoming meeting. Is that right?---Yes, Commissioner.

Is that generally the way it goes?---They normally come out on a Friday and they're distributed to all councillors and in effect it didn't really give people who had items on the business paper too much time to realise that they were before council.

30 But do I understand council staff would, well, they would be expected in fact, to notify the interested parties in particular agenda items that their project is going to be dealt with by council?---No, I don't.

That's not a requirement - - -?---No.

- - - that the council notify people who have got business before council that before council deals with it they're told that it will be on the agenda item for a meeting so that they've got notice rather than keeping it all secret in-house?---Not all the time, Commissioner.

40

No, no, I'm not talking about all the time but I'm talking about standard practice, that's all, and I'm not talking about any particular meeting at the moment. I'm just trying to ascertain if my understanding is correct, and that is that when there's a meeting programmed, preparation involves determining what agenda items will go onto the agenda about particular matters that will be current at some level or another. The staff would prepare what I've called a briefing note so that the councillors will have the benefit of having input from council staff about each of the agenda items. I'm right so far?---Yes, Commissioner. Yes.

10

All right. And that if a company, I'll pluck out of the air Billbergia, who has obviously had a lot of business over the years, has a matter that's current before council and it's going to be one of the agenda items, you'd expect if people are doing their job properly that Billbergia in that example would be given notice that their matter was going to be dealt with next week at the council session or something like that. Is that generally the standard practice?---Yeah, yeah. I don't know the protocol. I'm not aware of their, how they would advise, but given that these are big items they would have been involved in sort of understanding when the timing would be of, of applications. Certainly I couldn't tell you, I couldn't tell you, Commissioner, whether they were told on the Friday when the business paper was released or before that.

20

I understand your point but I'm not talking about how the staff communicates or when the staff gives them notice about their matter is going to be on the agenda. I'm not talking about how or when. I'm just simply saying the staff would be expected to at least advise them.---Yes, Commissioner.

30 Right. That's all I'm saying.---Yes, Commissioner.

So that in the example I've used, and it's only a theoretical example. ---Yeah.

Billbergia would have been told, you would expect - - -?---Yes, Commissioner.

40

- - - next Tuesday night, et cetera, your matter concerning whatever is going to be considered by the council in formal session. It'll be item number whatever. That sort of thing?---We would hope so, Commissioner.

That would be expected of them.---Yeah, and again we would hope so, yeah.

I appreciate that things can go wrong in any organisation.---Yeah.

10 And some employees may not be as good as the rest. But leaving human error, human whatever you want to call it, laziness or whatever, I'm talking about what you'd expect the practice to be, and I just wanted to confirm with all your experience that what I'm putting to you about the expected process is along the lines we've been discussing.---Yeah, expectation would be that they would be advised.

Okay. This particular transcript of 18 February, 2019, this phone conversation was initiated by you, it wasn't Mr Furlong ringing?---Yes, Commissioner.

20 And what was it that impelled you to or prompted you to ring him?---To, to the best of my recollection, I think there was some hold-up somewhere. I was very keen to see large projects like this, that gave council great outcomes in regards to community benefits, that we, council officers were working together with, were, were provided. This particular planning proposal was I think offering around \$21 million worth of upgrades to the local community, so it was fairly significant that these sort of items that gave great community benefits were dealt with and debated.

And could I ask you, what was the hold-up?---To the best of my recollection I think there was an issue with the community benefits, the final design. I'm not too sure 'cause I wasn't there at the, at those meetings, and - - -

30 So are you suggesting that you do have a recollection of what the hold-up was or are you surmising it could have been one of these matters just mentioned?---Only, only surmising about one of those issues.

Okay. Well, then, further into the conversation, after Mr Furlong indicated he was sort of committed elsewhere, on the coming night you then said, in effect, that you urged him, for the reasons you've stated, that he, it would be best that he be there, in effect. Is that a fair summation?---Yeah, I, yes, I suggested that he be there, yes.

40 And a bit further on you suggested, when he said he can't be two places at the one time, in effect, you then said, in effect, well, we can, you could offer

to try and work the program so that it would accommodate, could accommodate, in effect, him and Belinda. Is that right?---Well, not Belinda, but, Commissioner, if I can explain. If there, there was an item and someone put their name forward to talk to the item and they knew that they were going to be late, there was an opportunity for that item to wait there till that person who wanted to speak on the item was available.

10 But what you said there is not just simply to Mr Furlong, look, I can work the agenda so that it's sort of held back so that you can be there - - -?---The item, yes.

- - - but you are specifically mentioning that, in effect, you offered to try and make things work time-wise so that he could be there, but you added there that "You know, if you want to tell Belinda, so we can, you know, accordingly allow for that." "That's fine," et cetera. So you had in mind not only his particular convenience but you specifically singled out Belinda to be told about a possible programming which would work. Why, in this particular case, did you single out her in particular and that you suggested he might want to communicate with her? Why in this particular case would
20 you single out one particular person such as Belinda?---Commissioner, I think I said it before, at that stage I knew there was issues with the application. I knew that Belinda was going to meetings. David Furlong was their representative, and that he should talk to Belinda about it. I mean, I didn't, I didn't control David Furlong. He needed to speak to Belinda about it.

What it might be suggested, I'll just put this to you for your comment, is that we understand the mayor's got a responsibility, important position and lots of things to do and so on, but a mayor is not expected to be, as it were,
30 gatekeeper for a developer, that is to make sure that other than their being properly notified in accordance with the standard reference we referred to, that there's no warrant for you as mayor to be, as it were, trying to be the, if you like, the guardian or the custodian to ensure that their representative, in this case, Belinda, can be coordinated to be there, that he try and get there. That's really their responsibility. Once they've been notified, whether they come, whether they attend, whether they bring somebody with them, that's all in their basket, not yours, is what I'm putting. So why would you be assuming the responsibility of even trying to coordinate things, suggesting he speak to Belinda when they're big boys, they can look after themselves?--
40 --If I can explain, Commissioner? This is

- - -

No, I just want you to respond to that.---I, I - - -

Why in this case were you adopting this role of being, as it were, shepherding them to try and make sure that everything would work for them and, you know, when, as I say, they're mature enough, big enough to be able to work it out themselves? You don't have to worry about that. That's not your role.---This is not uncommon practice for the mayor who's chairing a meeting, who wants to get the transactions of the business paper dealt with and in compliance with the rules and regulations, to try to accommodate applicants, whoever they are, whether you say they're developers or mums and dads or other, other residents who have got items before the business paper, that may not be able to attend at a particular time, to address that matter as best as the mayor could.

And just when you refer to the rules and regulations, what rules and regulations?---That we can defer an item on the business paper to a later time and put it to council for a vote.

20 You'd have to have a safety valve like that, wouldn't you?---You'd have to defer the item, yes.

But that's not dealing with this situation where it might be said, and I'm just putting this to you for your response, this is a gratuitous helping of a developer when a mayor doesn't have to go that far, in fact, it might be put should not go that far. How would you respond if that was being put? ---Well, I disagree, Commissioner, with those comments. I would suggest to you that the mayor, dealing with items on the business paper, transacting the items of the business paper, to make sure that the business is dealt with but in accordance with the rules, if there was a person who had an item on the business paper was going to come along but couldn't attend at a particular time, that the item could be deferred to a later stage to allow that person to, to speak to the item.

Right. Thank you.

MR DARAMS: I take it from your answers to my questions, but also the answers to the Chief Commissioner's questions, that you've read the agenda or what do you call it, the business report?---The agenda and the business paper.

I also take it you would have read that business paper for the meeting on 19 February, 2019, before you called Mr Furlong?---More than likely, yes. Yes.

Well, that's what I understood caused you to call Mr Furlong?---Yes. Yes.

10 Could I ask that the witness be shown volume 1.3, page 38? Mr Tsirekas, just note a few things from this page. Do I take it this is, been described in other ways, but here it says it's a council meeting agenda but you call this the business report or council report?---Yes.

Yeah. So this is for 19 February, 2019. Could I ask that you then be shown page 55? Presumably, Mr Tsirekas, you read this document before you called Mr Furlong?---I, I would have known that the item was before - - -

THE COMMISSIONER: No, that's not - - -?---But I can't recall reading. I would have read the executive summary.

20 MR DARAMS: Presumably you would have read this before you called Mr Furlong?---Yes. Yes.

Because it will give you some context as to why you're calling Mr Furlong, wouldn't it?---I would have read the report.

When you say you would have read the report, you're referring to this document here, correct?---Correct.

Just want to ask you, can I show you the next page now.---Yes.

30 Just draw your attention to that paragraph above the bold in the middle of the page, Strategic Connection.---Yes.

Then if I could just show you the next page. In effect what's being set out here were the resolutions that I took you to earlier this morning, correct? ---Correct.

40 Being the resolution of council on 15 May, 2018. Go to the next page. Again, this is just a continuation of the resolution, so if we go to the next page. Just draw your attention to the conclusion.---Yes.

Then if we go to the last page.---Yes.

What I wanted to suggest to you is that the council officer who prepared the report, what they were recommending was that council itself consider the matter in light of issues raised by the Local Planning Panel. That's one aspect of it, correct?---Correct.

The issues that the Local Planning Panel had raised about the planning proposal?---Correct.

- 10 Because concerns had been raised with council, had they not, by the Local Planning Panel?---That's how it reads, yes.

There's nothing to suggest that this report is not accurate, though, is it?
---No.

No. The recommendation being, as we see on this page, just in effect putting to council for it to consider how it wished to proceed in light of these matters, that's right?---Correct.

- 20 Why then did you call Mr Furlong when, in effect, what council staff were asking or recommending – so I should say recommending – was just that the council itself consider this issue?---The only reason I can give you of calling or, or discussing the item with Mr Furlong is that I know he had a lot to do with in preceding months to get to this stage, and that if he would like to have the opportunity to talk to it at the council meeting.

- Isn't it the case that, as I suggested to you before, that you were keen or interested, because of the relationship you had with I-Prosperty, to ensure that the planning proposal proceed back to Gateway Determination, and
30 what you thought would be beneficial to that process was to have Mr Furlong attend to persuade the other councillors for this to happen?---No, disagree.

- Why couldn't then you and your other councillors have just discussed this matter that evening without having to involve Mr Furlong or anyone else?
---Well, again it was left to Mr Furlong to attend the meeting if he could or could not. The opportunity for him to explain and give a bit of background to people that are sitting around a table that don't have too much planning knowledge to understand a bit more about it or have an opportunity to ask
40 questions, which they would have, of Mr Furlong on his application so things could become clearer. This was a fairly significant planning

proposal. It was part of the Station Precinct which provided great outcomes for the community on a VPA level and it was a very important part of the Station Precinct.

THE COMMISSIONER: But on an issue like that as to whether it goes to Gateway or not and whether the council should proceed with it, the councillors would need to have, would they not, input from, in a big project like this, independent consultants, which council did from time to time engage in other matters so that - - -?---Yes, Commissioner.

10

- - - the councillors have got firstly an objective and secondly an independent assessment of the critical issues so the councillors can be informed about those issues and have the benefit of independent experts' input. Is that right?---Yes, Commissioner.

So Mr Furlong of course was, he was in the service of the proponent I-Prosperity.---Yes, Commissioner.

20 I'm not suggesting that what he might have to say would not be relevant, but on an issue such as was before council the most important thing is to ensure, was it not, that the councillors would have the benefit of independent objective expert opinion to help make their independent, their own independent assessment in the community interest?---Yes, Commissioner.

30 Did that occur? Had the council already engaged their independent consultants on this issue that was before council on 19 February, 2019?---I can't explain for the whole period because I wasn't on council all that time when the proposals were being put up and different iterations were being put up. And again if it was, it had to comply with the master plan or the EPA guidelines in regard to, you know, certain areas of planning and also if there was a proposal for a VPA that there would need to be an independent assessment on the application and councillors would have the opportunity to have information from not only an independent source, councillor and also the applicant as well. So to balance everything off everybody would be given the same opportunity to give a background to their, the submission.

40 But if the item on the agenda on 19 February, 2019 was, as you say, an important decision in a major proposal/project, those whose opinion you would, really, you must have available for the councillors to perform their democratic process in an independent fashion with a proper basis, the persons or their reports that would need to be before the councillors would

be from the independent consultants as an essential basis for them to do their work as councillors. Is that right?---No. No.

No.---Unless there was a VPA attached to it. If it was a plan that was, was fairly close to compliant to the master plan and its strategic outcomes, the officers would be providing that with backup of certain specialists in, you know, traffic or overshadowing or amenity, which would be part of the officer's report.

10 Yeah, I understand that. The VPA is but one of many issues in a proposal of this magnitude and that's why you need to have specialist consultants in different fields to be able to review the proposal, assess it, provide reports - - -?---Yeah.

- - - which ultimately will their way to the councillors?---Yes, Commissioner.

Is that right?---Yes, Commissioner.

20 So on 19 February, that was the position, was it not?---Look, I can't recall that particular report. If it was done by an independent assessment, I can't recall, Commissioner.

Okay.

MR DARAMS: Just if we go back to page 59 of volume 1.3, I just draw your attention to the last paragraph. Just following on from some of the Chief Commissioner's questions to you then, couldn't or wouldn't one of the options open, Mr Tsirekas, in relation to this issue here involve the
30 engagement of these independent experts to assist council on that position? Would you agree with that proposition?---Sorry? Put that again. If the? Sorry.

So the Chief Commissioner asked you about involving or potentially involving independent experts to assist council. That's right?---Yes.

This might have been one of those issues for which the independents could have been engaged or council could have resolved to engage those persons to assist council on this question here, that is, should it be endorsed for
40 progression?---No, I can't really answer that. I think that the conclusion

was that the Local Planning Panel had issues, and that was an independent body, regarding those particular items.

So what it says here, “It’s recommended that council consider the advice and recommendation of the Planning Panel.” See that?---Yes.

Then it says, “Resolve whether the planning proposal should be endorsed for progression to the department.”---Yes.

10 What I want to suggest to you is the question’s being asked in light of the issues being raised by the Local Planning Panel. Correct?---Correct.

That’s what that’s speaking about. And what I’m suggesting to you is - - -? ---Sure.

- - - that one of the things that you could have resolved to do or council could have resolved to do was engage the independent experts to assist in - - -?---Yeah.

20 - - - assist council in that resolution, i.e. whether the planning proposal should be endorsed?---Yeah, look, I can’t really answer that. Can I have a look at the minutes to see what was actually resolved?

Well, we’ll come to that in a moment.---Yeah.

But do you accept, in light of the questions that the Chief Commissioner was asking you, that one of the options to assist council would have been the engagement of independent experts to assist it on this proposition? ---Again, we’re, we’re being directed by officer’s report.

30

The recommendation being of the officer was that council consider how it wished to proceed in light of issues that had been raised by the Local Planning Panel. That’s what this is all about. Correct?---I, I, I think, I think that’s what it says in the conclusion, the, the recommendation, sorry.

Correct. So issues have been raised by the Local Planning Panel and some of the issues are set out there in the conclusion. You accept that?---Yes. Yes.

40 Overshadowing, the use of the heliostat, building height, all of those matters. Correct?---Yes.

So they'd gone to the Local Planning Panel, issues been raised with respect to those matters, council officer is saying the advice is to consider those matters that have been raised by the Local Planning Panel and then resolve whether it should be endorsed, that is the planning proposal. That's effectively what that conclusion's about, Mr Tsirekas?---Yes, I can see that.

10 All I'm asking you is further to the Chief Commissioner's questions that one of the ways that the council could have done that would be to engage or council could have recommended or endorsed or resolved to engage independent experts to assist them on this issue. Correct?---Yeah, I, I'm not the council. I'm one of nine. And it was left to the determination on a vote of which direction it was going. I can't even recall what direction it went.

20 What I want to suggest you did, though, was you got on the phone to Mr Furlong, reading this report, noting this issue and urged him, that is Mr Furlong, to attend the council meeting to, in effect explain the process so that the planning proposal could proceed. That's what you did.---No, incorrect, incorrect. An opportunity for Mr Furlong to be there as the applicant's representative to provide backgrounding from the applicant's side and also to be there for questions regarding the submission. 'Cause it'd be very important for councillors to understand the whole process and to have a representative there to answer questions.

Could we play session 9226, which is at volume 7, page 79.

AUDIO RECORDING PLAYED **[12.20pm]**

30

THE COMMISSIONER: Just restart it there if you would.

MR DARAMS: Page 1 of the transcript, please.

AUDIO RECORDING PLAYED **[12.21pm]**

40 MR DARAMS: So this is obviously a conversation you had with Mr Furlong later that afternoon on the 19th, or later that day on 19 February?
---Yes.

Could I ask that you be shown page 4 of the transcript of that call. Just picking it up about midway down the page, where Mr Furlong says, “The thing, the thing you’ve got to do and the resolution,” do you see that?---Yes.

He says, “You have to say something like council having reviewed the minutes of the Local Planning Panel.” See all that?---Review the minutes, yes.

10 “Of the Local Planning Panel”.---Oh, “Of the Local Planning” – yes.

If we go over the page. “Resolve to proceed to Gateway.”---Yes.

That what Mr Furlong is suggesting to you, is he not, is the form of resolution council should pass or adopt to, in effect, refer the planning proposal back to the department, is that right?---I think he was giving his interpretation of the way to, to do it. And I think I responded and said that Scott, who was the Director of Planning, is already dealing with that.

20 THE COMMISSIONER: That was Scott – what’s his surname?---Scott Pedder, the Director of Planning.

Scott?---Scott Pedder.

Pedder. How do you spell that?---P-e-d-d-a-r [sic].

And he was what? The - - -?---Director of Planning.

30 Director of Planning. Just where you say there, second item, “Yeah, I think Scott’s already, um, ah, um, drafted something, ‘cause he,” and then it goes on, “he’s not, yes,” sorry, “yeah, he’s not,” something, “the same as you.” ---Mmm.

What had Scott drafted as at that time that you were referring to?
---Commissioner, I think he was drafting a, a resolution to be put to the meeting.

I gathered that, yeah.---As far as I can recall.

40 What was the effect of the resolution as he drafted it?---Oh, I can’t, can’t recall. I know that - - -

Well, you didn't seem to think what he had been drafting was perhaps the right way to go. I may be reading too much into it, but what was your position about what he had drafted? What, even though we don't know precisely what he had drafted - - -?---Yeah.

- - - what was your reaction to what he had drafted?---I don't know what my reaction was, Commissioner.

10 You don't remember?---No.

Okay. Did you have some disagreement with the way he was going with his draft resolution?---Commissioner, and I think I've referred to it before, there was issues with the planning proposal and the department as well, and there was a hold-up and - - -

Just pause there, please.---Yeah.

20 I just want to, I don't want to – all I wanted you to address is do you recall whether you were in full agreement with what Scott had drafted by way of a draft resolution? Or were you questioning it for whatever reason?---Yeah. Oh, I know that he was drafting a resolution, but I can't recall the specifics of that resolution.

No, no, I didn't ask you that.---No, yeah.

I'm saying whether you were on the same page as him.---Oh.

30 Or whether you had issues which you thought you weren't in full agreement with it?---No, I would have been getting directions from him as I asked him to - - -

No, no, no, but can you answer my question or not?---Yeah, I can't answer that question, Commissioner.

40 MR DARAMS: I want to suggest to you that what Mr Pedder had drafted wasn't consistent with what Mr Furlong had told you should happen to the resolution. What do you say about that?---I can't recall what the two differences were with the, if you're referring to any changes to the recommendation from council.

What I'm suggesting is that this draft that Mr Pedder had shown you at the time you had had this conversation with Mr Furlong wasn't consistent with or in the terms that Mr Furlong was suggesting the resolution had to be. ---Look, I, I can't remember.

Could the witness be played session 09305, volume 7, page 87.

AUDIO RECORDING PLAYED

[12.29pm]

10

MR DARAMS: Now, do you recall this conversation between you and Mr Pedder?---No, I can't.

You're obviously talking about the draft resolution. That's right?---Well, I can't remember the conversation.

But it's apparent from this, the text of this or transcript of this conversation that's what you're talking about.

20

THE COMMISSIONER: Is that right?---It appears to be. I mention Gateway Determination so - - -

MR DARAMS: Well, you also refer to 15 May. Do you see that? See that in the fourth - - -?---Yes.

So it's obvious, isn't it, Mr Tsirekas, that you're referring to the drafts that have been prepared by Mr Pedder. Correct?---More than likely. I, you know - - -

30

It's also the case that they are the drafts that you say you spoke to Mr, or referred to in that call with Mr Furlong. That's right?---I don't remember but it appears to be linked, yes.

It's also obvious from this call that you then ask Mr Pedder to come to your office so that you can, so you and he obviously can have some conversation about this draft resolution. Is that right?---It might be that or other items that were on the business paper or may have someone, had in the room for him to come up. I'm not too sure.

40

Well, let's go to page 2 of the transcript. This is what you're saying, "No, okay, do you want to come up? Look, if you've got the two." Mr Pedder says, "No, I'll come, come up with the two, I've, what I've got, these ones here anyway, but, 'cause that's what they've got on screen so I thought," then you say, "Yeah, yeah. So some, rings up anyway, up with the two and we'll, all right, I'll see you later, mate."

THE COMMISSIONER: When you said, "I've got these ones," what were you referring to?---I'm not too sure, Commissioner.

10

MR DARAMS: I want to suggest to you that it's clear you're referring to the two draft resolutions that had been provided to you by Mr Pedder. That's right?---I'm not 100 per cent sure. It appears - - -

It's obvious from the transcript though.--- - - - to be that there's a resolution that we're discussing about there were, that was a council meeting. I'm not too sure what I called him up to the, to the mayor's room for.

Well, what I want to suggest to you, Mr Tsirekas, is that you're calling him up to discuss the resolution to deal with the I-Prosperity planning proposal item that we've been tracking through.---It could well have been. I cannot remember.

20

Could I ask - - -

THE COMMISSIONER: Why would you be concerned to be discussing this matter with Mr Pedder?---To get some direction, Commissioner.

But I mean - - -?---Directors of Planning would on certain occasions give advice on particular items whether it be from a councillor or a mayor.

30

But Mr Pedder is the Director of Planning. He's no doubt, he was at that time expert in his field. Do you agree?---No, Commissioner, not - - -

Well, how did he - - -?---He is the Director of Planning but - - -

How did he get to become Director of Planning if he didn't have full qualifications and experience for the job? Are you suggesting he might not have had the qualifications or experience?---I'm not suggesting that.

40

Okay. He was, would you accept, a well-qualified, competent Director of Planning?---Competent planner, yes.

Just go back and see if you agree with this. Do you accept that he was a well-qualified, competent town planner?---Yes.

And his qualifications and experience befitted him to hold the position with council as Director of Planning?---Yes.

10 And he had underneath him reports who would be involved in planning issues that fell within the council jurisdiction?---No, Commissioner. If I can explain?

Just a moment. There was a Department of Planning, was there, at this time, in the council?---Yes, Commissioner.

And he was the director of that department?---I, I don't know. Of, of our council? Yes, yes.

20 Yeah, your council.---Sorry. I thought you said Department of Planning.

And he had under him - - -?---Yes.

- - - planners and staff to report to him?---Yes. Yes, Commissioner.

Right. I'm just trying to understand why was it that you were wanting to speak to him about this matter as per the telephone conversation on 19 February, 2019, given that if anyone had the competence and expertise on that matter, it was him. Why were you yourself concerned with the matter?

30 ---Can I explain, Commissioner?

Yeah, I'm asking you to.---Yeah.

Why were you - - -?---You, you, you've, yes.

- - - speaking to Mr Pedder, wanting to talk to him about this matter knowing that you could rely on him as Director of Planning?---Well, you've asked a few questions there. I'd like, like to answer - - -

40 No, I haven't. I've asked you, I'll put it again. Why were you, given Mr Pedder's position at council, taking this issue up with him as per the

conversation that's on the screen, 18 February, 2019?---Commissioner, may, may have been many reasons. Again, I did answer, well, I'm trying to explain.

No, please. I don't want maybes, I want your recollection. Why were you involving yourself in the question of the resolutions that he had drafted?
---'Cause I'd like to, to have an explanation so I could also understand the two resolutions. Mr Pedder is a competent planner but he's not an expert of everything. These applications deal with a lot of matters outside planning and that's - - -

I'm just going to stop you there.---So I'm trying to get an idea from Mr Pedder about what the particular resolutions are about or the draft resolutions are about.

Why did you want to get an idea as to the resolutions he was drafting?
---'Cause as the chair, I need to understand anything that's being put before the council, so if I get asked a question, I could answer that question as best I could. We've got to be prepared before council to be able to deal with items and deal with questions that may come up. It wasn't, this wasn't something that, you know, was out of the blocks. I'd always discussed things with the directors before council, so I understood.

I understand what you're saying but why would you at this draft stage, it was only at a draft stage, be intervening to question him? Why not wait, let him do his work and then when he's finished and handed them over to you, you can then bone up on it so that you can answer questions?---The, the mayor is the chair of the meeting and I'd, and I'd like to understand.

No, please. I think I understand that.---Yes.

But I'm directing your mind now to a specific matter.---Yeah.

Would you please listen. The question is directed to the timing and staging of events. The relevant time is the time when you're having this conversation which you see on the screen. At that time, Mr Pedder had draft resolutions, not final. Why were you at that stage intervening to speak to him about them? Why not wait until the Director of Planning is finished his exercise and says, "These are my recommendations. These are the resolutions I think are appropriate"? Why not let him go and finish his job? Why did you intervene at this point in time?---I don't think I intervened for

no other reason but to get a better understanding what was being proposed, so I could have, you know, a, a, a thorough understanding of what was being prepared. There was no other reason.

But, Mr Tsirekas, you can really understand, at the time you rang him and were speaking to him about it, there were no resolutions.---Okay.

No, just wait a minute. All he had reached the stage is he had produced draft resolutions.---That's right.

10

Why would you not wait, let him finish his work, so when you see the final resolutions you'd say, "Now please explain it so that if a question arises I now can deal with it in formal session"? Can you explain it?---Because, Commissioner, anything that was put outside the business paper was considered a draft. It wasn't a recommendation that was on the paper. So anything that was being put on the night of the council meetings were always called drafts.

20 I'm not talking about "anything". I'm talking about a specific document, sir.---Yes, Commissioner.

I'm talking about a draft resolution that your Director of Planning, the council's Director of Planning, was working on. Why were you intervening at that stage rather than wait, let him, let's see the final resolutions proposed, so that then you could answer the questions because it will all be ready to go, you'll be able to see, yes, that's the resolution, I want to understand why and a bit more about it so that if a question's raised I'll be able to deal with it on the spot? Why intervene before he got to the stage of getting the final resolutions out?---No reason, Commissioner, except - - -

30

No reason? Seriously? No reason whatsoever?---No, except for the fact - - -

Oh, there is a reason, is there?---No, that I would like to understand what was being proposed.

But nothing had been proposed. It was in draft.---Well, that, well, a draft would have been written down, Commissioner.

Why did you want to know before the draft what was being drafted?---I can't recall, Commissioner. This is not uncommon practice for the mayor to understand what was being proposed to be put at the meeting.

MR DARAMS: Mr Tsirekas, is the answer to the Chief Commissioner's questions that you wanted to ensure that the resolution or the draft that was put before council was consistent with what Mr Furlong said the resolution should be?---No.

10 Could the witness be shown volume 8.13, page 124.

THE COMMISSIONER: It's page?

MR DARAMS: 124. Mr Tsirekas, these are, I want to suggest to you, we'll come to it in a moment but they appear to be the draft of the minutes of the meeting on 19 February, 2019. Do you see that?---If they're minutes, they're adopted resolutions.

Just here, the minutes of the council meeting?---Yes.

20

Could I then note that you're present on that evening.---Yes.

If the witness could be shown the next page. Just draw your attention to item 2. This is obviously the I-Prosperity planning proposal.---Yes.

Just want to suggest to you, if you could read the first resolution there. ---Yes.

30 I want to suggest to you that that resolution is substantially similar to the words that Mr Furlong suggested to you the resolution had to take in that call that we played earlier. Would you agree with that?---Look, I can't remember.

So just focus on that. So it says here that "Council having considered the advice of the Local Planning Panel, 23 August, confirm it's" - - -?---Yes.

- - - "a resolution of 15 May in relation to the I-Prosperity planning proposal."---Yes.

40 Then if we just go to the next page. The council forward the planning proposal to the minister for Gateway Determination.---Yes.

So just if we go back to the previous page. If I could again just look at page, that resolution there. If I could ask that the witness be shown the transcript for session 9226. Page 4, so if we go to page 4. Pick it up about halfway down the page.---Yes.

10 What Mr Furlong suggested was something along these lines, “Council having reviewed the minutes of the Local Planning Panel,” go over the next page, “resolved to proceed to Gateway.” Now, what I was suggesting to you, if we now go back to volume 8.13, page 125, in substance that’s what these resolutions 1 and 2 say. Do you agree with that?---(NO AUDIBLE REPLY)

The resolutions are finessed a little bit in terms of dates and that, but in substance, resolutions 1 and 2. If you need me to show you resolution 2, then I will. But in substance that’s what Mr Furlong suggested council had to do. Would you agree with that proposition?---No, I don’t.

20 Why don’t you agree with it?---’Cause I, I can’t, you know, the, the timing of those conversations with David Furlong and Scott Pedder and the reference to this resolution, there’s a lot of commonality in council making the call. I can’t remember the specifics of those conversations - - -

Just what I want to - - -?--- - - - outside the comments that have been made here.

Just based on those comments there, the chronology is you ring Mr Furlong in the morning of 19 February, correct?---Correct.

30 You have a short conversation with him?---Correct.

Encourage him to attend that evening, that’s right?---Attend, yeah, I’ve encouraged him, yes.

You have another conversation with him later that morning, 19 February. ---Yes. Yes.

40 In that conversation he tells you what I’m suggesting to you in substance is the resolutions that were ultimately adopted? You agree that’s what the transcript shows?---No, I don’t. I - - -

Then there's a call or a conversation between you and Mr Pedder later in the afternoon.---Correct.

It's obvious that you and Mr Pedder are talking about draft resolutions, correct?---Correct.

That you had been provided.---Not that I've been provided, no.

10 Provided to you by Mr Pedder.---Oh, sorry, he was drafting some motions up, yes.

You had a conversation about that with Mr Pedder, correct?---Yes.

You then asked him to come up to your office.---Yes, I do.

20 I want to suggest to you that the transcript of the conversation between you and Mr Pedder suggested that there was some issue that you had with the resolutions that were drafted by Mr Pedder that you wanted to discuss with him.---I can't recall those conversations, no.

Well, the text of the conversations have - - -?---Yep.

- - - been shown in the transcript, and that's what I'm suggesting from that. Would you agree with that?---It may well have been.

30 And then the next thing we see is that the resolutions, substantially consistent with what Mr Furlong said or suggested council had to resolve, appear in the minutes of the meeting that evening. Do you agree that that's a relatively accurate description of the chronology of the circumstances we've taken you through?---Chronology, yeah, the, is accurate, but the information that we finally resolved to agree on as a council, you know, I was taking the advice from the Director of Planning to make sure that what was put was correct.

40 Why didn't you just leave it to the Director of Planning? You seem to have intervened based upon those calls, and the chronology of the events that I've just outlined that are disclosed in these calls on 19 February. You've intervened. And what I want to suggest to you is you've intervened to ensure that the resolution that was put up before council made it clear that the planning proposal of I-Prosperty should proceed out of council and back to Gateway Determination. That's correct, isn't it?---No.

You did that for reasons including that you had this relationship with I-Prosperity and you were keen to see their planning proposal proceed out of council and off to the department for Gateway Determination.---No.

You were doing all of that, Mr Tsirekas, I want to suggest to you, because the relationship you had with I-Prosperity and those associated with it was because you were being provided with benefits such as travel benefits to exercise your functions in their favour in relation to that planning proposal.
10 That's right, isn't it?---No.

That's why I want to suggest to you, Mr Tsirekas, you intervened as you did on this occasion on 19 February, 2019.---No, incorrect.

You accept you didn't make any declaration of or disclosure of any interest arising out of your relationships with I-Prosperity - - -?---Yes.

- - - or any of those persons associated with I-Prosperity?---Well, if you're referring to Mr Furlong - - -
20

Mr Chidiac, Ms Li, Mr Huang, any of those associated with I-Prosperity is who I'm referring to.---Correct.

Again I want to suggest to you that the reason you didn't disclose or declare that conflict of interest was because you understood and realised that you would not then be permitted to vote on or participate in this resolution or discussion on this evening. Is that right?---No.

You made a deliberate decision not to disclose or declare your relationship and the conflicts arising out of those relationships for that reason.---Pardon?
30 You're saying I deliberately - - -

You made a deliberate decision not to declare or disclose your relationships with I-Prosperity or any of those associated with I-Prosperity because you knew if you did you wouldn't be permitted to have any involvement in that matter.---Incorrect.

That's the reason why you deliberately didn't disclose those relationships. ---No, incorrect.
40

THE COMMISSIONER: Can we just go to page 126 of the – yes, thank you.

MR DARAMS: Mr Tsirekas, I want to move to something slightly different. I want to ask that you be shown volume 10.1, page 174. These are the minutes of the council meeting on 24 May, 2016. Do you see that?
---Yes.

They record you as being present on that evening.---Yes.

10

Go to page 175. Do you see the item 1, [REDACTED]?---Yes.

You understand that was the development of Mr Bruzzano.---Yes.

You knew that as at 24 May, 2016.---Yes.

Could I ask that you be shown page 177. Note you didn't declare or disclose any interest at this meeting in relation to that item. That's right?
---Correct.

20

If I could just ask that you be shown page 178. This is the item there. You can see that.---Correct.

Then if we go to page 221. We note down the bottom of the page that you voted for or in favour of this resolution. That's right?---Correct.

In effect approving Mr Bruzzano's development application.---No. It was already approved.

30

And what was the effect of this resolution, Mr Tsirekas?---In regard to it coming back to council because it had more than five complaints come in but in effect it was already determined by the planning officer for approval but it couldn't go through unless the complaints were dealt with.

But the complaints were dealt with through this process. Is that right?---The complaints were dealt with through this process, yes.

40

The resolution of the council was required for it because of the complaints to proceed. Is that right?---It needed to go before council, yes, because of the complaints.

Correct. And you voted in favour - - -?---Yes.

- - - of the resolution at that stage.---Yes.

Now, you should have, I want to suggest to you, Mr Tsirekas, declared or disclosed a conflict of interest arising out of your relationship with Mr Bruzzano at this meeting. Is that right?---No, that's not right.

THE COMMISSIONER: How long had you known Mr Bruzzano?
10 ---Commissioner, after I moved into the units, probably a year or so after that, which is around 2015/2016.

How did you come to first meet him?---I can't recall the, the first time but he'd be regularly out in the street [REDACTED]

And what other associations did you have with him up till May 2016?

20 ---Infrequent contact, coffee, maybe a lunch next door or go out with him and others together, but apart from that, similar to what I do with, you know, many constituents and residents.

Well, as at 24 May, 2016, would you regard him as a friend of yours?---No, an acquaintance.

Why not a friend?---Because I wouldn't have, have him at my place. He hasn't been to my place. I don't go to any of his celebrations.

30 But that's not the gold standard - - -?---No.

- - - of whether he's a friend or not.---Yeah.

You often have friends - - -?---Yeah.

- - - who never go in to your home or you never go to, that's true, isn't it?
You wouldn't say it's essential to call somebody a friend that you've been to his house or he's been to your house. That would be nonsense, wouldn't it, to say - - -?---No. A close friend would be someone that would come and
40 visit you, you'd be invited to their place - - -

I just ask you just for one straight answer on your oath.---Yes.

As at May 2016 - - -?---Yes.

- - - was your association with Mr Bruzzano one of friendship - - -?---No.

- - - that he was a friend?---No, Commissioner. An acquaintance.

10 MR DARAMS: Mr Tsirekas, you should have declared or disclosed a non-pecuniary interest, I want to suggest to you, arising out of your friendship with Mr Bruzzano as of 24 May, 2016?---No, I disagree.

The persons you used to catch up with when you caught up with Mr Bruzzano included Mr Joseph Jacob?---They'd be together a lot, yes.

What about Pierre Jacob?---On, on, on occasions.

Mr Chidiac?---On, on occasions.

20 Could I ask that the witness be shown volume 8.3, page 243? Just read this page to yourself, Mr Tsirekas, because I want to tell you this is the transcript of your interview with the Commission's officers in September 2020.---Yes.

So you see from the first reference, Mr Berry is showing you the minutes that I just took you to. See that?---Yes.

Let me know when you get to the end of the page?---Yeah. Sorry. I've read it.

30 Go over the page. Just read down to about line 12, line 10.---Yes.

You understood because Mr Berry or Mr Fox told you at this interview that you had to tell the truth?---Yes.

I want to suggest to you that you were telling the truth during this interview in September 2020?---Yes.

40 You accept that you told the Commission's officers in this interview that, in fact, you made an error and you should have disclosed or declared your interest arising out of your relationship with Mr Bruzzano?---I can see what I've said there, yes.

Well, what you said there was the truth?---Yes.

Do you accept that you've now given different evidence today in the public hearing?---Yes.

I take it that you took this process, that is, the interview process, seriously in September 2020?---Yes, and it was - - -

10 I take it that you - - -

THE COMMISSIONER: Sorry? You were going to say something?---Yes. And it was a very stressful interview and I, I answered those questions as, as best I could truthfully back then, yes.

Why was it stressful?---'Cause you don't normally get interviewed by ICAC officers.

20 And you're not suggesting that Mr Berry was pressuring you or stressing you? It was just the fact that, as you say, it's an unusual circumstance to be being questioned by ICAC?---Correct.

All right. I see the time. I might - - -

MR DARAMS: Yes.

THE COMMISSIONER: Is that a suitable time?

MR DARAMS: Yes.

30

THE COMMISSIONER: We'll resume at 2 o'clock.

LUNCHEON ADJOURNMENT

[1.00pm]