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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 FRIDAY 20 MAY, 2022

AT 2.00PM

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

THE COMMISSIONER: Yes, Mr Darams.

MR DARAMS: Mr Jacob, before the luncheon adjournment I was asking you some questions about the Mauve Sky transaction involving the Tannouses.---Yes.

10 As I understood your evidence, you wanted to, my words, get out of the transaction at some stage after it had been proposed and certain agreements entered into with the Tannouses, that's right?---Yes, Mr Darams, but from day one I was never 100 per cent I was going to go, go with that, yeah.

You've given some evidence that you instructed Mr Lewis of Corrs, in effect, on behalf of Mr Chidiac.---Yes.

You have reviewed a letter by Mr Lewis to be sent to the solicitors for the vendor, that's correct?---So the email going from Stan to - - -

20

To you, which attached a draft letter that ultimately was sent to the Tannouses solicitors.---That was on the same email, wasn't it, Mr Darams?

Yes.---If, if that's the case, yes, then yeah.

Yeah. But as I understand your evidence, even though you were instructing Mr Lewis that was on behalf of Mr Chidiac, because at that stage – that is September 2015 – you wanted to get out of the transaction?---Yes.

30 You didn't want to proceed at all?---From day one I was never 100 per cent proceeding.

So the question is why were you doing these things on behalf of Mr Chidiac or companies associated with Mr Chidiac?---Just to, for the, giving him the legalities of the contract. Like he, he didn't understand. He was having issues, I think he, he, there was, I, I don't recall but there were certain issues between him and the vendors, that they wanted to pull the deal.

You could have given Mr Lewis' number to Mr Chidiac and let him - - -?

40 ---Yes, I accept that.

But you took it onboard yourself to do all this?---Yes.

Why did you do that? Why did you remain in this transaction or in this - - -
?---Because they're, they're all my contacts, Mr Lewis - - -

THE COMMISSIONER: Sorry, I couldn't hear that.---They're, they're all
my contacts, Mr Lewis, they didn't, they didn't talk to Mr Chidiac. It was
only, it was myself - - -

10 Well, why didn't you tell Mr Chidiac "Make your own arrangements. Go
and get legal advice"?---Yeah, but that was the case, Chief Commissioner,
but that didn't happen. Yeah, I, I just can't - - -

MR DARAMS: Can you not give us a reason as to why you did these
things for Mr Chidiac?---Because the process started with me, with Mr
Bruzano, with Mr Greg Vale, then going to Mr Stan Lewis. They never
spoke to Mr Chidiac. So once I found out that he, there was a dispute
between him and the vendors, then, then I just wanted to give him one last, I
was actually encouraging, I, I don't force people, I was encouraging him to
20 actually get out of the deal.

I'll come at it differently.---Yeah.

Do you agree that by involving yourself in this transaction in a number of
different capacities, do you understand what I'm saying?---Yes.

So instructing Mr Bruzano to register or incorporate a company on behalf
of your family or your family interests, correct?---No, no. It was because
the Chidiacs put the money down, it was more them at the time because
30 that's not our money, yeah.

You instructed Mr Bruzano to do that?---Yes.

You gave the name of Mr Vale to Mr Chidiac?---Yes.

You wrote to Mr Lewis on behalf of Mr Chidiac?---Yes.

Yeah. I want to suggest to you, you were doing, are you not, a favour for
Mr Chidiac in this transaction?---Yes, yes.
40

What was your purpose or your reason for doing Mr Chidiac a favour?
---Because in the Rhodes Precinct we were starting all that infrastructure proposals there and he introduced us to Billbergia. So, yeah.

Isn't it the case that you were doing this favour for Mr Chidiac because you hoped that he would do a favour or provide you with some services in return?---If, if that eventuated, yes.

This is just the start of the relationship between you and Mr Chidiac?

10 ---Yeah. Yes. Yes.

Mr Chidiac had services he could provide to you - - -?---Yes.

- - - or for your benefit or your company's benefit. That's right?---Yes.
Yes.

You understood that?---Yes.

20 You were doing him a favour in this instance, in this transaction, using your contacts, using your relationships. That's right?---Yes.

You understood at the time that you were doing this, that is, September 2015, and involving yourself in this transaction that you might be able to use Mr Chidiac's services in relation to the properties that your companies had purchased in Rhodes East. That's right?---Yes.

30 To assist you in terms of any planning proposals or development applications that might be put forward?---No, no. It, it was, it was more to do with the introduction to Billbergia and a possible joint venture with them, yeah.

So when you say "more to do" do you say it was only to do with introducing you to Billbergia – just let me finish.---Yes. Yes.

Was it only to do with that?---For the period of '15 and '16 and partially '17, yes, but in '17 it could have changed, yeah.

We'll come to the change in '17 in a moment.---'17, yeah. Yeah.

Is it the case that at any stage in 2016, you suggested to Mr Chidiac that you and he should or might consider start lobbying Canada Bay Council?---I can't recall.

Do you recall at any stage suggesting to Mr Chidiac that you and he might start lobbying council in relation to the properties that your companies had purchased in East Rhodes?---What plan are we talking about?

In 2016.---The affordable housing issue started coming up - - -

10

No, no. Is that the time you suggested to Mr Chidiac, "You should start lobbying Canada Bay Council"?---Well, I started lobbying myself.

Is that the time that you suggested to Mr Chidiac that he should do that, as well?---Well, from that email you showed me earlier - - -

Is that the time that you suggested to Mr Chidiac that "You should start considering lobbying Canada Bay Council"?---He didn't understand the issue, yeah - - -

20

THE COMMISSIONER: Please, Mr Jacob - - -?---Yes, yes.

- - - you're constructively refusing to answer the question.---No, no, I'm not, I'm not, I'm going to answer it.

Answer it directly.---Directly, yes.

Put it a fourth time.

30

MR DARAMS: Is that the time that you suggested to Mr Chidiac that you and he start lobbying or consider lobbying Canada Bay Council?---No, not at that time.

What time did you suggest he do that?---In, in '17.

What month in '17?---In late '17.

THE COMMISSIONER: In relation to what matter?---Affordable housing.

40

The what?---The affordable housing, yeah.

MR DARAMS: Mr Chidiac was going to lobby Mr Tsirekas on your behalf?---I knew they were, I knew they knew each other and – and.

The answer is yes, isn't it?---Yes.

Yes?---Yes. Yes.

10 Could the witness be shown an email titled “Rhodes East” dated 20 June, 2016? The email you sent to Mr Chidiac on 20 June, 2016. Do you see that?---Yes.

You typed up this email, that's right?---Yes.

I draw your attention to the second-last paragraph, the one that starts, “They can't be serious”. See that?---Yes.

Just read that to yourself.---Yes.

20 What you're referring to in that paragraph, among other things, is what is set out in the matters that are above that paragraph. That's correct?---Yes.

But putting aside those matters in paragraphs number 1-5, the paragraph that appears below paragraph numbered 5, that's directed to the properties that you owned in Rhodes East. Is that right?---Yes.

30 The reference to Rhodes East block A and block B, do the properties that you owned at this stage or the companies associated with you and your family owned at this stage, were they located within block A and block B or they were your properties?---Yes.

Sorry? Were they your properties?---Yes.

That's the total - - -?---Yes.

So block A and block B represented your properties?---Yes.

40 You were asking or you were suggesting to Mr Chidiac that we – that is you and he – might need to start lobbying Canada Bay Council, correct?---No, I was suggesting myself and Billbergia.

Where's the reference to Billbergia in here?---That's what I was meaning "we". Because he didn't understand the issue of affordable housing. The affordable housing, as he said in that email, is, there needs to be a minimum base FSR of 4:1 with 15 storeys, and the department commissioned a report from HillPDA on that.

THE COMMISSIONER: As at June 2016, did you or your company have any contractual relationship with Billbergia?---No.

10 As at that date, were you working in conjunction with Billbergia on any project?---On the infrastructure proposals for Rhodes - - -

Which one?---On the infrastructure proposals for Rhodes East, yes.

And in that project it was envisaged that Prolet land in the Rhodes East - - - ?---Correct.

- - - block would be part of the proposal if it went ahead?---Yes, 'cause, can I, I – I'll let you finish, Commissioner.

20

Just a moment, I'm sorry, just a moment.---Yes. I'll let you finish.

But as at June 2016, you hadn't entered into any joint venture arrangement with Billbergia?---No

Right. So there was no legal relationship between you or your company and Billbergia as at June 2016?---No.

I'm sorry, you're agreeing with me?---Yes, I'm agreeing with you, yeah.

30

Yep.---But there was a financial, Commissioner, yep.

So that in this email you were communicating with Mr Chidiac regarding issues relevant to possible future development of Prolet land in Rhodes East, is that right?---Yes, Commissioner. But can I elaborate on that or I can't?

Well, firstly, that is right, is it, the - - -?---Yes.

40 And why were you communicating with him about the Rhodes East block A and B?---Because Billbergia now sells, engaged tier 1 consultants to draw up all the infrastructure proposals at that time for Rhodes East.

Sorry, had agreed to engage - - -?---Billbergia and Prolet engaged tier 1 consultants at that time.

Which consultants?---BG&E. They're, they're, they're a tier 1 infrastructure State Government consultant that deal with state infrastructure and regional infrastructure.

Yes, yes.---And we - - -

10

Had they been engaged as at June 2016 by either Billbergia or Prolet?

---Yes. Billbergia engaged them.

When were they engaged?---In early 2016.

'16.---And I have those proposals.

But at this stage, at 20 June, the communication with Mr Chidiac in the second-last paragraph dealing with the blocks A and B, you were addressing Mr Chidiac in respect of Prolet land and its future possible development?
20 ---Yes.

Right, okay.---Yes. Chief Commissioner, can I - - -

Just a moment.---Sorry.

No, no. No, just wait for the next question.---Yes, a question, yep.

MR DARAMS: You understood at this time that Mr Chidiac had a relationship with Mr Tsirekas?---Yes.
30

You understood that if Mr Chidiac was going to lobby council, that he would be lobbying Mr Tsirekas?---No, 'cause Mr Tsirekas wasn't at council at that time.

You understood that Mr Chidiac would lobby council using his relationships, is that right? With other council staff?---I, I, I had no idea he had any besides Mr Tsirekas. I didn't know if he had - - -

40 Who did you suggest he was to lobby, then?---That was referring to myself.

Well, who were you going to lobby?---Can I - - -

Who were you going to lobby?---Sorry?

Who were you going to lobby?---The Department of Planning.

What about the affordable housing, that's not the Department of - - -?
---And, and, and, and council staff.

10 Who at council?---Paul Dewar at council.

At this stage?---Yes. Because, the reason for that is they started developing an affordable housing policy at council. It was under a SEPP 70, proposed SEPP 70 affordable housing, to make mandatory 5 per cent affordable housing in the Rhodes East Precinct. But the State Government was advocating for state infrastructure in the station upgrade, the school, the Concord Road upgrades, the ferry wharf, and if, that email that you just presented on screen, Mr Darams, when I refer to the 4:1 FSR and the affordable housing, that's the feasibility level that needs to be there that
20 actually makes state and regional contributions towards all that state infrastructure, and if council were going to force a SEPP 70 affordable housing, then that undermines the station upgrade, the school, and the precinct can't go ahead - - -

THE COMMISSIONER: Just stop there.---Yeah, yes.

MR DARAMS: You were concerned about those matters, that's right?
---Yes, yes.

30 That's what you were exploring here?---Yes.

You were engaging to suggesting to Mr Chidiac that you and he would have to start, or consider starting lobbying about these issues.---No. I, I, I'm saying, I was referring to me and Billbergia.

No. That's not what you were saying, and I'm suggesting to you that you've made that up.---No, I haven't, I haven't made that up.

40 When you wrote this you intended the "we", you directed it to Mr Chidiac because that's what you understood Mr Chidiac - - -?---Yes, nothing - - -

Let me finish.

THE COMMISSIONER: Mr Jacob, I have told you multiple times not to interrupt- -?---Okay, okay. Yes, sorry. Apologies.

- - - the questions being put by Counsel Assisting.---Yes, yes. Apologies.

Do you remember me addressing you on that point?---Apologies.

10 Will you please refrain - - -?---I'll remember.

- - - from interrupting questioning?---Yes, yes. Yes.

MR DARAMS: You knew at this stage, in 2016, that those are the types of services that Mr Chidiac could provide you in respect of property that you had in Rhodes East, correct?---I, I, yeah, I, I don't know what, what - - -

THE COMMISSIONER: Just answer the question directly.---No, no. Because, am I allowed to elaborate on that one? No.

20

MR DARAMS: Well, that's your answer.

THE COMMISSIONER: That's your answer, is it?---Yeah, yeah.

No.---No. Yeah, for now.

MR DARAMS: I want to suggest to you that when you wrote "we need" you directed that at Mr Chidiac because you understood at the time that those services are the services of the kind that Mr Chidiac could provide to you and you were seeking for him to provide to you?---He can't provide that services.

30

I'm suggesting that you knew that he could and that's what you were engaging him to do.---But he couldn't, Mr Darams.

THE COMMISSIONER: Mr Chidiac did lobby, didn't he, to your knowledge?---Yeah, but he couldn't - - -

No, please. Is the answer yes? You knew he was actively involved in lobbying in the town planning area, that is in the - - -?---No, Chief Commissioner, because he doesn't have - - -

40

No, all right. Let's take it a step at a time. You knew he was a lobbyist, didn't you?---No. Not at all he's a lobbyist, no.

Do you know what a lobbyist means?---Yeah. Someone who's got experience in planning.

Yes. To advocate a matter on behalf of somebody else.---Yes.

10 Yes.---Yes.

And you know that's the sort of work Mr Chidiac would be involved with?
---He never told me he was a lobbyist.

No, but you knew, both by his reputation and from what you knew of his activities that he did seek to assist people who wanted to have a problem concerning a possible project worked through with council to try and find a solution?---In respect of affordable housing, yes, I agree.

20 You're agreeing with me?---Yeah. I agree with you.

That was his common service he would provide. He would introduce people, one to another, sometimes?---Yes.

Bring people together?---Yes.

Locate properties?---Yes.

30 Introduce people to properties?---Yes. I totally agree with that.

He would, if somebody had a matter before council and they were concerned either by delay or by some other problem, he would take it up with council for them and see if that can't be resolved. You knew he was involved in that sort of activity?---In my circumstance, I didn't - - -

40 No, no, no. You knew he was involved in that sort of activity of assisting by approaching council, either councillors or council staff, if a person came along and said, "I've got a problem with an application or a proposal. Can you help me"?---Oh, you mean that - - -

And he would then go and make representations?---Only, I only knew he did that with Mr Tsirekas, no-one else.

Sorry?---To my knowledge he only did that with Mr Tsirekas, nobody else.

But you say he would, if asked - - -?---Yeah.

- - - go to Mr Tsirekas to see if he could intervene - - -?---Yeah.

10 - - - to do something to help the person who's wanting to have a problem, whatever it might be, resolved?---Yes, Chief Commissioner.

MR DARAMS: And you knew this in 2016. That's correct?---Yes, Chief, yes, Mr Darams, but Mr Tsirekas wasn't at council at that - - -

I understand that.---Yeah.

You said a little while ago that, in fact, Mr Chidiac started lobbying in 2017, is that right, on your behalf?---Yes.

20

That was when Mr Tsirekas was back on council. That's right?---Yes.

Tell us the issue that he started lobbying on your behalf, lobbying Mr - - -? ---On, on, on affordable housing.

So at that stage, you were engaging Mr Chidiac to lobby Mr Tsirekas on your behalf?---It wasn't engaging. It was just talking between each other.

Well, whether you - - -?---Yeah. Yeah.

30

But you understood that you had an issue. That's correct?---Yes.

You were raising that with Mr Chidiac?---Yes.

You wanted Mr Chidiac to raise that issue with Mr Tsirekas?---We, we were just frustrated, yeah, no, yeah.

You wanted Mr Chidiac to do it?---If, if I, if - - -

40 You wanted Mr Chidiac to raise that with Mr Tsirekas?---Yes, at - - -

And you understood - - -?--- - - - at, yes, yes, at points where I couldn't get a hold of Mr Tsirekas.

You understood that Mr Chidiac would do that on your behalf?---Yes. If, if I couldn't hold of Mr Tsirekas.

And you understood that Mr Chidiac was doing that because of the relationship he had with Mr Tsirekas?---Yes.

10 THE COMMISSIONER: It was not uncommon, was it, for you, Mr Tsirekas and Mr Chidiac to meet, it might be over dinner or it might be over a luncheon. Is that right?---Yes, but I, I, I think I, I - - -

No, no, no. Just wait - - -?---Yes. Yes. No.

Is that right?---Yes.

And in the course of those meetings, whether they be, you know, in a coffee shop or a restaurant - - -?---Yes.

20

- - - whether it be lunch or whether it be dinner, it was common that those discussions when Mr Chidiac, you and Mr Chidiac attended, that matters of business would be discussed?---Yes.

Matters that were going through council, town planning-type matters or development matters?---No. Infrastructure proposals, yeah.

But it wasn't just infrastructure proposals?---It was because - - -

30 It did include infrastructure projects - - -?---Proposals, yeah.

- - - but it also from time to time would discuss other matters of business, and then - - -?---Yeah.

- - - after having discussed those matters, you would just have a social conversation over dinner - - -?---Yes.

- - - is that right, or lunch?---Yes.

40 Is that right?---Yes.

Right.---But those predominantly were with Mr Tsirekas 'cause he was in the area.

I'm sorry?---More, more, it was more with Mr Tsirekas than Mr Chidiac 'cause he was in, in the area and I used to always - - -

Mr Chidiac could be a fellow guest with you?---Yeah, yeah, yeah, yeah, sometimes, yeah, but Mr Tsirekas 'cause [REDACTED], I'd see him more than Mr Chidiac.

10

So any meetings of the kind I've described - - -?---They weren't formal. They were informal.

No, no, just please let me finish.---Sorry. Yes.

Of the meetings I've described, dinner, lunch, whatever it be, or coffee, sometimes Mr Chidiac was present?---Yes.

But you say not always?---Not always, no.

20

And if he was not there, and either you were alone with Mr Tsirekas or somebody else was there as well, matters, what I'm generally calling matters of business were discussed?---Yes.

And then there'd be ordinary social conversation?---Yes. Chief Commissioner, I was just saying that 'cause he used to walk always in the back of the street where our office is next to, used to bump into Mr Tsirekas.

I think you've answer my question. Thank you.---Yeah, yeah, yeah. Yes.

30

Thank you.

MR DARAMS: Chief Commissioner, I wish to tender that email.

THE WITNESS: Yes.

THE COMMISSIONER: Yes. All right. What's the exhibit number?

MR DARAMS: It's 47.

40

THE COMMISSIONER: Yes, that's right.

MR DARAMS: Email Rhodes East - - -

THE COMMISSIONER: Email Rhodes, yeah, by Mr Joseph Jacob to Mr Chidiac, 20 January, 2015, will be admitted - - -

MR DARAMS: '16.

THE COMMISSIONER: - - - and become Exhibit 47.

10 MR DARAMS: Sorry, Chief Commissioner. It's 20 June, 2016.

THE COMMISSIONER: Sorry?

MR DARAMS: 20 June, 2016, is the email.

THE COMMISSIONER: Sorry. You're quite right. Yes. Very well.

20 **#EXH-047 – EMAIL FROM JOSEPH JACOB TO JOSEPH CHIDIAC
DATED 20 JUNE 2016**

MR DARAMS: While I'm tendering documents, could I also tender volume 5D? That will be exhibit - - -

THE COMMISSIONER: Volume 5 will be come exhibit forty - - -

MR DARAMS: 5D.

30 THE COMMISSIONER: 5B, is it?

MR DARAMS: D, D for dog. Sorry. That's my fault.

THE COMMISSIONER: Will become Exhibit 49.

#EXH-048 – PUBLIC INQUIRY BRIEF VOLUME 5D

40 MR DARAMS: Mr Jacob, could I now show you some other emails. Mr Jacob, can I ask you to first pay attention to the email from Mr Giaprakas to

yourself on 20 January, 2017. Let me know when you want me to show you the next page.---Yes.

Please show the next page.---Yes.

If we can go back to the first page. We then see this email, which is sent to you. You forward it on to Mr Tsirekas and Mr Chidiac. Do you see that on 20 January?---Yes.

10 Couple of questions about all this. In relation to the 168-172 Victoria Road, Drummoyne, that's Mr Bruzzano's development?---Yeah, correct.

Prolet Constructions were the licensed builder for that project?---Yes.

It's clear that there were a number of issues that were raised by Mr Giaprakas on behalf of Canada Bay Council, is that right?---Yes.

20 You were forwarding that on to Mr Tsirekas and Mr Chidiac so that they could assist you and therefore Mr Bruzzano with those issues, is that right?
---Yes.

As you've just been discussing with the Chief Commissioner, from time to time issues would arise, that's right?---Yes.

You engaged or spoke with either Mr Chidiac or Mr Tsirekas about those particular issues.---Yes, with that particular email I - - -

No, just go back to this email in a moment.---Yes, yes, yes.

30 Just saying, you recall the evidence you gave with the Chief Commissioner?---Mmm.

Particular issues might arise from time to time in relation to applications, correct?---Sorry. Can you repeat that, Mr Darams?

Particular issues might arise from time to time. In your instance, in relation to your properties at Rhodes East and the planning proposals, is that right?
---I didn't have any planning proposals.

40 No, but your issues in relation to, let's say, the discussion of - - -?---The infrastructure.

The infrastructure.---Yes.

But the affordable housing, that was another issue you - - -?---Yes, yes, yes. Agree with that.

- - - engaged Mr Chidiac to assist with those issues, that's right?---Yeah, yes.

10 What I'm suggesting to you, this is another example of an issue that you're engaging Mr Chidiac, but at an earlier point in time, in 2017.---I saw, I do remember with this one I saw Angelo in the back street - - -

THE COMMISSIONER: No, just listen - - -?---Yes, yes.

MR DARAMS: This is another example, isn't it? An issue has arisen in relation to something you're involved in through Prolet Constructions but also Mr Bruzzano, your friend.---Yeah, but - - -

20 That's his development that was being undertaken.---That's his development.

And some issues had arisen. It's clear from the email from Mr Giaprakas. ---Yes.

This is another example where you have reached out to Mr Chidiac and this time Mr Tsirekas for the purpose of them assisting to try and resolve these issues, correct?---Yes, but the email says there that the information was already - - -

30

THE COMMISSIONER: Sorry, is the answer firstly "yes"?---Yes, yes, but the email says it, 'cause I read it, says the information is - - -

I'm sorry, is the answer "yes"?---Yes.

Thank you. Just leave it at that.

MR DARAMS: Now, the email above, which is an email preceding 20 January, what was the reason for you sending this to Mr Chidiac and Mr
40 Tsirekas? Was it just to give them a copy of the email that had been sent to council, for which it responded to, is that right?---The information for the

issues was already given, on reading that email, it was already submitted. I saw Angelo in the back street and he asked me, "How's Frank's going?" and I said to him, "I'll just forward you some information on, on, on, on what's, what's, where is it up to and that's the reason why I, I forwarded that email and then I included Joseph but I, I wasn't expecting anything from Joseph. It was after my interaction with Mr - - -

THE COMMISSIONER: Yes just, please, no speeches.---Yeah, yeah, yeah.

10 MR DARAMS: Okay. All right. So let me understand your evidence now. You say you ran into Mr Tsirekas while in the back streets of Drummoyne again?---Well, he, he's [REDACTED].

So, what, at the back of your office or at the front of your office?---No, no. On [REDACTED]. He was walking, I'm in the back, he walks past and he goes, we just started discussion about something and then he goes, "How's Frank's DA going?" And then I would have just said, "I'll forward you some information."

20

So that's your recollection now?---Yeah. One other recollection, I was going to say that before but I didn't want to make a statement.

Why did you send it to Mr Chidiac?---Because I included him in everything at the time, yeah.

Did you include him in everything at this time because at this stage the relationship between you and Mr Chidiac had developed to the point where you would include Mr Chidiac on these planning type matters, or council type matters, because you were engaging him to assist you to resolve those matters?---It was just a habit of including him.

30

Because of the fact that you had, at this stage, developed the relationship with Mr Chidiac, that's correct?---I'm, I'm not denying I had, that I had a relationship with Mr Chidiac, that's yes, but I just had a habit of cc'ing him on the emails.

40

Is this the case, because of the relationship you developed with Mr Chidiac by this stage, anything planning related to do with Canada Bay Council you would include Mr Chidiac in your conversations, either by way of a forward

or include him as a cc into your correspondence, is that right?---Yeah, but with no disrespect, he, he he's got no, he's got no idea about planning.

That's not my question, but I'll come back that answer in a moment.---Yes.

But because of the relationship you had developed with Mr Chidiac at this stage, if you had any matters related to planning at all in the Canada Bay Council area, you would include Mr Chidiac in your correspondence, is that right?---At that time, yes.

10

Because the relationship had developed?---Yes.

You were going to say, in all respect to Mr Chidiac, he's got no planning experience. Is that what right?---Yes.

What he does have, and the services that you were engaging him to do is to negotiate, use his relationships and the like. That's what you were doing that for, weren't you?---I, I, I'm, I'm not totally sure about that Mr Darams.

20

Well, he doesn't have planning experience or planning skills, that's right? ---Yes, correct. Correct, yes.

So he must have some other skill or capability that was of use to you and your companies, correct?---Again, Mr Darams, he just, he just, he just wanted to be relevant.

He must have had some - - -

30

THE COMMISSIONER: No, please, Mr Jacob - - -?---Yeah, yeah, yeah. I was trying to answer, sorry.

No, no. No, no, no. Just answer that question directly.---Okay.

MR DARAMS: He must have had some other skill that was relevant or you perceived would be relevant and a benefit to you or your companies, correct?---No, Mr Darams. I, I, just - - -

40

THE COMMISSIONER: Sorry, what's your answer? I can't hear you. ---No. He, he - - -

Sorry, what is your answer?---I'm saying no.

No?---Yeah. Because I don't, I didn't see on the point of providing any planning, because he didn't understand it. Just, I knew he was friends with Angelo and it was just a habit of including him.

I think the question was, we all know, and he doesn't profess to hold himself out as having town planning qualifications or experience in such matters?---Yes.

10 All right. Let's assume that's common ground.---Yes.

Nonetheless, as Counsel is putting to you, you frequently communicated with him in relation to matters that might loosely be said to be connected in some way with planning matters, yes?---Yes, yes.

So I think what's being put to you is, though he may well have been a town planner, or having those specialists, he was useful in other respects, would you agree with that?---I wouldn't say he's useful, Chief Commissioner.

20 Sorry?---I wouldn't say he's useful. I would just say, I just had a habit of including him on the emails.

Just as a friend?---Not as a friend but just as, you know, because he knew that, he knew Mr Tsirekas and it's just a case that every time, not thinking, I would just put him in on the emails. I, I knew, I knew, if I, this is what I believe. If I spoke to Mr Tsirekas there would be a better chance there but with Mr Chidiac, there's zero chance because he, he, he couldn't provide any anything.

30 We know he wasn't a town planner, as I said.---Yeah, yeah, yeah.

But you obviously saw him of some utility because you were, I think you have already conceded he was in the business of taking up a problem if somebody came and said, "Look, I've got this before council or it's in council. I need help." And you accepted that one of his roles, amongst others, was to say, "We go there and see if he could sort it out for that person. Sort it out with council or the councillors."---And with Mr Tsirekas.

All right.---Yeah, yeah.

40

I think you did say that last time.---Yeah, yeah, yeah.

Or he would be able to – and he would go either to Mr Tsirekas - - -?---Yes.

- - - or perhaps in some other way try and help somebody. That was part of his, what you call his services that he was rendering, that right?---But respectfully, he had zero - - -

I think you've told us that three times now.---Yeah, yeah, yeah, yeah.

10 You wouldn't have gone to him for town planning advice, would you?---No.

No.---Absolutely not.

Because he didn't have any expertise.---No, no expertise.

He had no qualifications.---No qualifications.

In fact he hasn't got any formal qualifications that you're aware of.---No.

20 He's not specialised in any field at all.---Correct.

But what he is good at is the areas I earlier mentioned.---Interactions, yes.

Interacting with people.---Yes.

Bringing people together.---Yes.

30 Liaising with people, staff members and council about a matter that somebody might have asked him to look into.---To my, he, I never, ever, ever knew he would speak to any, any staff, yeah.

He was a close friend of Mr Tsirekas? You knew that?---I knew he was a friend.

And that he spoke to Mr Tsirekas as a, on a, you know, frequent basis?
---Yes.

40 Yeah, and you knew that he also would be able to put people in contact with Mr Tsirekas if they had a problem?---Yes.

Yeah. And sort it out.---Yes, I agree with you on that, Chief Commissioner.

MR DARAMS: Chief Commissioner, I might tender that email.

THE COMMISSIONER: Yes, that'll become Exhibit 50.

MR DARAMS: Sorry, Chief Commissioner, I think it's - - -

THE COMMISSIONER: Sorry, you have tendered that, haven't you?

10 MR DARAMS: No, I haven't, this is a new email, but I think the exhibit number should be 49 and the preceding one should be 48.

THE COMMISSIONER: All right. 49. What's the date of it again?

MR DARAMS: This is, email chain starts on 19 January, 2017.

THE COMMISSIONER: Thank you.

20 **#EXH-049 – EMAIL CHAIN COMMENCING ON 19 JANUARY 2017**

MR DARAMS: When Mr Chidiac started lobbying Mr Tsirekas on your behalf – when I say your behalf, I mean your company's behalf – in relation to affordable housing, did you pay Mr Chidiac for those services?---No.

Did he seek payment for those services?---No.

30 Was the agreement that I took you to before the draft agreement, was that intended, the services provided under that, did that cover these services, the lobbying services?---No, no.

Did you ever have a disagreement or dispute with Mr Chidiac about whether he should be paid for that work?---Yes.

When did this dispute with Mr Chidiac arise?---In – recently.

When you say “recently”, what do you mean?---In the last few months.

40 So this year it's arisen, has it?---Yes.

How did it arise? Did he come to you and say, “Look, you owe me some money”?---No, he went to Mr Bruzzano.

How do you know this? Because of conversation with Mr Bruzzano?

---Yeah, he went to Mr Bruzzano’s office not to see Mr Bruzzano but one of Mr Bruzzano’s employees looks after his accounts. And then – this is what Mr Bruzzano told me – once he had finished, he, he went into Mr Bruzzano and just said to Mr Bruzzano he knew that we’d sold our property. And he said that he believed he had an interest. And Mr Bruzzano relayed that
10 information to me and I got my lawyers to send him a letter telling him to refrain from discussing those things with Mr Bruzzano or anybody else, and if he had any issue, he’d have to speak to our lawyers.

So that all happened this year?---Yep.

I take it you haven’t subsequently paid him any money?---No.

Mr Jacob, I want to now go back and just touch upon the relationship between you and Mr Tsirekas.---Mmm.

20

Did you and Mr Tsirekas become friends at some stage?---Professional friendship.

Professional friendship.---Yep.

How do you – are you using “professional” in distinction to what?---Like, it would, most of the times my motive was to meet with Mr Tsirekas, discuss business, but then it was turn on to social.

30 So you’ve used the description, what, business friendship or professional friendship, is that - - ?---Professional ship, yes, so - - -

So using that as a distinction between, what, some other form of friendship you have, is it?---No. Because my whole motive with Mr Tsirekas was always, I had the issue on the affordable housing. They, he, he was advocating for the affordable housing on council’s position. So I found any opportunity that I could where I could sit down and discuss that with Mr Tsirekas. But then, you know, he was the sort of person who had a character that he just didn’t want to speak just solely about business, and
40 then we would liven it up and it would be more social.

Did you send – so you’ve got these non-professional friendships, have you?
---Sorry, Mr Darams, non-professional friendship?

You define Mr Tsirekas’ friendship with you as a professional friendship.
---Yes.

Do you have non-professional friends?---Yes.

Do you send them, non-professional friends, funny memes?---Yes.

10

Do you send professional friends funny memes?---Yeah, well, just – what it is, I just felt like sometimes I was too full-on with him. Like, I, I, Mr Darams, it’s not, this is – I’m being direct here. He, knowing Mr Tsirekas, he had more of a light side to him, so I was trying to do the balance because I, I did want to further my business interests there in Rhodes, there’s no doubt about that. And I just thought his advocacy for the affordable housing was going to compromise the state and regional infrastructure, and then the precinct would not move forward.

20 That might be a reason why your relationship with Mr Tsirekas broke down, is that right?---Yes, correct.

Well, let’s not talk about when it broke down. Going back to my question, which I’d like you to answer, do you send your professional friends funny memes?---Yes.

Okay. Who are these other professional friends you send funny memes to?
---Business acquaintances.

30 Who?---I’ve got plenty of them.

Who?---I can’t name all of them, Mr Darams. I’ve got heaps of - - -

Well, I suggest to you that you don’t send your professional friendships funny memes.---Yes, I do.

All right. If the witness could be shown volume 6.3, page 2. Just draw your – these are text exchange between you and Mr Tsirekas. This one’s starting in August 2016.---Yes.

40

Now, Mr Jacob, your relationship with Mr Tsirekas hadn't broken down at this stage, is that right?---Correct.

So focus on the text in the blue balloon is text from you to Mr Tsirekas. Okay, if you can understand that?---Yes.

So just if we zoom in on that second balloon on the page. Looks like it's something, what, from The Bachelor, is it?---Yes.

10 It's a funny meme, is it?---Yes.

Go over the page. This is a few months later, so we're now into 2017. See the second one there? Is that another funny meme?---Yes, yes.

All right. A month later, looks like you're sending the same – is it a video or a meme, is it, the next one down?---Yes.

It's the same one again, though, is it?---Looks like it, yes.

20 All right. Under that you say, "Ronny's movie set." Who's Ronny?---Oh, he's just a friend.

Friend of who?---Of mine.

Well, when you say "Ronny's movie set", did Mr Tsirekas know who Ronny was?---Yes, he does.

How did you, did you introduce your friend to Mr Tsirekas, did you?---No.

30 How did Mr Tsirekas know who your friend Ronny was?---Ronny's been in Drummoyne a few times where we are.

So you've introduced your friend Ronny to Mr Tsirekas?---Yes, well, yeah, while he was visiting us in Drummoyne.

While who was visiting? Ronny?---Ronny, yes.

40 So, what, on multiple occasions, you've introduced your other friends to Mr Tsirekas?---No. I'd been around in Drummoyne and he's walking past. He comes past and he just says "hello" and we introduced him and we'd say, "That's the mayor of Drummoyne," and that's it.

Sorry. I think I've confused myself.---Yeah.

So you're standing with Mr Tsirekas in Drummoyne?---No, no.

You're standing with Ronny?---Ronny, yes. He - - -

Mr Tsirekas is walking past and you introduce Mr Tsirekas to Ronny?

---Yes, Mr Darams, [REDACTED].

10

I understand that.---[REDACTED]
[REDACTED] If my friends are there, he's walked past. He'll come past. They'll say "hello" out of respect and that's it, yeah.

You've known where Mr Tsirekas has lived for quite a period of time, haven't you?---Yeah, [REDACTED] - - -

But you've known that for, what, a number of years [REDACTED]
[REDACTED]?---Yes. Yes.

20

You're in no doubt as to where he lived?---Yes.

You had no doubt earlier this year where Mr Tsirekas lived, did you?---Yes.

When you say "yes" you mean there was no doubt, you knew exactly where he lived?---Yes. Yeah. Correct.

Right.---Yeah.

30 Just bear with me one moment. Could the witness please be shown page 620 of Mr Jacob's interview on 17 March, 2022? It was the compulsory examination. Now, Mr Jacob, I want to draw your attention to about line 25.---Yes.

This is a question where I said, "When was the last time you spoke with Mr Tsirekas?" So this is 17 March this year. You said "Mr Tsirekas" and then you said, "He lives in [REDACTED]

40 [REDACTED]." And then you say, "[REDACTED]" he, he sees us, he'll wave at us, say 'hello'. But when did I physically speak to him? I'd say it was a while, actually, it's been a few years." Then could I ask that you be shown the next page, and I just draw

your attention to about line 3. I'll come back to it in a moment. I just want to understand one of your answers you just gave. You said, you referred to where Mr Tsirekas lives and I think you said [REDACTED].

No?---In a, in a – sorry.

Your answer, "It's not our development. It's a development [REDACTED]. [REDACTED]." The Commissioner said, 10 "Yeah." Then I said, "Right." And you said, "And, apparently, he lives upstairs, yeah." My question, "When you say 'apparently' you don't know?" And you said, "No, no." "Whether he lives on" and you said, "No, I don't know." Well, you're not suggesting, this is what I want to put to you. You're suggesting in these answers that you didn't know where Mr Tsirekas lives?---No.

That's not what you were suggesting to me?---No, 'cause I, I, I was saying that he lives [REDACTED].

20 Where do you say that?---"He lives [REDACTED]?" "It's not our development. It's a development [REDACTED]. [REDACTED]."

Right.---I've already said that.

Well, no. Go down to my questions. I was putting to you, "When you say 'apparently where he lives', you don't know?" And you said, no, you don't know where he lives.---But I said it up on the line, he lives [REDACTED]. [REDACTED].

30 Just so I'm clear, where are you referring to?---If you look where it says, "THE COMMISSIONER: Yeah." Where Mr Darams says, "Did you attend? I'll come back in a moment. I just want to understand one of the answers you gave. You said, you referred to Mr, where he lives, and I think you said apparently he lives [REDACTED]." I said, "It's not our development, it's a development [REDACTED]. [REDACTED]."

40 Right.

THE COMMISSIONER: Mr Darams, I think at this point page 621 should be suppressed from publication, and the evidence just given by the witness as to where he believes Mr Tsirekas' residence is, I think - - -

MR DARAMS: We'll suppress it.

THE COMMISSIONER: Sorry, what was the page number again?

MR DARAMS: 620 and 621.

10

THE COMMISSIONER: Yes. The pages 620 to 21 of the compulsory examination, 16 March, '22, I make an order pursuant to section 112 of the Independent Commission Against Corruption Act suppressing publication of that page and of the answer given by the witness as to where he believes Mr Tsirekas resides is also not to be published or communicated.

20

SUPPRESSION ORDER: I MAKE AN ORDER PURSUANT TO SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, SUPPRESSING PUBLICATION OF PAGE 620 TO 621 OF THE COMPULSORY EXAMINATION 16 MARCH, 2022, AND OF THE ANSWER GIVEN BY THE WITNESS AS TO WHERE HE BELIEVES MR TSIREKAS RESIDES.

30

MR DARAMS: Yes. Now, can I go back now to volume 6.3? Sorry, 6.3, and page 4. If we scroll down the page, please? Scroll the page up, please. Just focus on the blue balloons. Just scroll up the page. Can you back a page? So I'll just draw your attention, Mr Jacob, see the text on 9 July, 2017, you say, "Tuesday evening with JK." That's a reference to Mr Kinsella?---Yes.

Were you trying to arrange some dinner with Mr Kinsella and Mr Tsirekas, were you?---Yes.

Do you know whether the dinner was arranged?---I can't recall.

40

Just below that there's another text message from you with another picture in it. Can you see that?---Yes.

Can you make out what that picture is?---It looks like some sort of vehicle.

Perhaps if we go over to the next page.---Yeah.

I'll just draw your attention to the third blue balloon. You say, "Beer cycling." Is that what you were referring to in those preceding three pictures?---Oh, yes. Yes.

Again, these are, what, amusing pictures you're sending to Mr Tsirekas?
---Yes.

10

Then if I ask you to focus on the green balloon, Mr Tsirekas responds "JK 7.00pm. He can pick the location." Do you see that?---Yes, yes.

Does this assist you now whether or not the dinner proceeded?---Yes. It does assist.

Did you go to the dinner as well?---Most probably.

Well, can you remember where this dinner was held?---I, I don't recall.

20

Okay. I want to just ask you to go over the next page. All these text messages here from you to Mr Tsirekas, these are all friendly text messages, aren't they, Mr Jacob?---Social.

Social ones?---Yes.

Are you saying that these are all the types of things that you sent to your professional relationships or professional friends?---Yes.

30

Yeah. These are the types of things you send to your non-professional friends?---Yes.

At this stage we've got no distinction between professional friends and non-professional friends, have we? You're doing the same sort of thing with both of them.---But, but not to all my professional friends.

But you said that Mr Tsirekas, so he's closer to your non-professional friends, right?---I, I send my, not all to my professional friends. My non-professional friends I do usually send, yeah.

40

Well, Mr Tsirekas is being treated here like one of your non-professional friends, right?---Mr Darams, there's no doubt I had a motive with Mr Tsirekas. I had some interest in Rhodes and I was trying to advance them and I, I, I had an issue with the affordable housing and, yes, sometimes I used to lighten it up and that's, that's all I can bring it down to.

10 Now, Mr Jacob, could I ask you to be shown page 9? I just want to, two of your, the last two messages on the page here, so the first one above, at 10 August, 2017. You say there "Please send JC on holidays to Lebanon on a recruiting course, returning on 10 September." What's the relevant of 10 September?---Pat Carbone sent that to me and I forwarded it onto Angelo, to Mr Tsirekas.

JC is Mr Chidiac?---Yes.

Why did you send it to Mr Tsirekas?---Because Pat Carbone forwarded it to me and asked me to send it to, to them.

20 I see. Did Mr Carbone send you the message below that as well?---Yes.

So that's not your words, "Tell him I love him"?---No. Not my words at all.

No. Okay. If we go to the next page. Just, is that message, the second message from the top, is that a forward on message or is that your message?. "AT, ask Joseph Chidiac to do a palm reading for you".---That's what Mr Carbone told me and I, and I just, I just re-typed that.

30 Mr Jacob, can I ask you about your holiday to Hawaii in January 2018?
---Yes.

You went there with your family, is that right?---Correct. Sorry, is this -- yep. Correct.

You met up with Mr Tsirekas when he was there, sorry, when you were there?---Yes.

You and he had arranged, when you were there, to catch up for a drink?
---Yes.

40 You did do that?---Yes.

You did that through text correspondence between Mr Tsirekas and yourself, is that right?---Yes.

You didn't just randomly run into him on the beach, did you?---Initially yes.

Tell me initially what happened.---I, I had, I had been there much earlier than him in Hawaii and he, he'd come to Hawaii and we passed on the beach and then he said that night, if I'm not doing anything, he's meeting up with some other people from Drummoyne and if I wanted to come past to
10 have a drink, to come past and, yeah, that's what I recall.

You weren't just randomly walking past a bar and someone called - - -?
---No, no, no. No, no, I was, no, during the day I've seen him on the beach because half of Sydney were there, a lot of people I knew.

Who else was there that you knew?---Well, that night I met up with Mr Tsirekas. I had been out with my family. Once I got back, then, then I went - I can't remember the sports bar. All I remember is it was a sports bar. And he was there with a few people. There was only one person I
20 recognised who, who, who there he was with. But the other people I didn't recognise.

So can I just have the witness be shown page 664 of his compulsory examination on 17 March, 2022. I just want to draw your attention to the evidence you gave about this on 17 March. I draw your attention to about line 27. Well, perhaps if we start at line 20. You referred to this sports bar. That's the sports bar you're just talking about now - - -?---Yep.

- - - that you met Mr Tsirekas at, that's right?---Yes.
30

You said you don't know the name, "All I remember is it was a sports bar." Then I say, "And so you've just run into him on the beach?" "No, we've had dinner with my wife and, and family." And I say, "Well, when did this happen? After you ran into him on the beach?" "No, no. The beach was during the day. I saw him. He said hello and I said hello and that was it." And then you went out for dinner "with my family", that's "all I can remember. And after dinner, I was walking and walked past someone. Went like that. I looked and it was the mayor. He was in there with a few people. And I said to my wife, my mother-in-law, 'Excuse me for a little
40 bit. I'll just go say hello, so I'm not rude.'" So you gave this story as to how this unfolded.---This would have, this would have been one night, but

then another night we would have arranged for me to come, Mr Darams,
yep.

So you're saying - - -?---Yeah.

- - - you're saying this is another occasion, is it?---'Cause I was, I can't - - -

10 I'm suggesting to you that you made this story up, this isn't true.---Yeah,
yeah, I – no, I, I didn't make that up, Mr Darams. I, I was on the beach that
day. I went out to dinner, I was walking past and I, I did, would have,
would have seen him. But then I didn't go out the first night but I, I can't
recall but I did go out, I did go out with Mr Tsirekas, there's no doubt about
that.

What I'm suggesting to you - - -?---Yeah, yeah.

- - - that this story, when I asked you about this question, you've made it up
to - - -?---I didn't make it up.

20 - - - to – let me finish. You made it all up to suggest that this interaction
with Mr Tsirekas was somehow incidental. You're walking past in Hawaii
and Mr Tsirekas calls out from the sports bar, and you notice it's him.---It
was, it was five years ago, Mr Darams.

Look, my question is you made this story up, what do you say about that?
---No, I didn't make that up, Mr Darams.

30 Could I - - -?---I, the only way I refreshed my memory is I, I was looking at
the exhibits on the Commission's website. I saw a few and it recollected my
mind on what exactly events happened.

All right. Can - - -?---You've published some exhibits there and I read
them.

Can I - - -?---Recollected.

40 Can I ask the witness be shown volume 6.3, page 27. How many times did
you catch up with Mr Tsirekas for a drink at a bar in Hawaii?---I don't
recall.

How many times?---I don't recall, Mr Darams.

Multiple times, was it?---No, not multiple.

Okay. I'll just go back - - -?---At the best, at the best, probably a couple to three.

A couple to three.---At the best, yeah, at the best.

So let's go back to page 27, then.---Yep.

10

So I draw your attention to this message at the second-last one on the page, the green one. This is 12 January, 2018. That's when you were in Hawaii?
---Yes.

Mr Tsirekas says, "Going to Nabu" – and I think that should be Nobu – "tonight."---Yes.

That message is at 2.56pm.---Yes.

20 Then there's a message, "At the Reef Bar, having a drink, come and join us, Reef Outrigger"?---Yes.

Then if we go over the page, you try to ring him. That's right?---Yes.

Is it the case that you often tried to ring or you did ring or speak with Mr Tsirekas and Mr Chidiac by using the WhatsApp voice or the telephone call on WhatsApp?---Yes. Yes.

That's what you did here. You try to ring Mr Tsirekas?---Yes. Yes.

30

Or maybe Mr Tsirekas called you but in any event - - -?---Yes. Yeah.

- - - then you say "coming now" to Mr Tsirekas. See that?---Yes.

So this isn't the occasion that you've given evidence about, is it, where you're walking past this sports bar. That's right?---I don't recall but, like, Mr Darams, I've said, I did meet up a couple of times, to three times, with him while I was in Hawaii. I just can't recall the exact, but I'm not denying I did meet up with him.

40

Now, you say how many times did you - - -?---I'd say a couple to three times at the maximum.

Right.---And it, it wasn't by ourselves, Mr Darams, as well. Yeah.

When you met up with him, did you talk about Rhodes East and the - - -?
---Yes, I did.

Took the opportunity to talk about Rhodes East?---Yes. Yes, I did.

10

What about Mr Tsirekas? Did he engage in that conversation with you?
---Well, he, he, he didn't look interested.

But you kept pressing the point?---Yes. Yes. He just more wanted a social drink.

Then if you go back to the message from the next day, "What are you doing later after dinner?" from Mr Tsirekas. See that?---Yes.

20 Then you respond to that message. Looks like there's a call or a missed call from someone?---Yes.

Then you respond, "Getting mother-in-law and kids dinner." So this is about 3.30pm. "Adriana wants me to go shopping with her. Shops close at 10.00pm. Most likely be home. Let me know what you're doing afterwards"?---Yes.

30 And he says, "Okay." Now, did you catch up with, is that another occasion where you caught up with Mr Tsirekas?---Like I say, Mr Darams, I would have caught up with him about two to three times, yeah, during the, and it wasn't by myself, as well, Mr Darams.

When you say it wasn't by yourself, there were other people that were there?---Yes. Yes. When we were even catching up, there was other people with us.

Could I ask that the witness be shown - - -

40 THE COMMISSIONER: Mr Darams, just given the time, we perhaps could leave this and go to another point if it suits you and come back to it if we

need to at another later stage unless there's something in particular you want to put to the witness?

MR DARAMS: This is probably, I've almost completed the questions that I have for this witness, in any event.

THE COMMISSIONER: All right. Sure.

MR DARAMS: Could I just ask you, Mr Jacob, if you can be shown page
10 35 of volume 6.3?---Yes.

I just want to ask you about this message here. Is this something that Mr Kinsella provided to you to send to Mr Tsirekas or what's happening here?
---This is a minutes of meeting, Mr Darams.

Yeah, but is this something that someone's sent to you to give to Mr Tsirekas or are these your notes and you've taken and given to Mr Tsirekas?---They would have been supplied to me.

20 Yep.---Yes.

Why are you sending them on to Mr Tsirekas?---Because part of that proposal was a pilot scheme to put the affordable housing in Oulton Street in Rhodes West. And even though I've got no interest in Rhodes West, I was actually supporting the Billbergia proposal there 'cause then it would have freed up the funds for the state and regional infrastructure on Rhodes East side, so the precinct can go ahead.

30 Yeah, my question is, why are you giving it to Mr Tsirekas?---Again, I, it, about the affordable housing. If I had to speak to Mr Tsirekas, I would definitely do that.

Right. So it's all related to your - - -?---The affordable housing, yes.

- - - affordable housing issue, is that right?---Issues, yeah, correct, 'cause Billbergia could have solved the problem on west side of Rhodes, but they didn't support that. And they, they put a SEPP 70 on the Rhodes East side, which got implemented and put a \$200 million black hole in the \$350 million worth of state and regional infrastructure, and that's when I had the
40 falling out with Mr Tsirekas.

Right.---I say that respectfully. That's his point. I had a different point of view.

Could the witness be shown volume 6.5, page 172. Mr Jacob, just show you here, looks to be a WhatsApp group that includes yourself, Mr Chidiac, Mr Kinsella and Mr, I think it's Mr Graf - - -?---Yes.

- - - from Billbergia.---Yes.

10 You set this WhatsApp group up, didn't you?---Yes.

At this point in time, so this is in February 2019, just so I can understand your evidence before.---Yes.

At this stage you've got Mr Chidiac onboard lobbying for you, is that right? Or is this a different matter altogether now?---I know what this matter is about.

20 But is this related to affordable housing or is it another issue altogether?
---Definitely affordable housing.

It's affordable housing.---Yes.

So at this stage Mr Chidiac's onboard lobbying.---But it's besides affordable housing. It was something else as well.

Sorry?---It was, it was another matter besides affordable housing too.

30 But my question is, Mr Chidiac's onboard at this stage lobbying you.---Yes.

And you're including him in all this correspondence.---Lobbying, it was frustrated and venting about something if you let me explain, Mr Darms.

Sorry, who was frustrating and venting?---Me.

No, I know, but at this, this point in time you'd had Mr Chidiac onboard and you've got an issue, is that right?---Yes.

40 Yeah. So you're getting Mr Chidiac involved 'cause you've got an issue, that's right as well?---There's an article that came out in the paper.

But the answer is yes, that's why you're including Mr Chidiac.---Yes. Yes.

Mr Chidiac's not involved in any joint venture negotiations at this stage?
---No.

No.---No.

The relationship had moved on by then.---Yeah, beyond that, yeah, yeah.

10 Mr Jacob, earlier today I asked you some questions about the image that appeared or was extracted from your phone about deleting the, or being able to recover deleted messages.---Yes.

I recall you gave an explanation about something to do with a backpacker who went missing, is that right?---In Byron Bay. No, no - - -

In Byron Bay?---In Byron Bay, yes.

20 That's the first – you gave an explanation, if I understood your evidence, to explain, sorry, you gave that explanation to explain how that image may have ended up on your phone, is that how I understood your evidence?
---Possibly, possibly, I can't say for certain.

That explanation about the possibility being related to this missing backpacker, you've never given that explanation to us before today, is that right?---No, 'cause once, when I was in this public inquiry, I went and spoke to my family and my family said, "Do you remember that?" And I did know 30 August, I won't say whose birthday it is because it's a minor and I don't want to disclose that.

30

THE COMMISSIONER: You developed that matter after having others spoken to you.---My family members.

It didn't come from your own mind.---Yeah.

You had no recollection of - - -?---No.

No.---I didn't, no, no.

40 No. So it really came from - - -?---It could be a possibility, but I'm not - - -

- - - it came from the suggestion of others.---Yeah, yeah, yes, yes.

MR DARAMS: After a - - -?---Public examination.

No, no, but the conversation, you talked about the backpackers, was that the birthday party, is that right?---Yes.

10 That was in the evening, though, correct?---No. I can't recall but that, it's, I can't, I don't want to say 'cause it's a minor. I don't want to bring minors and names into this public inquiry, you know.

You don't need to do that.---Yeah, yeah.

But the birthday party was in the evening.---Sorry?

The birthday party was in the evening.---No, no. Because we, we had a day event for the birthday party, yeah.

20 Mr Jacobs, that's all the questions I have for you. Thank you very much. ---Thank you, Mr Darams.

THE COMMISSIONER: Now, Mr Jacob, just one thing on this question of the meeting you had with Mr Chidiac after the search warrant, that episode. ---Yeah, yes, yes.

30 I think, is this the position, you deleted the messages from your phone, that is the messages involving Mr Chidiac and Mr Tsirekas on a date after that meeting with Mr Chidiac in which he told you that ICAC executed a search warrant, or made a raid.---Whatever remaining messages were on there.

Sorry?---Whatever remaining messages were on there.

Yeah. Well, but you specifically determined that after that occasion in which Mr Chidiac told you that he had been raided by ICAC, you then soon after firstly decided to delete the messages on your phone with Mr Chidiac? ---Yes, yes.

40 And then you decided also at that time to delete the messages involving Mr Tsirekas?---Yes, Commissioner, but I don't believe there was a lot.

No, no. I just want to ascertain - - -?---Yes, yes.

You did do that?---Yes, yes, yes.

And in that meeting with Mr Chidiac on the day he told you that he had been raided by ICAC, he indicated, did he not, by what he said to you on that occasion that others, including yourself, could be caught up with the Commission's investigation, or words to that effect?---I don't know if it was those words but maybe similar words.

10 I'm sorry?---I, I can't say that's 100 per cent what he said but,
Commissioner - - -

It was - - -?---It could have been, it could have been, it could have been something similar to that.

Yes. I'm not suggesting 100 per cent that he said those words, I'm really giving you the effect of what he said.---Yes, yes.

20 He also added, in what he said on that occasion - - -?---Yes, yes, Chief
Commissioner.

- - - he just said that others, could be yourself, that the Commission might be investigating, or that you and others could get caught up in some in the investigation. That was the effect of what he said?

MR CHESHIRE: Commissioner, I apologise for rising at this stage. My note of what the witness said earlier was that "You might be implicated." I don't have a note that he included the words "and others."

30 THE COMMISSIONER: I am reading from something else.

MR CHESHIRE: Right.

THE COMMISSIONER: Are you referring to evidence he gave earlier today?

MR CHESHIRE: Yes.

40 THE COMMISSIONER: Yeah, no, I'm not relying on that.

MR CHESHIRE: Oh, I'm sorry, Commissioner.

THE COMMISSIONER: Is that the effect of what he indicated to you or said to you?---Commissioner, I - - -

No, no. Just answer yes or no firstly.---No.

He did not?---No. But he did say, and I've said this in previous evidence, he did say that the Commission said it was okay for me to tell you, to tell us that he's been raided.

10

Okay. I make a variation to the direction I made on 24 May, 2022 [sic] in the compulsory examination of Mr Joseph, page 39. You recall giving evidence in that compulsory examination?---Yes. Yes, Commissioner.

You were asked, "No, what did he say?" Answer, "He just said that others, could be yourself, like the Commission, whatever they were investigating".- --Yes, Commissioner.

You remember saying that?---Yes.

20

And what you took that to mean was that apart from Mr Chidiac himself, others could be involved in the investigation, including yourself, according to what Mr Chidiac said.---Yes. I took that to mean - - -

No, don't, wait a minute.---I'll wait, I'll wait, yes. I'll wait.

According to what Mr Chidiac said, is that right?---Yes.

30 Yes, well, now I think it's the case, is it not, that after that encounter with Mr Chidiac in which he told you he had been raided, as you said, it was the case that you deleted the messages we've earlier discussed a moment ago. And that is the case, isn't it?---Chief Commissioner, I'm just, I'm just - - -

Yeah, no, no, no, please - - -?--- - - - assuming that there was some, I, I - - -

I think I'm just repeating evidence you've just refreshed your memory. ---Yeah, I know, yes.

40 After that meeting, soon after, you deleted the messages that we've earlier discussed between you and Mr Chidiac.---There was an event - - -

No, please.---Yeah, yeah - - -

Yes or no?---Commissioner - - -

No, no. Yes or no? You did delete the messages between you and Mr Chidiac - - -?---I'm - - -

- - - that was then on your phone - - -?---I'm unsure.

10 Please don't talk over me.---Sorry, Commissioner.

Do you remember what direction I gave you not to interrupt questions?
---Yes, yes, I apologise.

I'm going to repeat the question and I want a direct answer from you. You understand?---Mmm. Yes.

It's either in the affirmative or the negative.---Yes.

20 There's only one of two options. Is this not the case, that following Mr Chidiac telling you he had been raided, after that meeting you soon after deleted, firstly, any messages still on your phone between you and Mr Chidiac.---Yes, still on my phone, I agree with that, yes.

And similarly after you did that I think you've agreed you deleted the messages on your phone at that time involving Mr Tsirekas.---Yes.

Now - - -?---There was not much messages, Commissioner.

30 That is right, is it? Yes?---Yes. But there was no - - -

No, is "yes" the answer?---Yes. Yeah, but I - - -

Thank you. Now - - -?---Yeah, I - - -

- - - based on what Mr Chidiac had said to you, you thought there could be a chance that the Commission would involve you in their investigations as a witness or in some other capacity?---As a witness, yes, but - - -

40 As a witness.---Yeah, yeah, as a witness, yes.

So I just want to put it to you so you can deal with this. It might be said that you deleted the messages between you and Mr Chidiac, between you and Mr Tsirekas, as we've said - - -?---Sorry can - sorry I don't want to interrupt now, but I think I misunderstood the last question, sorry, Commissioner. I - - -

10 What would you say if it's suggested or put that you deleted the messages between you and Mr Tsirekas and between you and Mr Chidiac, as we've just been discussing, because you thought it might in some way implicate you in whatever the Commission was investigating?---No, Commissioner - - -

No, no, what, how would you respond if that was put to you?---Chief Commissioner, I learnt law enforcement was involved once he told me the raid. The, the motive of me doing that is I just didn't want to have anything to do with them, Commissioner.

20 Sorry, I'm having trouble - - -?---I didn't, I just didn't want to have anything to do with Mr Tsirekas or Mr Chidiac after that. That was my motive.

And what, was that because of your concern about what their previous activities might have been about?---I don't know what their activities, that's the reason why - - -

You were concerned when you knew that what you call law enforcement now was involved.---Yes.

30 You were concerned as to you somehow becoming involved.---Not concerned about myself, Chief Commissioner.

Well, why would you go and delete the messages?---'Cause I just, I just didn't want to have any more involvement with them. When someone is being looked at, law enforcement, I think a majority of people would, just don't want to have anything to do with them.

See, it might be put to you that with knowledge that the ICAC was investigating matters concerning Mr Chidiac, that you also may become subject to the investigation in some way.---I, I - - -

And by reason of that, you decided to delete the messages. How would you respond if that proposition was put to you?---I, I didn't think of it in that context, Commissioner.

Very well. Now, there's an application for cross-examination. Mr Leggat.

MR LEGGAT: Chief Commissioner, thank you. Yes, we've made an application in writing.

10

THE COMMISSIONER: Yes. Just pardon me a moment. Yes, I grant leave, Mr Leggat.

MR LEGGAT: Thank you, Chief Commissioner. Chief Commissioner, might Exhibit 47 be displayed, please?

THE COMMISSIONER: Yes. Exhibit 47. Perhaps we should make it clear to the witness, Mr Leggat Senior Counsel appears on behalf of Mr Tsirekas in this Inquiry.

20

THE WITNESS: Chief Commissioner, can I just apologise for interrupting you a few times. I didn't mean that.

THE COMMISSIONER: I'm sorry?---Can I apologise to you, Chief Commissioner, for my interrupting? I didn't mean it.

Yes.---I'm just a bit anxious, I, Chief Commissioner.

Yes, I understand.---Sorry.

30

Certainly, I accept your apology.---Thank you.

MR LEGGAT: Mr Jacob, you were shown that earlier this afternoon. Do you remember reading that?---Yes.

40

Can I suggest to you, what's happening here is that paragraphs 1, 2, 3, 4 and 5 are pointing out that for each of those developments, no VPA was required and you were contrasting that with what we see in the last three paragraphs, which was that the government was seeking both the VPA and the affordable housing contribution for Rhodes East? That's the gist of what you are conveying in that email, isn't it?---Correct.

Yeah. It's something of a whinge that you were making to Mr Chidiac, saying Cowper Street, Parramatta, Park Road, Dulwich Hill, current Homebush DA, we've got all these consents, no VPA but in Rhodes the government's acting inconsistently, wanting both a VPA and affordable housing. That's what you were complaining about, wasn't it?---Correct. There was something more than that as well.

10 Yes, certainly. Please go on.---Is that it, the Canada Bay Council introducing the SEPP 70 affordable housing, it was in draft form. There needed to be a feasibility on that for that to work in the precinct. To my understanding, the department undertook their own feasibility on, not just affordable housing but the overall feasibility on – now, I know the whole detail of that inside out in my head but I'm not going to make statements and, and cause delays to this Commission but recent contact with the department, we are trying to show the flaw in the department's report which backs our position on what I was trying to explain there, on, on a base FSR which didn't include, which didn't include affordable housing in it, and it, it, it allowed for more car parking which the council ended up getting
20 their way at a much reduced car parking rate, which made it all unfeasible as well. But I don't want to get all into that and, because I don't, it's a lot of detail and I'll be here forever if I try and explain it. Yeah.

The bottom line is this, isn't it, what you were complaining about to Mr Chidiac was what you thought was an inconsistency in approach that was being taken between the consent authorities, an inconsistency which was going to make it very expensive for you to develop in Rhodes East. That's what you're trying to get across, isn't it?---Correct. And all other landowners, as well.

30 All right. You've spoke today about a \$200 million black hole. Is it right that you thought that about \$200 million had been invested in the Rhodes East area in the expectation that you wouldn't have to, in addition to that amount of money, pay both a further VPA and affordable housing contributions? Is that what you're referring to with the black hole or is that something different?---Mr Leggat, let me – sorry. I don't know. Like I've done with the Commissioner, I've got a bad habit, my anxiousness, I really apologise. Did you finish, sorry, the - - -

40 Yes, I did. Thank you.---Yeah. I apologise. Sorry. I'm going to keep this as simple as possible. The, the, the, the, the Rhodes East Priority Precinct

Plan contemplated 3,600 dwellings in the first seven-year plan for \$78 million of state and regional infrastructure, and the government wanted to introduce a \$21,943 special infrastructure contribution rate per dwelling to fund that \$78 million. But then once that plan got released, between the state, the local member, there was outcry, outrage that there was overdevelopment, 3,600 dwellings for only \$78 million worth of state and regional infrastructure wasn't going to cut it. That's when Billbergia led the front to increase that infrastructure and we, we, we collaborated ourselves with Billbergia. And to cut a long story short, the 2018-19 plan that was the
10 second draft Rhodes East plan executed increased that to \$350 million, five times the state and regional infrastructure, most notably, the station upgrade, the thousand-student primary school, the \$50 million to Concord Road to resolve the traffic issues, the ferry wharf and the open space. But then council, on the other hand side, were trying to respectfully ram a SEPP 70, 5 per cent affordable housing mandatory on the whole 3,600 dwellings which was worth \$200 million and putting a \$200 million black hole in the \$350 million of state and regional infrastructure.

Now, the state made it very clear, we put that VPA to the state, not council, to the state, and they made it very clear that if this, they put a
20 satisfactory arrangements clause in, in the, in the, in the, in the Rhodes East precinct saying no development can proceed until satisfactory arrangements clause also being made for state and regional infrastructure. So now we were at a point where 'cause council with the SEPP 70 affordable housing, and I'm not against affordable housing but it doesn't solve the station, people have got no room on the platforms, there's thousands of kids waiting for a school, Concord West, there's demountables probably not playgrounds. The, the school in Wentworth Point, there's 400 students. Now they want to upgrade to 1,000 'cause there's not enough spaces for the kids. And all the, the one thing I did was support the state, their part,
30 because I thought, yes, you could put affordable housing but you put 3,600 people in there, but it doesn't solve the issues of the station, the school, the Concord Road traffic upgrades, the, the, the ferry wharf and all the transport issues, and that's where all the conflict was.

Chief Commissioner, I wonder we may display, please, the Rhodes East Priority Precinct Investigation Area planning report of September 2017 to which Mr Jacobs has referred? I just want to explore by reference to the actual document, Mr Jacobs, some of the matters that you've just commented on.

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THE WITNESS: Apologies if I was a bit passionate there, sorry.

MR LEGGAT: I can move to another topic, Chief Commissioner, and return to this if that would assist?

THE COMMISSIONER: Yes.

MR LEGGAT: Let's deal with Hawaii. The situation is, and correct me if I'm wrong, no arrangements were made in Australia between yourself and Mr Tsirekas to meet in Hawaii?---Absolutely not.

10

The fact that you were both holidaying in Hawaii during those dates was something which came as something of a surprise to you when you saw Mr Tsirekas and his partner in Hawaii, is that right?---Yes, Mr Leggat, that, with all due respect, I work very hard all year. I, I try and balance my life between work and my family, and my family's very important to me, and I don't spend enough time, so I take the opportunities to go on a holiday to make up for that, Mr Leggat, and the last thing I want to do is organise trips with anybody else. That was purely for my family.

20 All right. And you were taken to – I'm still dealing with matters not relating to the planning report. I'm sorry, I'm told it's up there. Oh, there we go. Thank you. Well, let me, let me go to that. Perhaps 20, page 28, please. No, no, sorry, that's the futures plan. We want the, the Rhodes East Priority Precinct investigation planning report of September 2017. That was the document that Mr Jacob referred to. While we're looking for that, I'll - -
-

THE COMMISSIONER: Are you able to help, Mr Darams, with the exhibit number?

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MS KING: Sorry to interrupt, Mr Leggat. Ingrid King is here, Ms King. I have just sent that report that Mr Leggat is worrying about to Mr Darams again.

MR LEGGAT: All right. Let me move on while that's being worked out behind the scenes, so to speak. Mr Jacob, it seems that – I'll withdraw that. You were shown a number of text messages involving memes. The dates that I have include 22 February, 2017, 24 March, 2017, 21 May, 2017, 28 June, 2017. During that period you were aware, weren't you, that Mr
40 Tsirekas was not on council, he having resigned on about 17 May, 2016, and was re-elected to council in September of 2017. Is that as you

understood the situation?---Yes, that's what the record shows. Apologies, Mr Leggat, you know with the Rhodes Priority Precinct - - -

Yes.--- - - - you wanted to ask questions? Could it be that – sorry, I might be second-guessing.

THE COMMISSIONER: No, perhaps if we just wait for the next question, yes.---I'll wait for the question, sorry, yeah. Sorry, Chief Commissioner, bad habit of mine. Sorry.

10

That's all right. We're still searching for that, Mr Leggat. We might keep going if you can.

MR LEGGAT: Yes, thank you. Yes, certainly will. That's it, thank you very much. Mr Jacob, you see that on the screen.---Yes.

Chief Commissioner, I wonder if we might go to page 28, please.

THE COMMISSIONER: Yes.

20

MR LEGGAT: Mr Jacob, you see in the top left-hand corner of page 28 the data that you were referring to in terms of the number of dwellings that were proposed in the draft precinct plan. Do you see that there?---Yes.

And then across on the right-hand column in the second paragraph, "The government has recently amended the EPA Act relating to the delivery of affordable housing which allows affordable housing to be applied to an area subject to a special infrastructure contribution." Now, in the course of your answer I think you referred to an SIC. You were referring to special

30

infrastructure contribution, weren't you?---Correct.

And can I suggest to you that what you were concerned about, amongst other things, was the capacity for double dipping that may occur where the government was subjecting the Rhodes East Priority Precinct to a special infrastructure contribution for affordable housing on top of the railway station and school infrastructure that was to be funded through VPAs with the government?---Mr Leggat, the, there was a draft special infrastructure contribution simultaneously exhibited with the draft 2017 Rhodes Priority Precinct Plan and that proposed the \$21,943 special infrastructure

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contribution for state and regional infrastructure, over 3,600 dwellings, which was \$78 million. But then going to the other side, Canada Bay

Council then were trying to implement a SEPP 70 affordable housing scheme which was 5 per cent mandatory on the total, 3,600 dwellings, which is, they implemented a rate of 488.75 of total GFA, which was equivalent to a \$49,000 SIC, which is more than double the special infrastructure contribution rate for, for, for the state and regional infrastructure. And my point was I don't want to geographically compare areas but Darling Harbour, being a much superior area, with a product worth \$30,000 median, average per square has \$124 in the City of Sydney Council and you've for Rhodes, which is 11,500 average per square metre product and they're adopting a 488 75 rate, which is four times the rate for a third of the value and compromising all the funding for the state and regional infrastructure.

I want to respond to that by taking you to page 42, please. Mr Jacob, what you've just described is the argument that you were championing as to the contributions that you thought it was reasonable for you and your associated interests to have to pay in relation to the development of Rhodes East. You've set out your argument?---Correct. And, and Mr Leggat - - -

20 No, just pausing there.---Sorry.

Just pausing there.---Yep, I'll just - - -

Now, what I want to show you on page 42 is the approach that the government was seeking to impose on you which is quite different to what you were hoping for. We see in the top left-hand column the proposed planning controls, 6.1.3, "The minister can amend the City of Canada Bay Local Environment Plan through a state environmental planning policies set under section 37 of the Act." You knew that at the time that this was - - -?
30 ---Yes, correct. Yes, correct. Yes, correct.

So it wasn't as though the Canada Bay Council or the mayor or anyone at that local level was able to amend the plan, this was a ministerial decision as you understood it, correct?---Absolutely.

Yeah. Now, you'll see on the right-hand column the second dot point. "Other key elements of the draft precinct plan include a targeted provision of 5 per cent affordable housing through new development to assist key workers and lower income earners to live within the Rhodes East area."
40 Now, just pausing there, affordable housing is the provision of housing to people like nurses and policemen and garbage collectors who, in the

absence of affordable housing, could find themselves unable to live in the local government area in which they're working. Is that as you understand it?---Yes. And I, I support that. I, I think that's very important. Yeah.

Well, that was certainly Mr Tsirekas' view, wasn't it? He was a complete champion of affordable housing, wasn't he, during this period?---Yes, but it didn't meet the viability test.

Well, that's your perspective on it, but that was why you and Mr Tsirekas had a falling out. You wanted the – part of your argument was that affordable housing was not going to pay for the necessary railway station upgrade and the necessary school for children in the area, and Mr Tsirekas was saying, "Well, we need affordable housing and we need schools and railway stations." That was the fundamental difference between you and he during this period, wasn't it?---Yes, Mr Tsirekas says, constantly said, and that's why I met up with him so many times, he said, "We pay state taxes. The state should be responsible for the state and regional infrastructure, not developers." And I disagreed with that because the, the minister had another view explaining that if we're going to provide uplift in these precincts, especially on main railway corridors, then there's value for the landowners and we should capture that and make them contribute to the state and regional infrastructure. So there was two objecting views.

Yes. And the views that you and Mr Tsirekas held were so diametrically opposed that it caused a break-up in your friendship - - -?---Yes.

- - - and you to sever communications with him by taking him off your telephone, is that's what's happened?---Yes.

30 Can we go to page 44. I just want to explore another answer that you gave, and Chief Commissioner, if we could have page 44, please, displayed.

THE COMMISSIONER: Mr Leggat, the subject matter of the disagreement that you've spoken of I understand.

MR LEGGAT: Thank you.

THE COMMISSIONER: But I'm just concerned that we don't get drawn too much into the technicalities of what was – this was a long-term vision plan as it were. I think I understand the point you're making. And indeed insofar as it's relevant to understand any more about the Rhodes East

Priority Precinct investigation area, no doubt that can be dealt without having to get it all from the witness.

MR LEGGAT: Yes.

THE COMMISSIONER: So I'm just wondering if we could just move to the other points, unless there's anything else on this area, so that we can get through this witness's evidence if possible.

10 MR LEGGAT: Yes, look, I'll take that onboard and I'll - - -

THE COMMISSIONER: As I say, I'm open to receiving

MR LEGGAT: Thank you, yes.

THE COMMISSIONER: - - - more data on this subject matter if you think that's necessary, but perhaps I'll leave it to you.

20 MR LEGGAT: Yes, thank you. I'll, I'll do it more quickly. Could we go to page 47 instead of 44, we'll skip over a few pages, please. And on 47, Mr Jacob, you see the second entry on the bottom of 47 it refers to a new primary school, \$15,800,000, and then the fourth column, "to be partially funded by a second primary school delivered by planning agreement". That's the school that you were referring to when you were speaking about the school and the railway station being upgraded, is it? Is that right? ---Yeah, that's, that's, respectfully, penny money, hadn't, you couldn't deliver a school for \$15.8 million, you know, so the - - -

30 THE COMMISSIONER: It's all right, I think that's enough, thank you, on that.---Yeah, yeah, I know. Yeah, I know.

MR LEGGAT: All right, let me move on.---Move on, yeah, yeah.

40 Let me, if I can take you to page 48, please. You'll see in that left-hand column, it's about the third paragraph, "The Department recommends the application of a Special Infrastructure Contribution to the precinct to deliver long-term State... the SIC is a financial payment made by developer during the development process." And then it continues down. And it says, it's paragraph three from the bottom, "The NSW Government may put forward fund key infrastructure following entering into commercial arrangements with the relevant proponent to deliver the infrastructure. It's anticipated this

would be by way of planning agreements.” That is what you and Mr Kinsella were working on with the government in discussions about planning proposals, isn’t it?---Yes, we put a state VPA in, not a council VPA. Our state VPA, I’ll keep this very short ‘cause we don’t want to go too long here - - -

THE COMMISSIONER: No, I don’t want - - -?---No, no, no, but our
- - -

10 No, no. Wait a minute.---Okay. Yeah.

Are you able to say yes or no to that question, firstly?---Yes, but he wanted to know our, our, our state VPA was - - -

Yes. Okay. Well, I think we’ll leave it there.---Okay. We’ll leave it there. All right.

Just for the moment.---Okay.

20 MR LEGGAT: Thank you.

THE COMMISSIONER: Mr Leggat - - -

MR LEGGAT: Yes.

THE COMMISSIONER: - - - I want to move on.

MR LEGGAT: Thank you. I will - - -

30 THE COMMISSIONER: We probably won’t finish this witness today, I appreciate, but I want to finish this area.

MR LEGGAT: Yes.

THE COMMISSIONER: And I don’t want any more reference to that document at this stage, thank you.

MR LEGGAT: Very well.

40 THE COMMISSIONER: Just move on to the next point.

MR LEGGAT: Certainly. Mr Jacob, you gave an answer to a question in which you said “our site was key to the infrastructure because of its location”. What did you mean by that? What site did you have in mind and what was the infrastructure and how was it key because of its location?
---That’s going to be a long answer, Mr Leggat.

THE COMMISSIONER: I don’t think we’ll go there today.

THE WITNESS: Yeah, yeah, yeah, yeah.

10

We might debate whether it’s within the scope I’ve granted leave - - -

MR LEGGAT: All right.

THE COMMISSIONER: - - - and, alternatively, whether it’s of relevance to the issues that I’ve got to deal with.

MR LEGGAT: Very well.

20 THE WITNESS: I’m being very conscious of time, Chief Commissioner, too.

THE COMMISSIONER: Mr Leggat - - -

MR LEGGAT: Chief Commissioner, I think I might be - - -

THE COMMISSIONER: - - - the reality is at this time, we’ll need to get Mr Jacob back to finish him.

30 MR LEGGAT: Yes.

THE COMMISSIONER: So I propose to have Mr Jacob return on Monday. Is that going to cause any real problems for you?---No, Chief Commissioner. I was hoping to finish today, Chief Commissioner.

Unfortunately, I was trying to get through the evidence, too, but I think that – now, Mr Henry?

40 MR HENRY: I’m sorry to interrupt. I can’t be here on Monday, I’m sorry. I can on Tuesday but Monday I’m elsewhere in another hearing.

THE COMMISSIONER: Very well. Well, Mr Henry, we'll meet you, we'll make it Tuesday. Perhaps I just should inquire of Counsel Assisting as to, you know, how that's going to affect the program?

MR DARAMS: We could make arrangements. It can't be Tuesday 'cause we're not sitting in the public hearing. Wednesday we can certainly do it, Wednesday or Friday next week – sorry, Thursday - - -

10 THE COMMISSIONER: How are you placed on Wednesday, Mr Henry, or Friday?

MR DARAMS: Or Thursday.

MR HENRY: Wednesday or Thursday of next week would work from my perspective.

THE COMMISSIONER: Sorry, Wednesday?

20 MR DARAMS: We can make those arrangements - - -

THE COMMISSIONER: Very well, Mr Henry. We'll stand Mr Jacob's evidence over till Wednesday next - - -

MR HENRY: I'm grateful. Thank you.

THE COMMISSIONER: 10.00am. Very well. I don't if that's better for you?---No, it isn't, Commissioner, but I'll have to cooperate.

30 Can you alter any arrangements you've got in place for Wednesday to try and accommodate the completion of your evidence on Wednesday?---Is that the cross-examination?

Yes, that's right.---Yes. Yes, I'll, I'll make myself available. Thank you, Chief Commissioner.

Good. Okay. All right, then. Then we'll do that. Mr Jacobs will return next Wednesday and 10 o'clock to complete the cross-examination. Are there any other matters?

40 MR DARAMS: Nothing further.

THE COMMISSIONER: Very well. Then I'll adjourn.

THE WITNESS: Thank you.

THE WITNESS STOOD DOWN

[3.59pm]

AT 3.59PM THE MATTER WAS ADJOURNED ACCORDINGLY

10

[3.59pm]