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25/05/2022

TOLOSA
pp 01575-01620

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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 WEDNESDAY 25 MAY, 2022

AT 10.00AM

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THE COMMISSIONER: My apologies for keeping everyone waiting. I had another matter I had to attend to.

MR DARAMS: May it please, Chief Commissioner. This morning, we'll continue with the examination, there were questions from interested parties, of Mr Joseph Jacob.

THE COMMISSIONER: Yes. Very well. Mr Jacobs, I'll get you to take the oath again. Thank you.

10

MR JACOB: Yes, Chief Commissioner.

THE COMMISSIONER: Mr Leggat, do you - - -

MR LEGGAT: Yes. Thank you, Chief Commissioner.

THE COMMISSIONER: Yes. I grant leave.

10 MR LEGGAT: Chief Commissioner, I wonder if we might have displayed,
please, just excuse me a moment. It's from the transcript. And I do
apologise. I'll turn it up in just a moment. If we might have page 566,
please, of the transcript? Mr Jacob, I'll be with you in just a moment. Mr
Jacob, do you see on the left-hand side of the page there, numbers 10, 20
and 30?---Yes.

Take it from me, those refer to the line numbers. So I'm going to direct
your attention to a question asked by the Chief Commissioner, which is at
about line 6 or 7. You're familiar with the format, are you? Have you read
20 transcripts before?---Yes.

So the Chief Commissioner and Mr Darams are identified and where there's
a speaker not identified, you can take it from me that that's a recording of
your answer. Now, you indicate there at about line 8, "No, they haven't
been developed at all." What properties, in particular, were you referring to
there as properties that hadn't been developed?---I was referring to the
Prolet properties and the Prolet-related entity properties.

Right. Then at about line 13, a question there, "There were no development
30 applications put in for them?" "No, not at all. It just went through a state-
led process where the Department of Planning instigated a state-led
rezoning of the whole 17 hectares. We were just part of the process." What
did you mean by "it just went through a state-led process"?---Mr Leggat,
when you refer to the draft 2007 Rhodes East Priority Precinct Plan, that
was the first plan that was exhibited. After that plan, there was many issues
with that plan because they said there's not enough state and regional
infrastructure to justify the 3,600 dwellings. So then there was a revised
Rhodes East, a revised Rhodes Precinct Plan that was exhibited in between
7 December, 2018, to 28 February, 2019. In that plan, all the infrastructure
40 was locked in, so it went from \$78 million to \$350 million of growth
enabling state and regional infrastructure for the same 3,600 dwellings. So

there were four character areas in that, in that plan and they were the Station Gateway West where there was an allocation of 60,000 metres of GFA, Station Gateway East 135,000 metres of GFA - - -

THE COMMISSIONER: I think we'll stop you there.---Sorry.

You were just asked about what the process was, without too much detail. ---Sorry. Sorry, Commissioner. Yeah. In that, in that - - -

10 No, no. Stop there.---Yeah.

Next question.---Yes. Sorry. Yeah.

MR LEGGAT: Thank you. I take it that where you're referring to "state-led process", you're referring to what you have just been describing? You can just answer that yes or no.---Yes, yes.

All right. Now, towards the foot of the page you give an answer at line 35 where you say, "Look, we thought that the floor space was undercooked."
20 What did you mean by that and what was the relevance of you forming that view?---Oh, that's when we purchased the properties, they had a residential rezoning, an R3, and we just thought the floor space was pretty undercooked, being opposite a major arterial train station.

Can you give us some words rather than "undercooked"? What do you mean by "undercooked"? Well, let me do it this way, this might be faster. You're describing the potential for the floor space ratio, the FSR, to be increased at some stage in the future?---Correct.

30 All right. So there was development potential because of that characteristic, is that what you're trying to convey?---Yes.

If we could to page 557, please. Mr Jacobs, you'll see just before line 30 you've given this answer, "So if anything happened beyond that, that would be totally out of our league" and you're speaking about private constructions there. Why would something be totally out of your league? What is it that you mean, you're trying to convey, by that expression?---What was happening on the west side was very tall towers and we don't have experience in tall towers, only in, in lower, medium density, that's what I
40 meant by that.

Thank you. Could I take you to 574, please? Now, at about line 29 you conclude by talking about your contact with Mr Tsirekas increasing during this period, and to put that in context it starts at about line 10. I just want to draw your attention to these words and just understand the relevance to you of what you say in here. At line 13 you say, “The Department of Planning said that their vision was before they exhibited new draft plans for the Rhodes East area that the infrastructure needs to be embedded first before the densities.” What is it that you’re describing there? What was the relevance to you of that characteristic?---In the revised 2018/19 planning precinct that was put on exhibition, there was a satisfactory arrangements clause that was put in there that no, no development could proceed unless those satisfactory arrangements were made for state and regional infrastructure.

Thank you. Then you continue. “So I think Billbergia went along and put through multiple infrastructure offers totalling hundreds of millions of dollars.” What’s your understanding of who those offers were made to? ---To the state.

20 And it then continues “and the properties that we had we more directly opposite the station”. Why was that of relevance to you? What is it that you’re trying to describe there?---At one stage our, our, the Prolet land was, could have been the location of the thousand-student primary school but that never happened and at one stage as well, part of the Northern Concourse upgrade to Rhodes Train Station could have been entrances but they ended being within TFNSW’s own railway corridor.

All right. The last thing that you say, “Because of those infrastructure proposals coming forward we were speaking to the department.” Why was it that you were speaking to the department?---Because the department was a state-led plan.

All right. And then you continue, “But at the same time too, my contact with Mr Tsirekas increased during that period.” Why did your contact with Mr Tsirekas increase during that period?---Because the council were pushing the SEPP 70 affordable housing.

I won’t go back to that, you’ve spoken at length about that.---Yes, yes, yes, yes.

40

Page 575 you were asked some questions between lines 20 and 30 about sharing a meal with Mr Tsirekas and you say this, “Yes, it did happen. It wasn’t purely social.” This is about line 33. “It would be a chance to meet up and discuss the infrastructure proposals.” So just read that to yourself but you’ll see the context is that Mr Darams is asking questions about you catching up with Mr Tsirekas and having a meal at restaurants or a coffee, and you have given evidence that that was a chance to meet up and discuss the infrastructure proposals. What did you mean by “the infrastructure proposals” that were being discussed with you and Mr Tsirekas?---The
10 1,000-student primary school, the station upgrade, the Concord Road upgrades, the ferry wharf, all, all what was contemplated in the, in the draft plans that were being exhibited by the state.

Do you include affordable housing in your expression “infrastructure proposals”? Or do you, when you’re referring to infrastructure proposals, seek to differentiate between what you’ve just described as comprising infrastructure proposals on the one hand and affordable housing on the other hand?---All our submissions were purely to the State Government and the
20 Department of Planning on the state and regional infrastructure. We never put any proposals for a SEPP 70 affordable housing.

All right. If I could take you to page 600, please. And you’ll see between lines 10 and 20 you’re referring to lunches with Mr Kinsella and Mr Tsirekas and you say, “The conversation would start on the infrastructure proposals for Rhodes.” Do you see that, lines 18 and 19?
---Yes.

Can you explain what you meant by “the infrastructure proposals for Rhodes” that were being discussed between yourself, Mr Kinsella and
30 Mr Tsirekas on those occasions?---Again I’m repeating myself, the 1,000-student primary school, the station upgrade, Concord Road upgrades, the open space and for the ferry wharf.

All right. On page 601, if I could take you to that, please. At about line 35 you say this, “Because where our site was positioned on the station it was, it was actually key to this infrastructure. Could have been a site for the 1,000-student primary school which we did a proposal for that.” Now, just pausing there. What do you mean by “we did a proposal for that”?---A joint
40 submission with Billbergia on that, where the 1,000-student primary school would be located on, on partially the land and then the rest of the land will be dedicated to housing.

When you're referring to a joint submission with Billbergia you've used the expression "proposal". You're not referring to a planning proposal or are you? What did you mean by a proposal?---That the, the department and the State were going to release an EOI campaign for the school and that didn't eventuate so we put through a proposal and a submission for an alternative site for the school that complied.

10 And that proposal you described as being a joint one with Billbergia. Is that correct?---Correct.

And who was that a joint submission to?---To, to the department and council.

20 You say, "And it could have given land for entrances to the station as well but the Transport decided to do it within their own railway corridor." Explain what that means in light of this joint submission that you've made with Billbergia.---When I saw the tier 1 consultant that specialises with the state in the station upgrades and we put forward a proposal where the other concourse could be upgraded and that the entrances to the new northern concourse, we could dedicate some of our land for that. But like I said, TFNSW ended up somewhere down the track putting it within their own railway corridor.

30 Can you clarify this, please? At line 41, the last line on the page, you said "That's when it was told to us that if we don't contribute towards the infrastructure, then there's no chance of redevelopment happening." Who is it that told you something and what was it that you were told?---It was the, it was the Revised Rhodes Plan Precinct that was exhibited, that put in satisfactory arrangements clause saying that no development could proceed in the precinct until satisfactory arrangements were made for state and regional infrastructure.

Thank you. If I could go to 604, please. See at about line 30, you said, "Looked at an avenue of a State Significant Development, an SSD, but that wasn't possible." Is this with Billbergia, or when you say "We put a proposal", who is the "we" that you're referring to there?---Yes, Billbergia.

40 "So we spent a lot of money, us and Billbergia, putting it forward and that was a compliant proposal for the school." What was this proposal that you and Billbergia were putting forward that you're referring to?---At the time it

was compliant because the criteria for the EOI, we were told, was they wanted the 400-metre blanket radius around Rhodes Train Station, and the minimum requirement was for 6,000 square metres of freehold land, and for every student there would be 10 square metres of open space and our land could comply with that criteria. But without going into too much detail and making statements, the charrette happened in September 2018, I think it was on 4 September, where they put three options in. School Infrastructure NSW that day changed the criteria saying that they needed 1.2 hectares for the, for the land for the school instead of 6,000 square metres, because there were cost blowouts in vertical primary schools, and so there was an alternative site that was taken upon. And our submission then was void, because we couldn't comply anymore with the criteria after we spent all that money.

At about line 38, you identify that something that came out of the charrette was three potential locations for the school. Are you able to identify where those alternative locations were and whose land, who are the owner of the land that was identified as possible alternative locations for school?---Well, the, from, to the best of my recollection, option A was the Prolet land directly opposite the school, the 6,000 square metres, and the second option was the Royal Freemason's land in Cavell Avenue, which was also 6,000 square metres, and option C was the Billbergia (not transcribable) and I think there were three other vendors that had properties with them as well, on the 1.2 hectares and that was the school that was decided on the, the charrette, option C.

On page 605 you refer to a conversation you had with Mr Bruzzano about the draft joint venture agreement that you had been provided by Billbergia, and he said to you "Billbergia's a big company. I've had a look at the terms and I would advise that if the school site did go there that, you know, this would need to be changed." What is he referring to and what was the relevance to you of what he's saying to you?---I sought the advice from Mr Bruzzano on the, on the draft joint venture proposal and he said it's in our best interest that we don't proceed with that proposal.

Can you explain the reference to "If the school site did go there, this would need to be changed"?---The terms of the draft agreement, yes.

I still don't understand. You seem to be referring to a school site that would need to be changed somewhere. Can you explain what it is that you're referring to?---No, no, I wasn't referring to that because that's not, that's not

a decision for us, that's a decision for the State Government and the department and School Infrastructure NSW. What this is referring to is the draft joint venture agreement that, in it, there were clauses in there that weren't in our best interests.

10 All right. Let me move on. The last three lines, you say, "We just wished someone told us before that they needed 12,000 square metres of land, not 6,000 square metres, 'cause we spent all this money on this proposal." Just pausing there, what's the proposal that the money was spent on?---Well, prior to the 2017 Draft Rhodes East Priority Precinct Plan that was exhibited, we were told by the department that the criteria would be within a 400-metre blanket radius zoning within Rhodes Train Station. They needed 6,000 square metres of land for the 1,000, 600 to 1,000 student primary school, and for every student they needed 10 square metres of open space, so that's the catalyst for us drawing up that, with our tier 1 consultant Hayball, who specialises in these schools and works with, with governments. But then fast forward to the charrette on September 4th to the 5th, 2018, when the, they put three options down instead of the EOI
20 campaign. They ended up going with option C, which was the 1.2 hectares, so on that day, we found out they needed 1.2 hectares, not 6,000 square metres. So all I was referring to there was, with all respect, if we had known in the beginning, we would not have spent all that money developing that concept.

Well, when you say you wish someone told you, who do you consider would have been appropriate to advise you of that decision?---Well, I was most probably referring to the department 'cause they, they came out with criteria originally before the '17 plan was exhibited.

30 All right. On page 606 around about line 20, you'll see reference to an option for the school site and the question that was, "Was that an option that was offered to both Billbergia and yourselves, Prolet?" And you say, "No, to the department. To the Department of Planning." Can you just clarify what you were speaking about there, an option for the school that was offered to the Department of Planning? What are you describing there? ---I was referring to that option where we put forward right up to the station, being the, our land with the Billbergia land adjacent. At that time, that was complying with the 6,000 square metres of land.

40 Thank you. Finally, at 609, there is questions and answers about a fee to be paid to Mr Chidiac. And I understand it, I think we pick it up around about

line 18. Question, “Well, did he indicate what his price was?” Answer, “He wanted some of, the agreement never commenced but he wanted some sort of yearly agreement plus another fee.” Have I got it right that the “he” that’s a reference to Joseph Chidiac. Is that right?---Yes.

And you say, “If the JV happened, all Prolet would have to do for that school site was hand over its land to Billbergia.” So just pausing there, the JV that you’re referring to is Prolet and Billbergia. Is that right?---Yes.

10 The reference to “all Prolet would have to do for that school site was hand over its land to Billbergia, and Billbergia will design, construct, fund, deliver the whole project, and to me that was very valuable, and what, what he was proposing, I can’t recall exactly, what he was proposing was very minimal compared to that final outcome.” Can you clarify what it is that you’re talking about there? Perhaps I can assist slightly. It seems that Mr Chidiac is suggesting that he ought be paid some fee. The inference is that it’s a large fee but the inference also seems to be that you’re prepared to pay a large fee to Mr Chidiac because something described as the “final
20 outcome”, which appears to be a joint venture with Billbergia, would be financially very lucrative to Prolet. Have I understood the gist of that correctly?---Yes.

Right. Chief Commissioner, those are the questions. Thank you.

THE COMMISSIONER: But what sort of - - -

MR LEGGAT: I’m sorry. I’ve just - - -

THE COMMISSIONER: What sort of fee was he after, in round terms?
30 ---Chief Commissioner, first of all, if you negotiated the JV but you never end up doing, we were supposed to pay a retainer and that never happened because - - -

No, I know that - - -?--- - - - I, yeah, I ended up negotiating.

But what sort of money was he talking about? You obviously saw as too much to warrant paying, what sort of order of money was he after?---I think it was some yearly retainer fee and then, if the joint venture ended up happening, some property as well.

40 All right.---Yep.

And did he indicate the sort of range of fee he was talking about?---It was a annual fee about \$120,000.

\$120,000.---Yeah, yep.

You've spoken to Mr Chidiac over time quite often, haven't you?---Not since, since 2019.

10 No, but I'm going back in time. '16, '17', '18 that period.---Yes, yes, yes.

'19.---Yes.

Spoke to him on many, many occasions. Is that right?---Yes.

Well, what did Mr Chidiac suggest he offered to be put on retainer?

---Sorry - - -

What would he do?---Negotiate the JV with Billbergia for us.

20

Negotiate with?---The JV with Billbergia. Yes.

Do you know what the qualifications of Mr Chidiac are?---I just found him to be a person to introduce, negotiate, just nothing else. He don't, he didn't have no experience in planning, like I said.

But he doesn't profess to have any skills, does he, except he can put people in touch with each other and try and help them come to agreement on price, yes?---Yes.

30

What else did he offer?---Um - - -

It'd be outrageous, wouldn't it, to be suggesting he'll be paid over \$100,000 a year just introducing people and negotiating?---No, no, Chief, the reason why we didn't pay it is because I was expecting him to negotiate it with Billbergia, which he didn't do.

Anyway, in short, did you see it as absolutely ridiculous that this man was trying to muscle in and get a share of the action when he really wasn't, didn't profess to have any qualifications in town planning, joint venture matters, commercial matters?---Yes, Chief Commissioner.

40

Okay. All right. Well, thank you. Anything else for Mr Jacobs, Mr Darams? Nothing else – sorry, Mr Henry, is there anything you want to raise with - - -

MR HENRY: No, thank you.

THE COMMISSIONER: Thank you. Yes, Mr Darams.

10 MR DARAMS: I have nothing further for Mr Jacobs.

All right. Thank you, Mr Jacobs. Do you want to step down. You're excused.---Thank you, Chief Commissioner.

THE WITNESS EXCUSED

[10.52am]

20 MR DARAMS: Chief Commissioner, the next witness I'll call is Mr David Furlong. Mr Furlong is back for the purpose of some questions from interested parties.

THE COMMISSIONER: Very well. Call Mr Furlong.

MR DARAMS: And I understand there's only one application at this stage and that's on behalf of Mr Tsirekas.

THE COMMISSIONER: Right. Good morning, Mr Furlong.

30 MR FURLONG: Good morning, Chief Commissioner.

THE COMMISSIONER: Do you want to remind me, do you take evidence on oath or affirmation?

MR FURLONG: The oath.

THE COMMISSIONER: Thank you. Yes, I'll have that administered. If you wouldn't mind standing. Take the Bible there.

40

THE COMMISSIONER: Yes. Yes, Mr Darams. Mr Darams, is there anything you want - - -

MR DARAMS: Sorry, Chief Commissioner. I apologise. No, there's nothing further that I have for Mr Furlong.

10 THE COMMISSIONER: Yes. Mr Leggat, you want to - - -

MR LEGGAT: Thank you, Chief Commissioner. Chief Commissioner, I wonder if the page of the transcript 251 might be displayed, please. Mr Furlong, my name is Leggat and I appear for Mr Tsirekas.---Yes, Mr Leggat.

I want to turn firstly to the free town planning assistance you gave to Mr Tsirekas's partner. On page 251 about line 30 you say, "The DA had been in with council for quite some time and it was a very fractious process for a whole bunch of reasons." What did you mean by "a very fractious process for a whole bunch of reasons"?

20

THE COMMISSIONER: You understand what development is being dealt with there?---Yes, Chief Commissioner. Mr Leggat, there were, how do I put it, circumstances that related to, I think primarily Mr Tsirekas' impending separation and divorce from his former wife, circumstances that related to the fact that his partner was a former employee of the council, circumstances that related to the fact that she was successful in purchasing the property. There were neighbours who wanted to purchase it and there was a, a whole lot of acrimony in, in the local area, damage to private property. And when I looked at the information available on the DA, it had been going for quite some time when I got involved. I didn't agree with the outcome that the independent planner had got to and I thought, having known the area reasonably well, I thought there were opportunities to, for want of a better word, debunk those things and move to a position where a positive outcome could be achieved.

30

MR LEGGAT: What was the name of the independent planner with whom you disagreed?---I believe it was Ms Kerry Gordon, I think.

40

All right. Mr Furlong, could I take you to page 238 of the transcript, please? You'll see at the foot of the page you state this, "I have sat on peak planning panels of the State Government and I currently still sit as an expert on two local government planning panels." Now, the peak planning panels of the State Government, could you identify what you meant by that?---Mr Leggat, I was appointed by the government to sit on what was then called the Planning Assessment Commission, it's now called the Independent Planning Commission, where state and regional, mostly state, large state DAs were dealt with in terms of being assessed by the Department of
10 Planning and reviewed by the Planning Assessment Commission so that the, the chief would send out three, usually three people, the commissioners - - -

Just pausing there, when you say "the chief", who are you referring to?
---The, the Chief of the Planning Assessment Commission, the chair, sorry, who would form a team of three of the commissioners, sometimes including herself, to go to various places in the state and also in the metropolitan area to sit as the determining authority of those majors DAs. I did that for three years, I think, from memory. And secondly I was also appointed by the
20 government to what was then called the Sydney East Joint Regional Planning Panel and I sat on that panel for seven years and basically we were involved in all DAs from Palm Beach in the north to Sutherland in the south, all the way across to the western edge of Strathfield and, and Ryde Councils, I think, was the western boundary and we, we determined every DA that had a monetary value of \$20 million or more. I think that then became \$30 million. And then late in my term, which concluded in 2018, I think, '17 or '18, we also started to look at planning review, planning proposal reviews.

My understanding, correct me if I'm wrong, is that the PAC, to use the
30 acronym for the Planning Assessment Commission, and the IPC, the acronym for the Independent Planning Commission, was chosen by government pursuant to provisions in the Environmental Planning and Assessment Act which included that people, in order to hold an office, had to have certain qualifications. That's right, isn't it?---Yes, Mr Leggat.

So, for example, there would be a town planner chosen. Correct?---Yes, Mr Leggat.

There would be a person with legal experience chosen?---Yes.
40

And without false modesty, you could be described objectively as being at the pinnacle of the town planning hierarchy in New South Wales and that was why you were chosen to fill the town planning role on the PAC and the IPC. Would you agree with that?---I don't know that I'd use the word "pinnacle", Mr Leggat. I was one of half a dozen planners, maybe more, on, on the PAC. I went through an, almost like a, a, a job recruitment process with independent recruiters and I was fortunate enough to be appointed.

10 And part of that appointment involved a rigorous probity assessment, as well, didn't it?---Definitely, Mr Leggat, yes.

The type of work that you did on the PAC and the IPC included whether or not open-cut coal mining ought to be approved by the body on which you sat. That's right, is it?---The PAC did look at those sorts of applications. I didn't sit on an open-cut mine, Mr Leggat. The, my recollection is the only mining-type matter I dealt with was a, a sand mining operation up on the central coast. It provides the majority of sand for the concreting operations in Sydney.

20 When you say on the PAC and the IPC, there would be public meetings held in which you would sit and take submissions from people like me, from time to time. That's so, isn't it?---Yes, Mr Leggat.

And there would be a public hearing that you would run and you would receive submissions from barristers and town planners and proponents of development. That's right, isn't it?---Yes, not in every matter, Mr Leggat, but because the Act and the regulations specify when a public hearing is required but where they were required, yes, we would.

30 And some of these public hearings would last for many days?---Yes.

Very complicated planning matters that you were dealing with in your role for the government. Is that correct?---Yes.

40 Let me move on. At page 245, please? At about line 18, you were asked a question by the Chief Commissioner, "What was the reason behind, do you know?" And your answer is, "According to the council report, because it, not all six pieces of land were in the same ownership." What is it that you're describing there and what was the relevance of what you're saying there, please?---Mr Leggat, in going through its strategic planning process, the council and its planning staff spent a lot of time around 2014/2015

looking at what is known as the Station Precinct in, in Rhodes, which is the land to the west of the station. And they developed a, a plan, a strategic, amendment to the council's LEP looking at development uplift, potential for the western side of Rhodes. The land that my client subsequently purchased was - - -

Just pausing there. When you say "my client", who are you referring to?
---I-Prosperity.

- 10 Thank you. Yes.---The land that I-Prosperity subsequent purchased was owned by another group, and that land – which was generally on the corner of Mary and Marquet Streets – was included in the assessment and indeed in the recommendation by the council's consultants was due for a development uplift, an increase in height and an increase in FSR. When that matter got to council, the council's resolution following consideration of the report, excluded that land from the final amendment to the LEP. That's in about 2015, I think. And the reasons given was that the land was not in a contiguous ownership. I think there were six blocks, four were in the ownership of one company, one was in the ownership of another entity, and, 20 and obviously the sixth one was in a different ownership. So the council resolved that until that land was in contiguous ownership, it would not deal – from a strategic planning perspective – with that land. And that resolution sat on the, on the books of the council until such time as it was eventually, in 2016 at the May meeting, not overturned but usurped by another council resolution.

THE COMMISSIONER: Sorry, usurped by?---Another council resolution, Chief Commissioner.

- 30 MR LEGGAT: In the course of that answer you referred to development uplift in relation to height and FSR. And dealing with that conceptually, I'm going to put this in a very crude way, but tell me if I've got the gist of it right. Where the Government of NSW changes planning controls such that there is what might be described as an unearned income benefit derived by a landowner, which unearned benefit arises due to changes in height and FSR controls, there is a process whereby that unearned increment can be valued, and the government generally seeks to take 50 per cent of the value of that unearned increment. Have I got that right, generally?---If, Mr Leggat, you're doing a, a private planning proposal seeking to have your own land 40 or land that you have an interest in increased in its development potential, there are a number of methods the government can use to extract a

community benefit. It may be a 5 per cent requirement for affordable housing or it may be a state infrastructure provision clause. There are, there are many. Some councils, in determining their VPAs that might go with a planning proposal do look at up to 50 per cent, they used to call it value capture, but the Department of Planning recently – when I say “recently”, in the last 18 months – have put out a guide to developing planning agreements that shuns the practice of value capture.

10 THE COMMISSIONER: Sorry, that what?---Shuns it, Chief Commissioner.

Shuns it?---Yeah, ‘cause it’s, it doesn’t necessarily, value capture is simply a valuer’s model of the value of what you’re getting against the value of what you had. So it doesn’t necessarily reflect a community need in terms of the provision of services.

MR LEGGAT: And that move away from the 50 per cent value capture occurred around the middle of 2020-ish, did it, doing the best you can? ---Thereabouts, Mr Leggat. I, I can’t recall when the circular was actually
20 issued but in that realm.

VPAs first became part of the Environmental Planning and Assessment Act in about 2005, is that right, or was it 2009?---I, I don’t recall. I don’t think it was 2005, but I’m not sure.

All right.---Certainly in that sort of period.

30 All right. So, let’s say, from about 2009 through to about 2020 the value capture approach to extracting a community benefit consequent upon an uplift in height and FSR was the standard approach used by most, if not all, councils in Sydney. Would you agree with that?---No. I don’t know that I would say it was the standard approach. Many, many councils did look at it that way. Many others had done the work to highlight community needs. Canada Bay was one of those and therefore the, it could be a combination between the value capture that then reflected the value of additional public domain works or it, it could be provision of, of land or services to reflect the needs of what the additional population, as a result of the planning proposal, may require.

40 Thank you. Let me move on. At 247 you indicate, so page 247 of the transcript, that you first met Mr Tsirekas in 1997 and that was when you

were working at Drummoyne Council as the Director of Planning, I believe. Is that right?---(NO AUDIBLE REPLY)

And he was elected to Drummoyne Council?---It was certainly, Mr Leggat, either that the council's statutory planning manager or director, the, when I first went to council, the director who I worked for died very suddenly. It could have been, I think it was around 2007/2008. Mr Tsirekas was elected to the council, I believe in the 1997 local government elections.

- 10 Thank you. Now, you'll see at about line 35, a line where Mr Darams asks you this question, "In terms of your employment at Drummoyne Council, did you have many dealings with Mr Tsirekas?" and you say, "Yes, Mr Darams, like any councillor." Now, just pausing there, what did you mean by "like any councillor"?---My approach to my roles as a manager and director, Mr Leggat, was that the council is the board of directors in a corporate sense. The mayor being the chairman of that board of directors would, I, I would talk to the mayor and answer any questions quite, quite often and quite normally. Councillors would often ring on behalf of
- 20 residents who were applicants or who were looking for issues. Particularly in my role, Mr Leggat, when I became the director I wasn't just the Director of Planning, I, I was a director of a number of the council's key operative, key operational activities. And so councillor Tsirekas, like most other councillors, would ring and ask me, it may be something as simple as somebody who was disabled, was it possible to organise a disabled parking space close to where they lived or it could be somebody's having some difficulty with a fairly basic development application process. Could be any number of things and, and I would get the information and, and respond. Yeah, a quite normal process.
- 30 You have indicated that those were examples of something that you described as quite a normal process. Can you help us with whether or not Mr Tsirekas was usual in the amount of times that he would contact you or unusual in relation to other councillors? I'm just, have a, have a picture as to whether or not this practice that you're describing was consistent amongst councillors in your experience.---Some councillors, Mr Leggat, you don't hear much from. Back in those days, the council, there were no independent Local Planning Panels, for example, and councillors were responsible, through either the Development Committee or full council, to determine development applications and planning, strategic planning matters, planning
- 40 proposals, although they weren't called that then. I don't recall Councillor Tsirekas being any more often than others. He certainly took his role of

assisting the community very seriously, as did a number of the councillors in that time at Drummoyne and subsequently at Canada Bay.

THE COMMISSIONER: Mr Furlong, just in relation to what might be called probity issues and the work of council staff on the one hand and then the role of councillors on the other. There is, is there not, recognition of the need to keep appropriate separation between council staff and councillors in relation to certain matters, which we can come to in a moment, that right?

10 ---Yes, Chief Commissioner, but there were levels within, within the organisation where that went down to, if you like.

Yes. But in terms of somebody ringing to obtain information, for example, as to where things were up to and so on, of course councillors do have relationships with constituents. They represent constituents and they do make inquiries of that kind.---Yes. Yes.

And that's quite common and part and parcel of the role of a councillor, is that right?---Yes, Chief Commissioner.

20 And then councillors also have other roles, in particular in relation to matters that lead up to and concern council in formal session where, for example, a matter requires a resolution of council.---Yes, Chief Commissioner.

And can you explain what the probity principle is in relation – and expected of councils in terms of relationships between councillors on the one hand and developers, who may be proponents of a proposal or an applicant, on the other, when the matter is going through council and which may require a formal decision, whether in formal session of council or in relation to some other method? Can you just explain what the probity principle is that lies there, as you understand it?---Chief Commissioner, I'll just go back a bit to answer your question. When I first started in local government many years ago, under the Local Government Act of 1919, the mayor was effectively the CEO of the council, and as I said before, and the councillors were like a board. Councillors would have a great deal of interaction with the staff. They would, they would come into the office and ask pretty much anything they wanted to ask. In 1993, the Local Government Act was amended and the general manager became the CEO and the mayor was the political figurehead. So one of the probity protocols built into that change was that
30
40 councillors could no longer just come into the building. They should not contact the operational staff. If they had questions, they needed to put them

either to the general manager or to the director, those people on senior staff contracts, and then it was up to the general manager to either go to the relevant director or up to the director to liaise with the relevant staff member and then give a response back to, to the councillor. But within that system, which, you know, I found worked fine, there was still a lot of interaction at my level.

Yes.---But if I ever felt, and I never did, if I ever felt, what's the word, disadvantaged or in a predicament that I didn't think was right, I would
10 simply go to the general manager and I had that opportunity. I don't think I ever did that. I would - - -

Can you just - - -?---Sorry.

You go.---And I don't think I ever did it because if I did feel that I would simply tell to the councillor, sorry, it's not appropriate. We're in the process of finalising the draft LEP, the draft level of uplift for example and we will put it to a, to a council meeting and you'll get the report.

20 And the probity principle that you've addressed in general terms in that last answer or two was certainly a principle that was adopted by council, I'm talking about Canada Bay Council, in the period that you were with the council.---Oh, yes, Commissioner, Chief Commissioner.

Again just remind me what period were you there?---I started at Drummoyne in 1994, October 1994. Drummoyne and Concord were amalgamated by the State Government in 2001 I think.

Ah hmm.---And I left Canada Bay in early 2004. So I was effectively in
30 that area for 10 years between '94 and 2004.

And would you just tell the Commission based on your experience what you understood the rationale to be behind the protocol that you have outlined or addressed?---Oh, to ensure that a reasonable process was, was followed and that - - -

In terms of probity I'm talking about.---Yeah. And that whatever the outcome, be it a negative recommendation or a positive recommendation, how can I put it - - -
40

I'm not talking about outcomes. I'm talking about process.---No, no. Well, the process has got to be right to get to the right outcome, Chief Commissioner.

Sure. Yes.---So it has to have integrity and that's the basis behind it. You have to have - - -

Sorry, you have to have, what was it?---Integrity.

10 Yes.---And you have to have in my case the planning staff making merit assessments based on their planning knowledge and then putting those to council or if it was a delegated authority matter putting them to me or their manager for, for appropriate action.

And are you familiar with the provision in the code of conduct that, as I recall it, prohibits caucusing amongst councillors?---Um - - -

Firstly, are you aware of the provision I'm referring to?---Not off the top of my head, Chief Commissioner.

20

All right. Well, perhaps you can for the moment deal with it on the assumption the code - - -?---Yep.

- - - does address caucusing and, yeah, the thrust of it is there should not be caucusing on official business amongst councillors that matters that might for example come before council in private session. Do you understand? ---Yeah, I'm, I'm aware of its intention, Chief Commissioner.

30 In any event – well, can you just outline what you understand the intention of that prescription is?---Oh, presumably, Chief Commissioner, so councillors can make up their own mind without any undue force.

40 But it is also important, is it not, in council business that councillors are involved in making decisions to ensure that they all have the requisite information and that caucusing may produce unfair results if certain of them get together and are provided with information which the others might be different to the politically aligned councillors are not in the loophole and that can produce potentially if not only the perception but the actuality that the decision making could be undermined in some respects?---I can understand the intention, Chief Commissioner, but - - -

No, just answer my question for the moment. I'll let you give me your view about it. But is that the, as you would understand it, one of the important matters that must be addressed that councillors shouldn't, for example, let's take councillors all aligned with the one political party shouldn't get their heads together and receive information that the other councillors who also have to sit with them and decide matters don't have. That's not a desirable situation, is it?---No, I agree with you.

10 And that's part and parcel of the rationale behind the prescription about not caucusing?---Yes. They all need to have - - -

I'm sorry. You were going to go on and make some statement?---Well, I, I agree with you, Chief Commissioner, because it's important that before they make the decision, they all have access to that information and - - -

20 And, of course, council staff are important in that respect because they put before councillors, informal meeting, before the meeting, information usually in the form of an agenda, a memorandum which sets it out for them. That's part of the process, is it not, so that they have the information that they need to know before they go into formal session?---In most cases, Chief Commissioner, yes, but in some cases, I don't agree with the practice, but council staff have often put options to council rather than making a professional recommendation, so that's a bit different, but, generally, yes, I agree with you that, certainly before they make a, a decision.

Now, is there something else you wanted to add on this topic?---No. No, that's fine, Chief Commissioner.

30 Yes. Back to you, Mr Leggat.

MR LEGGAT: Thank you, Chief Commissioner. Page 261, please, Mr Furlong. The topic being discussed there is apparent from the top of the page, I'll wait till that is displayed. Mr Furlong, you'll see at the top of the page that the topic is Mr Tsirekas' discussions or meetings leading up to the period May 2018. Do you see that there at the top of the page?---Yes, Mr Leggat.

40 So that's what you were being questioned about by my learned friend Mr Darams. The question there at line 3, "What sort of issues and topics were involved there that he contributed to?" And your answer, "He would facilitate meetings with senior staff and the planning staff in terms of the

uplift outcomes, the design, the building, we had meetings about the proposed voluntary planning agreement, the community benefits scheme.” Now, you’re referring there to what developments in particular or are you referring to developments generally in that period?---Without seeing the previous page, Mr Leggat, I, I, I think we were dealing with the I-Prosperty planning proposal but it, at the same time, it would not be, I use the word unusual for me to meet with the mayor and other staff as a result of he being contacted by local people who may or may not have been my clients, to try and resolve an issue with, let’s say, with a DA.

10

You use the expression “not unusual”. Given the context in which I’m asking you questions, context in which we find ourselves, things may be not unusual or, put another way, things may be usual but that doesn’t necessarily mean they are appropriate or that they are not untoward. When you use the expression “not unusual” were you also proffering the opinion that what Mr Tsirekas was doing was not untoward in the circumstances? ---Certainly, Mr Leggat. I don’t believe it was untoward in any way, shape or form. It’s, Councillor Tsirekas in the whole time I’ve known him to be on council has sought to assist people where there have been application roadblocks for want of a better term. And that’s, that’s not unusual, either, for a councillor or a mayor, in my experience. And, in saying that, I, I don’t suggest for one moment that Councillor Tsirekas or any other mayor that I’ve dealt with sought to impose an outcome on staff, nor since the 1993 Act direct staff. He would, in this case, Councillor Tsirekas would facilitate the meeting, try and find out what the concern of the constituent was, try and find out from the council staff what the issue was that they were trying to deal with and see if there couldn’t be a, a, a middle ground sorted out that may involve providing additional information or any number of, of things. And if it could be achieved, it could be. If it couldn’t be achieved, he didn’t seek to push away, one way or the other. So I don’t find that interaction with councillors and mayors unusual, no.

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Looking at page 261, line 10 - - -

THE COMMISSIONER: Just before you go on - - -

MR LEGGAT: Yes, certainly, Chief Commissioner?

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THE COMMISSIONER: - - - we might take the morning tea adjournment, Mr Leggat.

MR LEGGAT: Thank you, Chief Commissioner.

THE COMMISSIONER: So I'll resume at about 10 to 12.00.

MR LEGGAT: Thank you.

SHORT ADJOURNMENT

[11.31am]

10

THE COMMISSIONER: Yes, Mr Leggat.

MR LEGGAT: Thank you, Chief Commissioner. Chief Commissioner, might be have page 261 of the transcript back on the screen, please? Thank you. Mr Furlong, this was the page that I was directing your attention to earlier. You indicated that you understood the questions to be, these are questions from Mr Darams set out on the page, directed to the I-Prosperity proposal, that your answers needed to be understood in light of that being the context. Have I understood that correctly?---Yes, Mr Leggat.

20

So we see at line 10, a line from Mr Darams says "Did it become, I suppose everyone has their opinion of these matters, but did it become clear what his general view was on those issues?" Now, the "his", that's a reference to Mr Tsirekas, isn't it?---I'm presuming so, Mr Leggat, yes.

And the "those issues" appear to be those referred to in the paragraph above, uplift, design of the building, voluntary planning agreement, that's what you understood in relation to the I-Prosperity proposal, the planning proposal, is that as you understood the question?---Yes, Mr Leggat.

30

And you've indicated there "him", "he", that's a reference to Mr Tsirekas, isn't it?---Yes.

Yeah. "Often would not offer a view. He would facilitate the meeting." What are you describing occurring there? Can you provide us a bit more detail about what you mean by that?---Just before the break, Mr Leggat, we were talking about my experience with meetings between my clients generally and, and Councillor Tsirekas and, as I suggested, he, he would not try and impose his own opinion, he would facilitate the meeting and listen to, I guess, both sides. In this particular instance in terms of this particular proposition, I recall a couple of times where he facilitated the meeting,

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particularly where we were talking about a VPA where he would, for want of a better term, meet and greet and then leave the room. He would not participate in the, in the meeting, particularly where there was I-Prosperty, myself, the general manager, Mr McNamara as the Director of Planning. He would leave.

I just want to explore that a big further by reference to line 28 of the transcript where my friend Mr Darams asks this question, “Well, in relation to those matters you mentioned in particular – that’s the VPA, design, uplift
10 – were there meetings on those issues at which both Belinda Li and other representatives of her, from her office, Mr Tsirekas attend from time to time as well as yourself?” And then your answer, “From time to time the mayor would attend with the senior officers of council.” Now, just pausing there. Can you recall where those meetings were held from time to time?---Always in the Drummoyne offices of the City of Canada Bay.

And the question was “Was it always with senior officers of council?” and you said, “We never met in council with anybody else.” What did you mean by that, or is that explained in your next answer perhaps?---I think it
20 relates, Mr Leggat, to lines 30 and 31 where we’re talking about, for example, meetings to discuss the planning agreement, and we didn’t meet with anybody else in that regard, with the exception, later in the process we met with the Director of Engineering, who was also in charge of the property operation and the property people because there was a, a specific component of the draft VPA that related to the provision of some affordable housing units within the development and we needed to discuss how many, what size, would they be salt and peppered throughout the, the building or would they be on a particular floor or those sorts of issues. And we met those people twice, I think, in meeting rooms down at the Rhodes
30 Community Centre because there were no meeting rooms available in the Drummoyne building. And Councillor Tsirekas was not there at those meetings.

On page 262, you were asked a question by the Senior Commissioner at about line 18. “Did you have any direct discussions with Mr Tsirekas about the proposed redevelopment?” And you say, “Yes, I did.” “Rhodes development?” was the question. “Yes, I did. And other councillors.” Now just pausing there, did you see unusual or untoward in you having direct discussions with Mr Tsirekas about the proposed development?---No, not at
40 all, Mr Leggat.

Why is that?---It's a fairly commonplace component of what I do on behalf of my clients, to talk to the mayor and talk to other councillors, to gauge what their thinking may be about what we're proposing, and how they think the community might be looking at what we're proposing. There's no point us proposing a 50-storey building if the community's not interested.

And at the foot of 262, where Mr Darams asks about where these meetings might occur, and you say, "We may well have met, had a cup of coffee somewhere," what are you referring to there, and in your view was that
10 unusual or untoward?---I think my, my recollection in that regard was one morning that Ms Li and I had a meeting with I can't remember who in the council, but presumably would have been the general manager and/or the Director of Planning, and we met before that and I think we were at the Nield café where we met up, and I think Mr Tsirekas was there not with us but was there and we had a cup of coffee with him. I don't recall having a cup of coffee with Mr Tsirekas and Mr Chidiac, but I could be wrong, but I, I don't recall it.

Why don't we move on. Can I take you to page 266, please. You'll see
20 about line 10, question from Mr Darams, "You rang Mr Chidiac in late 2018 to get her to sign?" Now, the "her" seems to be a reference to Ms Li, is that as you understand it? We see that from the line above, I think.---Yes, Mr Leggat.

And your answer is this "The VPA document 'cause otherwise I thought the whole thing was going to fall over." What did you mean by that? What's occurring here?---Mr Leggat, in May 2018, the council resolved to accept the planning proposal and move it forward to Gateway. In doing that, it set a number of criteria that still needed to be addressed. One of them related to
30 the VPA, and I don't know that I had a copy of it, but the terms of that resolution were that the general manager finalised the terms of the draft VPA before the council would submit the documentation to the Department of Planning for Gateway. And we went through that process. It was quite a lengthy process, lots of argy-bargy between valuers and the like, and ourselves and the council. And the general manager determined that he believed that the planning, the planning agreement needed to be signed by I-Prosperity before he would move it forward. Not just determine the terms, but actually sign the draft document. Belinda was not balking at it but just not getting it done. And I was concerned that, bearing in mind it was
40 November-ish, if we waited too much longer, we'd be in the next calendar year, and it just put it back. And I, I knew or I understood that the

Department of Planning was looking at including the Station Precinct to the west in Rhodes in the overall Rhodes review, for want of a better term, and I wanted to have our planning proposal in a Gateway position before that occurred.

I just want to explore that a little but further. Your knowledge about what the Department of Planning was thinking of doing, was that knowledge that was in the public domain or was that something that you were privy to because of work that you had done previously with the Department of
10 Planning?---Oh, no, it would have been, when I say in the public domain, I would have heard it around the traps. Certainly nothing that I would have had discussions with the departmental staff because as we discussed probity before that wouldn't be appropriate.

Yes.---But there were a lot of people, when I say a lot of people, proponents who were in the same sort of position particularly in Rhodes East.

Correct me if I'm wrong, but the impression I'm getting is that you became aware of information that was generally available to the public and you
20 thought there was a commercial advantage to your client I-Prosperty if you proceeded quickly in a particular direction, is that the gist of it, and that there was nothing untoward in so doing?---Oh, nothing, nothing untoward at all. It was just finalising the process, Mr Leggat, and I guess obviously there's a commercial advantage to my client if they, if their planning proposal continues to move forward.

Thank you.

THE COMMISSIONER: You said that Belinda, something to the effect
30 that she didn't seem to understand or get it. What did happen then in terms of taking the matter forward to finality?---Chief Commissioner, within a day or so of me talking to Mr Chidiac, Belinda signed the required paperwork for the council. We submitted it along with all of the other information that the council resolution requested and then - - -

And why were you talking to Mr Chidiac on that issue?---Sorry?

Why were you discussing with Mr Chidiac on that issue?---Oh, only
40 because by that stage, Chief Commissioner, I realised that there was some form of relationship. I didn't realise that back at the beginning of the process. We've discussed that before.

The relationship between Chidiac and I-Prosperty?---Yes, Chief Commissioner. So I asked him. I was - - -

What did he actually do to your observations?---I don't actually know, Chief Commissioner, in, in all honesty.

Well, you may not be alone. Yes.---I understand from other evidence that's been given here that, by others that he arranged meetings for example with
10 the council. I don't believe he ever arranged a meeting for me with council because as a planner, I'm not a lobbyist, I'm entitled to ring the council and make those arrangements. I think the only other time I sought to speak to Mr Chidiac was when I had tried to contact the mayor and I couldn't find him over a couple of days or whatever, so I rang him and asked him did he know where he was. But I didn't ask him to - - -

I daresay Mr Chidiac ran him to ground. Is that right? He did make the contact for you.---I, I presume he, he did.

20 All right.---I can't, I just can't remember.

Okay.---Or he may have told me that the mayor was away, Chief Commissioner. I'm not sure.

Thanks. Mr Leggat, back to you.

MR LEGGAT: Thank you, Chief Commissioner. Page 270 you're being questioned about Tuesday, 31 May and there's a question there at about line 11, "Was there a pressing urgency at this time, was there, as far as you can
30 recollect?" The context, Mr Furlong, appears to be, if you look at about line 3 or 4, the lodging of the I-Prosperty planning proposal. Have I understood that correctly?---Yes, Mr Leggat.

And you say, "No more than any planning application." What did you mean by that?---At that stage, Mr Leggat, the, the planning proposal was, as we've discussed here before, very young. But I think as Mr Darams showed me at some point I had been advised by my client that Mr McNamara, the then Director of Planning, had indicated that, although very young, the planning proposal wasn't moving forward or he, he couldn't progress it.
40 And I think the primary reason for that was, as I said earlier this morning, the fact that the council's 2015 resolution was still on the books, that is the

planning proposal, a planning proposal or the land in question, would not move forward without a contiguous ownership. Now, in that circumstance I guess the, the, my, my concern would be that the planning proposal would just sit there or in fact be returned back to us by the council.

All right. Then if we go to line 20, you say, "I knew that they had previously lodged a planning proposal in which the council was, sorry, not happy with." The "they", you're referring to Billbergia there, are you?
---Yes, Mr Leggat.

10

And what was it that you understood the council to be not happy about the Billbergia planning proposal at that point in time?---Having got involved in, in Rhodes, which I hadn't really been for a long time, I understood that at the previous council meeting, which must have been 17 May, the council had actually resolved to refuse a planning proposal that Billbergia had - - -

20

THE COMMISSIONER: What planning proposal did you understand was refused?---On 17 May, Chief Commissioner, the, the council considered a report from Mr McNamara on a planning proposal, sorry, a planning proposal for a number of sites within the Station Precinct that were owned or in the control of Billbergia and at that council meeting the report put two options to the council, one which was almost to make a declaration under section 55 of the Act and proceed with the rezoning and another was to refuse it. The second one an option because it's really not appropriate without doing all of the required assessment for, for a consent authority to just make an arbitrary decision on a matter, on a planning matter. And the recommendation was that council determined the course of action and, as I understand it, the course of action that council determined was to refuse the Billbergia application.

30

Okay.---I, I don't know what happened between then and the 31st but all of a sudden there was a, a report to council on 31 May, giving some other opportunities which, I guess, was the vehicle that created the opportunity for the notice of motion from Councillor Kenzler.

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MR LEGGAT: Just to explain that, we see at 270 that line 24, "I knew the matter was coming up at the 31st." The reference to "the matter" is the circumstance that you've just described, is that right, Mr Furlong?---Yes, Mr Leggat. We, "we" being I-Prosperity and Billbergia being our neighbours in the Station Precinct, had quite a lot of interaction. And whilst I didn't understand all of the intricacies of the issue between Billbergia and

the council, I knew that the matter was being reviewed, if you like, at the meeting on the 31st.

You say at about line 27 “I can’t remember if they rang me or I spoke to them.” The “they” and the “them” that’s referring to Billbergia, is it, it seems to be from the question?---Which line, which, which, which line, sorry, Mr Leggat?

About 26-ish.---Yeah. I think it was Billbergia.

10

“We interacted quite a lot with them as the neighbouring owner.”---Yes.

Now, anything in your experience unusual or untoward about that interaction?---No, no. Not at all, Mr Leggat. For example, in the specifics of this particular case, our proposition included a retail component on the lower ground floors and commercial, and a link which the council was interested in, and there’s a through-site link from Mary Street, and we negotiated an outcome with Billbergia where our through-site link would join their first floor, I think, first or second floor, so that you, people could move through our site into their commercial site, and at the time there was a bridge proposed from the first or second floor of the Billbergia development across to the concourse for the Rhodes Railway Station. Because if you’ve ever, if you’ve ever been there when a train comes in or out, it becomes bedlam while everybody, while all the traffic waits for people, obviously, to, to leave the station.

20

Thank you.---So that was one example. There were discussions about anchors across the boundary, which is a normal construction process, but, so lots of interaction, yes.

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Leading up to this meeting, we see at the foot of 270 and then on page 271 some questions and answers about what’s happening, and my learned friend Mr Darams asked you this question, this is about line 6, “You ring Mr Tsirekas, do you?” And your answer is “Yeah, I probably would have rung the mayor and said, ‘I’ve got a proposition to go with the item with Billbergia. We’re next door. Can we be considered in the same manner in terms of progressing our planning proposal? I’m happy to speak to it.’”

What, if anything, did the mayor say in response to that?---Off, off the top of my head, Mr Leggat, I think he accepted that my proposition was not unreasonable in terms of dealing with the precinct as a whole. I don’t remember the exact words of the discussion. And he, he, I presume,

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indicated to me, because he then sent it to me, that Councillor Kenzler had proposed a motion dealing with basically the very thing that my response talks about. That is, the assessment criteria for looking at a planning proposal in that Station Precinct.

Did you think there was anything unusual or untoward in you contacting the mayor and having that conversation in those terms?---No, Mr Leggat, I didn't.

10 All right. We see from line 20 that you, shortly thereafter, had a conversation with Councillor Kenzler. You described at about line 23 that you thought it was courteous to do that. And you say "to ask him whether he would be willing to include a paragraph that said, on the basis of the criteria upon which Billbergia was to be considered, would that same criteria be applied to the I-Prosperity site". And we know that he wasn't in agreement with that. What was his reasoning process as to why he didn't think that that was a good idea, given that you thought it was a good idea? ---I don't know, Mr Leggat. I never particularly asked him. Having got to know Councillor Kenzler from when he got, became a councillor, it just
20 wasn't a thing that I particularly pursued.

All right. I'm just trying to explore that a little bit further. Why did you not pursue it? It was something you knew but you're not telling us at the moment. I'm not being critical, I just - - -?---No.

- - - want to get to the bottom of why it was that you didn't engage with Councillor Kenzler on this.---Well, I did engage with him on the day, Mr Leggat – as I indicated the last time I was here – twice, once before my aunt's funeral and once after my aunt's funeral. They weren't brief
30 conversations, they weren't yes/no conversations. We knew one another well enough to have that conversation. And he said, "I'm only interested in looking at the Billbergia planning proposal. I'm not prepared to look at the others." I presume he was still aware of the previous resolution of the council.

THE COMMISSIONER: But that - - -?---Sorry, Chief Commissioner?

That stance he articulated was one, would you agree, that was open to him to take?---Oh, certainly, Chief Commissioner.

40 I mean reasonably take, not - - -?---Well - - -

No, sorry, you agree?---Yes.

No, you agree? Yes. Yes, all right.---Yes, it's open to him to, to take it. I did find it unusual.

He had his – sorry. Go on.---I did find it unusual because, as Mr McNamara said the other day here, the whole idea of a precinct approach is to include all the land and - - -

10

Yeah. Well, just leaving that to one side for the moment, Councillor Kenzler had been on council for some time. Do you remember how long he was on council for? He may still be on council, for all I know.---I can't remember, Chief Commissioner, if he came on in 2007. I don't think he did. I think he may have come the term after but I'm, I'm, I'm not sure. He was certainly involved in local activities, well and truly, in that period.

As at 2018, I think it'd be true to say he'd been in the council for some years?---Yes, Chief Commissioner, yes.

20

And he closely involved himself in council matters during his time?
---Certainly, in, in my time at the council, Chief Commissioner, no more than in any other council but he was, he was a very interested local councillor, yes.

Yeah. Thank you.

MR LEGGAT: Mr Furlong, at about line 35, you say in response to a question by the Chief Commissioner, "So it would make good sense to me, both from a planning merit basis but also technical consideration, to deal with both sites in the same manner." In the course of your discussion with Mr Kenzler, did you endeavour to get that point across to him, to Mr Kenzler?---I would have, Mr Leggat, yes.

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Does Mr Kenzler have any qualifications in relation to town planning as far as you're aware?---Not as far as I'm aware, Mr Leggat.

40

Is that part of the reason why you didn't try to engage him in a town planning merit discussion?---No, not, not particularly. As the Chief Commissioner pointed out, he'd been on council long enough to, to understand the circumstances and he had his view and I, having worked

with him as a director and he a councillor, I realised that there probably wasn't much point in trying to change that view.

I see. So you're describing your experience where Mr Kenzler was a person who stuck to his guns, so to speak. Is that what you're describing? Obdurate is another word that's sometimes used.

THE COMMISSIONER: Sorry, Mr Leggat? I missed your question. Could you put it again?

10

MR LEGGAT: Yes. Mr Furlong has indicated that the - - -

THE COMMISSIONER: No, no. Just put the question.

MR LEGGAT: I'm sorry.

THE COMMISSIONER: Just put the question that - - -

MR LEGGAT: Is it your understanding that your discussion with Mr
20 Kenzler was unlikely to change his mind once he had indicated to you what his position was?--I certainly came to that decision, Mr Leggat, yes.

Let me move on. At page 275, you see between lines 10 and 20, there's a discussion about what occurred on 31 May, 2016, and you give this answer, "I don't think so, Commissioner, no. There are a number of reasons why." And then the question: "But reflecting back now, it was an unusual situation, it's a sort of a one-off situation, isn't it?" The question of whether or not it was an unusual situation, what are you describing there?

30 THE COMMISSIONER: No, Mr – it stands for what he says. I mean, why do you need a witness to revisit what they've said and to reinterpret it? It's a straightforward statement, Mr Leggat, is it not?

MR LEGGAT: Yeah, I, I - - -

THE COMMISSIONER: I mean, Mr Furlong's spoken quite frankly there and what else do you want from him?

MR LEGGAT: Yes. Let me move on. Now, at 276, line 9 you say it's
40 "No, not an advantage at all." What did you mean by that and why did you form that view?--I think, Mr Leggat, Mr Darams and the Chief

Commissioner and I were discussing the value, or the potential value of moving the planning proposal forward, and whilst I agreed that obviously the planning proposal moving forward was a benefit to my client, I was concerned in that discussion that someone might consider that there was a financial, sorry, a benefit other than simply running the normally planning process, which was what I was seeking to achieve. But, yes, obviously if, if the planning proposal doesn't go ahead, my client is disadvantaged.

10 All right. Can we move to page 290, please, 2-9-0? I'm sorry, if we go back just one page, 289 please, if I can start there. Do you see at 289, at line 24, the context there "if the resolution wasn't passed in those terms" and then you say, "In terms of whether it lives or dies, having lodged it, no consequence at all." What did you mean by that, what are you conveying there? Feel free to go to the page before to provide the context, if that assists.---I'm just looking at, just looking at the paragraphs preceding it, Mr Leggat. I think I was being asked about the benefit or dis-benefit in a, in a general sense of what I was proposing, and particularly I was responding to paragraph 9, but in that regard paragraph 10 is probably a bit more important.

20

THE COMMISSIONER: Mr Leggat, this seems to be another question in which the witness is being asked to parse and analyse what he said before. I thought what Mr Furlong said there is very clear, speaks for itself as to what he was saying. Why do we have to keep revisiting whether Mr Furlong said and get him to re-say it or tease it out, unless there's some point in doing so? It's just time-consuming.

MR LEGGAT: Chief Commissioner, it's only that - - -

30 THE COMMISSIONER: It doesn't add value, that's what I'm saying, it doesn't add value, it's just getting the witness to look at his own evidence and have another go to see if he wants to – what's the point?

MR LEGGAT: I must admit I couldn't understand what, in terms of whether it lives and dies - - -

THE COMMISSIONER: He means whether it survives or whether it fails, I would think, that's what you were saying, isn't it?---Yes, Chief Commissioner, effectively.

40

MR LEGGAT: Thank you. All right. Moving on. So at the meeting on the night, the evidence is that you spoke in favour of the motion, is that right?--- I spoke in relation to the item, yes, Mr Leggat, and my recollection is that I put the terms of what we were seeking to the council, yes.

All right.---And as far as I knew, the council certainly had the proposed motion from Councillor Kenzler and I guess I, I was hopeful that it had seen the amendment that I had proposed to that notice or to that proposal.

10 Your recollection is that Councillor Kenzler spoke in favour of the motion in the terms that he sought it, is that right?---I, I, I don't recall, Mr Leggat. I recall the Billbergia representatives and myself addressing the council. I, I don't recall all of the discussion between the councillors, but I, I would imagine so.

At some stage it seems – and correct me if I'm wrong – that neither your, neither the terms of your motion or the terms of Councillor Kenzler's motion were voted on by the council. What I might describe as the ultimate motion that was addressed and adopted by the councillors came actually off
20 the floor. Is that your recollection?---I recollect being asked, you know, having spoken, having presented to the council, obviously the councillors are provided the opportunity to ask any questions. And I recollect one of the councillors, and I don't recall which one, asked me what my intention was, if you like, or what I was trying to achieve by my proposed point 10. And they, that councillor put it far more succinctly than I had, and that resulted in the change to point 10 to the ultimate terms, if you like, that the council resolved. But effectively, as I said, it was to deal with the rezoning of all the land in the precinct as per the precinct master plan documentation and my – now that I look back on it, certainly in my previous time here, I've
30 got to say – my, my point 10 was probably not as succinct or as targeted as it should have been.

Approximately how long that evening, how much of the council's business that evening was taken up with this discussion back and forth and the amendment to the language of the resolution?---Oh, I don't actually recall, Mr Leggat, but each person is generally given three minutes or so to, to talk to the councillors, and then there is no time limit on councillors debating. But, you know, it was a fairly, there were, there were a few items on the, on the agenda and I, I don't recall. We went, we would have gone first 'cause
40 that's the general practice of a lot of councils where there are people wishing to speak. They, they move standing orders and they get you up first

and then they go back into the normal order of the council meeting. So I, I don't know.

Mr Furlong, this is reasonably important because we don't have any minutes of that meeting. So, and you're one of the few people that we've been able to get some evidence on this. Do you know, just doing the best you can, about how many people spoke and about how long it took?---Um - - -

10 THE COMMISSIONER: Well, I think he's answered the second part of that.

MR LEGGAT: Very – all right.

THE COMMISSIONER: The second limb to that question he cannot remember.

MR LEGGAT: I think that could be right. Well - - -

20 THE COMMISSIONER: So, now what's the first part? How many people spoke, did you say? What was the first part?

MR LEGGAT: Yes, approximately how many people spoke?

THE COMMISSIONER: Can you recall?---Yes, Mr Chief Commissioner, because I have seen the minutes, otherwise I, I, I wouldn't recall. But I believe there were two speakers on behalf of Billbergia on this item, and, and myself.

30 MR LEGGAT: Just pausing, Mr Furlong. You appear to be reading from something that you say are the minutes. Are those formal minutes of the particular council meeting? So just I haven't - - -?---Yes, yes, they are, Mr Leggat.

I was just led to believe there were no such minutes. I see. Have you provided those?---No, I, I didn't, but I believe that those minutes are in the, in the Commission's documentation.

I see. All right.

40

THE COMMISSIONER: It's part of council's process, isn't it, to have meetings recorded in the minutes?---Definitely, Chief Commissioner.

And I think there's a secretariat that, an experienced person who would take the minutes, they would be checked, signed off and - - -?---These days, in recent times, Chief Commissioner, they would be – particularly at Canada Bay but a lot of other councils – they're actually recorded and then the minutes are formed from the recordings. And once the general manager or in the case of, say, the then Development Committee where I was the senior
10 council person there, once you've signed off on those minutes, the tapes are pretty much destroyed insofar as they're, the tape is reused.

MR DARAMS: Chief Commissioner, just for Mr Leggat's benefit.

MR LEGGAT: Thank you.

MR DARAMS: The minutes are at volume 1.2, page 21. That's where they commence.

20 MR LEGGAT: Excellent, thank you very much.

THE COMMISSIONER: Thank you.

MR LEGGAT: The minutes, Mr Furlong, as I understand it, do not purport to transcribe what was stated by each speaker, nor do the minutes purport to transcribe the debate between the councillors, is that - - -?---No, Mr Leggat, they don't.

Yeah. All right.---Nor do they, in my experience, very rare that they ever
30 do unless there was some particular reason or what they do record now that they used not was the order of the votes of the councillors, particularly on planning matters.

And that practice has changed in recent years?---Within, within the last eight to 10 years, certainly, where a, a division is, the equivalent of a division is called for each planning decision.

Let me take you to paragraph, sorry, page 295, please? You were asked a question at about line 20, which the Commissioner put, "It was not an issue
40 about which council should be speaking in the resolution?" And your answer was, "Commissioner, from my perspective, it is an issue that council

should concern itself about, looking at a planning proposal” and why did you form that view?---Sorry, Mr Leggat? Which, which line? I’m - - -

So we’re on page 295.---Yes.

10 And line, about 23, with your answer about line 25. Do you see part of the question at line 23 “and it was not an issue about which council should be speaking in the resolution” and then your answer, “Commissioner, from my perspective, it is an issue that council should concern” have you located that? It says, well, you can see the cursor’s hovering - - -?---No, I’m just trying to, I’m trying to remember the, the context of the discussion but I think what I’m suggesting - - -

The top of the page might assist?---Yeah. What I’m suggesting there, Mr Leggat, is that in dealing with a planning proposal or two planning proposals, to make it easy, in, in the same basic area is a matter and dealing with them in the same manner is a matter that councillors should concern themselves with and I think I explained that subsequently and I have explained it since.

20

Yes. I won’t revisit that. If we can go to page 309, please? In the last four or five lines on the page, another (not transcribable) from Mr Darams is testing, he’s asking you a question, testing a proposition in this way, “Did you get on the call to Mr Tsirekas in relation to 19 February and say to him ‘Look, this is what you need to do, get this thing going. This is outrageous, and things to that effect?” Answer, “Oh, probably, I would have spoken to him at some point about the delay but it wasn’t the council’s doing.” What did you mean by “it wasn’t the council’s doing”?---Mr Leggat, as, as I gave evidence previously, the planning proposal, despite the fact that the council had agreed to put it through to Gateway, got caught up in a ministerial direction which I still don’t believe was applicable, but the Department of Planning indicated to council that they believed it was applicable and therefore council had to abide by it, as did we. And then, secondly, I, I can’t remember if it was the council staff’s suggestion or the Department of Planning’s suggestion that we provide the draft final documentation in terms of our application for Gateway for the department to have a look at it. And we did that with the assistance of the council staff several times. And each time, it, it came back from the department with, I won’t use the word useless but changes to heading names and heading numbers and that sort of administrative-type stuff, nothing of any scope that related to the proposal.

30

40

THE COMMISSIONER: I think this has already been the subject of evidence, hasn't it?

MR LEGGAT: Yes, I think that's right.

THE COMMISSIONER: And I don't think it's relevant to, that is delay by the department.

10 MR DARAMS: Chief Commissioner, I'm hesitant to rise because I appreciate Mr Leggat is advancing his client's interest, but I would invite some identification of how much longer Mr Leggat might be. Mr Leggat has indicated his cross-examination will be between 15 and 20 minutes. Now, that seems to be the common identification but we're well outside that at this stage.

MR LEGGAT: Yes. Look, I apologise for that.

20 THE COMMISSIONER: Well, Mr Leggat, I was going to raise that at some point.

MR LEGGAT: Yes.

THE COMMISSIONER: I've been allowing you to go on.

MR LEGGAT: Thank you.

THE COMMISSIONER: But you've been going I think for more than an hour.

30 MR LEGGAT: Yes.

THE COMMISSIONER: And we do program witnesses based on estimates that we're given and so how much longer?

MR LEGGAT: Commissioner, I undertake to finish within five minutes.

THE COMMISSIONER: I'm sorry?

40 MR LEGGAT: I undertake to finish within five minutes.

THE COMMISSIONER: All right. Thank you.

MR LEGGAT: Now, page 337. You will see in about line 6 your answer is, "And I've worked closely with him," that's a reference to Mr Tsirekas, we see that from the page before, "over the years on many, many projects in the council area, big and small, and I've always thought it was an indication of a good mayor to be involved, particularly where the involvement related to local residents and their issues with council." Why did you think that it was an indication of a good mayor to be involved in that manner?
---Because, Mr Leggat, the mayor, particularly one that is independently
10 elected by the community, in my mind for council matters obviously becomes the number one member of the community. And where that person is in a position to assist his or her community, I think that is a good thing and a, and does so, is a good thing and a sign of a good mayor.

341, please, page 341 about line 23 a question, "You could go to Mr Tsirekas and he could move things along." Your answer, "I had an understanding for a long time the mayor would try and assist not only on this project but lots of projects." Now, is there anything unusual or untoward in your view that you've expressed there about the mayor's
20 actions?---No, Mr Leggat. I think I've, I've answered it a number of times.

THE COMMISSIONER: I think you have answered it a number of times.

MR LEGGAT: All right. 341 at about line 36 you say, "Not only on this project. My experience was I could talk with the mayor whenever I needed to or my clients could." Can you give us an example of outside of I-Prosperty and outside of Billbergia where you could and did talk with the mayor on your client's behalf?---I don't remember specific applications, Mr Leggat, but there were many times where I would talk to Councillor
30 Tsirekas and other councillors at Canada Bay, just as I would with mayors and other councillors in other local government areas, where I thought that my client's application was being dealt with in a way that was unreasonable or, or could be overcome through a different manner if you like. I mean one, one that springs to my mind a long time ago was a, a young family that had a swimming pool application before a council and it had been there for three summers, and the reason that the council was indicating there was a problem was because the area was bushfire prone and I found that very strange for a swimming pool, and when I spoke to whoever I spoke to for that that strangeness was acknowledged.

40

At 343, line 10, “With a view to putting forward the position of I-Prosperty to Mr Gainsford, but employing Mr Tsirekas in that way would be employing him to become advocate for an developer, wouldn’t it?” “No, Commissioner, in my mind,” et cetera. What’s your reasoning process there as to why you said no?---Without, without reading all the pre-paragraphs, Mr Leggat, I think I answer it in the subsequent line where I say it’s simply me requesting that the mayor ask the general manager not, not to do anything but I think because we were having trouble obtaining a discussion at the time. I, I think it was to do with Mr Pedder, as I said earlier up, so I,
10 that would be my reason.

And finally, at 346, was a telephone call between yourself and Mr Tsirekas, 17 December, 2018 and it’s apparent line 11 that Mr Tsirekas asks you “Has it all been sorted?” And you’re asked “What’s he talking about?” And you said, “I understood he was talking about the delay in finalising the planning proposal and issue of the ministerial direction.” Why did Mr Tsirekas have any business having such a conversation with you in those terms?---I think I would have taken that, Mr Leggat, to simply be his interest. I don’t know if we’d spoken about other things but his interest as the mayor, considering the
20 council resolution to proceed was back in approximately May of that year and it was taking a long, long time to finalise, and when it appeared as though the council’s issues had been sorted, we then unfortunately had another layer from the Department of Planning, which was delaying both ourselves and the council further.

Thank you, Mr Furlong. Thank you, Chief Commissioner.

THE COMMISSIONER: Anything?

30 MR DARAMS: Just one matter I’d like to clarify. Perhaps if Mr Furlong could be shown page 245 of the transcript. Mr Furlong, I just want to draw your attention to the questions and answers that start at about line 6, where it says “Six to seven, six to seven.” Do you see that there?---Yes.

Your attention was draw to this earlier in Mr Leggat’s cross-examination. Do you remember that?---Yes, Mr Darams.

So you gave some evidence in answer to Mr Leggat’s questions that a
40 resolution of the council had sat on its book for some time, which had excluded the land owned by at least I-Prosperty, your client, but some other

homeowners from this potential benefit increase in the height of the buildings et cetera, that's right?---Yes, Mr Darams.

You then said that that resolution sat on the books until it was usurped by a latter resolution. Do you remember giving that evidence?---Yes, Mr Darams.

When you say "usurp" would be also correct to describe "usurp" as meaning the previous resolution being removed or overridden or - - -?---Yeah,
10 overtaken or - - -

Overtaken?---Yeah.

Just so I'm clear, because I don't know you've actually identified it, but I think the resolution you're talking about is the resolution on 31 May, 2016. Can I take you to that?---No.

Sorry.---Sorry.

20 Which resolution are you talking about?---The resolution I'm talking about was back in around 2015 when the council - - -

Correct. The one that sat on the books.---Yeah.

I'm talking about the latter resolution which rescinded or usurped that resolution.---On 31 May, yes.

Yes. Just so we're clear about it for the transcript and we know what we're all talking about, if we could go to volume 1.2, page 66. These are the
30 minutes of the council meeting on 31 May, 2016 and it's correct, is it not, to say that it's the combination of paragraphs 9 and 10 or resolutions 9 and 10 that have the effect of usurping or overriding the resolution that had sat on the council books for some time that you were referring to in the previous evidence, is that right, Mr Furlong?---Mostly point 10, Mr Darams, because it's the one that says you don't leave that site out, you include it in the, in the actions of the merit assessment of the proposal.

Yeah.---Yes.

40 Thank you. Nothing further, Chief Commissioner.

THE COMMISSIONER: Yes. Thank you, Mr Furlong. You may step down. You're excused.---Thank you, Chief Commissioner.

Yeah.---Chief Commissioner, can I also just thank the Commission's staff for the way they have dealt with me but particularly in relation to attendance today. It's been a particularly difficult week for me in another jurisdiction
- - -

10 All right. Okay.--- - - - there was a lot of moving and fro-ing and I thank them for that.

No, well, thank you for those remarks. The staff will note your comments. Thank you.

MR DARAMS: Yes. The next witness I propose to call is Ms Heather Crichton.

THE COMMISSIONER: Perhaps we could start with her and - - -

20 MR DARAMS: I think that would be appropriate and we'll be able to get through some - - -

THE COMMISSIONER: And then we can start the evidence after, at 2 o'clock?

MR DARAMS: Yes. Perhaps if I can, and I'll call Ms Crichton.

THE COMMISSIONER: Is Ms Crichton represented?

30 MR DARAMS: I believe so, yes. Mr Hammond is seeking leave to represent Ms Crichton.

THE COMMISSIONER: Mr Hammond.

MR HAMMOND: That's the case, Chief Commissioner.

THE COMMISSIONER: Mr Hammond, you seek leave to appear for Ms Crichton?

40 MR HAMMOND: Yes.

THE COMMISSIONER: Yes, I grant leave.

MR HAMMOND: Thank you.

THE COMMISSIONER: Ms Crichton - - -

MS CRICHTON: Thank you, Chief Commissioner.

MR HAMMOND: I'd also seek - - -

10

THE COMMISSIONER: Just sit there. Yes?

MR HAMMOND: I'd also seek, Chief Commissioner, just the usual directions the tribunal gives to, as far as section 38 goes for the witness?

THE COMMISSIONER: Are you talking about a section 38 direction?

MR HAMMOND: Yes.

20 THE COMMISSIONER: And you've explained the provisions to your client?

MR HAMMOND: I have.

THE COMMISSIONER: Yes. Very well. Before we start with the evidence, do you take an oath or an affirmation?

MS CRICHTON: An oath, thank you.

30 THE COMMISSIONER: Do you mind standing? There's a Bible there and I'll have my associate administer the oath.

THE COMMISSIONER: Ms Crichton, before you give evidence, just to confirm Mr Hammond has said that you have some understanding of the provisions of the Independent Commission Against Corruption Act that entitles a witness to object to giving evidence and producing any document or item and that the point of the objection is that it can provide protection for the witness in the sense that the evidence can't be used again in the
10 future. You understand essentially - -?---Yes, I do.

Very well.---Thank you.

You understand, however, that if a declaration is made, you still as a witness are required to give answers truthfully?---Yes.

You must produce any document or item if you're required to produce it during the course of your evidence. You understand that?---Yes, I do.

Thank you.

20

The effect of the objection is, as we have indicated, that although you must still answer the question or produce an item if required, then your answer or the item produced can't be used against you in any civil proceedings or any other form of proceedings in the future. I think you understand that?---Yes, I do.

There is an exception, however, that I must tell you about and that is that the protection does not prevent your evidence from being used in an offence under the Independent Commission Against Corruption Act, that is to say
30 that a witness who, for example, gives false or misleading evidence can be prosecuted for doing so and it carries a maximum penalty of a term of imprisonment of five years. In the event of an offence under the Act, such a perjury, a transcript of evidence given in a public inquiry such as this can be used in that case. You understand?---Yes, I do.

All right. Thank you. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by the witness Ms Crichton, any documents and things that she may be required to produce during the course of her evidence in this public inquiry are to be
40 regarded as having been given on objection. Accordingly, there is no need for the witness to object to any individual answers to questions or the

production of any document or thing that she may be required to produce in the course of the evidence.

10 **DIRECTION AS TO OBJECTIONS BY WITNESS: PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THE WITNESS MS CRICHTON, ANY DOCUMENTS AND THINGS THAT SHE MAY BE REQUIRED TO PRODUCE DURING THE COURSE OF HER EVIDENCE IN THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN ON OBJECTION. ACCORDINGLY, THERE IS NO NEED FOR THE WITNESS TO OBJECT TO ANY INDIVIDUAL ANSWERS TO QUESTIONS OR THE PRODUCTION OF ANY DOCUMENT OR THING THAT SHE MAY BE REQUIRED TO PRODUCE IN THE COURSE OF THE EVIDENCE.**

20 Very good.---Thank you.

Now, Mr Darams, I think we will take the luncheon adjournment and we'll resume at 2 o'clock. So we'll resume at 2 o'clock.---Thank you.

Thank you.

LUNCHEON ADJOURNMENT

[12.55pm]