

GALLEYPUB01769
01/08/2022

GALLEY
pp 01769-01844

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

STEPHEN RUSHTON SC
COMMISSIONER

PUBLIC HEARING

OPERATION GALLEY

Reference: Operation E19/0569

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 1 AUGUST, 2022

AT 10.00AM

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

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

THE COMMISSIONER: Take a seat. I take it, sorry - - -

MS HEGER: I call Constantine Hindi.

THE COMMISSIONER: Thank you. I take it Mr Hindi requires a section 38 declaration.

MR CORSARO: He does, thank you, Commissioner. I have explained the effect to him but perhaps - - -

10

THE COMMISSIONER: I'll do the usual.

MR CORSARO: You do the same, yeah.

THE COMMISSIONER: Yeah. Just before I do, I understand that there are a couple of applications for authorisations to appear. The first is for Eugene Chan for the Council and that authorisation is granted. And there is one, I think online, Sophie Lumsden for Michael Watts, and that authorisation is granted too. Mr Hindi, will you take an oath or an affirmation?

20

MR HINDI: Oath.

THE COMMISSIONER: Thank you.

THE COMMISSIONER: You've probably heard me say this on a number of occasions over the last few weeks but I'll do it again to explain your rights and obligations as a witness. As a witness you must answer all questions truthfully and you must produce any item that I require you to produce during the course of your evidence. Your counsel has asked me to make section 38 declaration. The effect of that is that although you must still answer any question put to you or produce the item or any item that I require you to produce, that answer or the item can't be used against you in any civil proceedings or, subject to one exception in your case, in any criminal proceedings. The exception is that the protection does not prevent your evidence from being used against you in a prosecution for an offence under the ICAC Act, most importantly an offence of giving false or misleading evidence. If you give false or misleading evidence, you commit a very, very serious criminal offence the penalty for which can be imprisonment for up to five years. I should ask you, Do you understand that?---Yes, thank you.

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

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

THE COMMISSIONER: Yes, thank you.

MS HEGER: Mr Hindi, I'm going to conduct my questioning sitting down today. I don't mean any disrespect by that, it's for my own health reasons. ---That's all right. Yeah, I hope you feel better.

Thank you. Could you just state your full name for the record?---Yeah. My name is Constantine Hindi, and can I just add to it, I've got a very sore throat. I've had it for few days so if it's not coming out well, please let me know.

10

I will do. Thank you. You were a councillor with Hurstville City Council from 2004 to 2016, correct?---Yeah, yes.

Yes. And you served on Hurstville City Council at the same time as Vince Badalati, correct?---Yes.

As well as Philip Sansom?---Yes.

As well as Clifton Wong?---Yes.

20

And you were mayor from September 2014 to September 2015, correct? ---Yes.

And you stood for re-election to Georges River Council in September 2017, correct?---Yes.

And you were re-elected at that time?---Yes.

30 And then you served on Georges River Council until December 2021 when you didn't stand for re-election, correct?---Yes.

Could I show you Exhibit 124, which is volume 1.1, page 159?---I'll put my glasses on. This is a copy of the Hurstville City Council Code of Conduct from March 2013. You obviously received a copy of that when you were a Councillor at Hurstville City Council, correct?---I don't recall.

You don't recall?---No.

40 Well, can I show you minutes of a council meeting from March 2013?---Ah
hmm.

Just give me a moment. They're minutes from 6 February, 2013, Hurstville City Council. I'll bring those up now. Can you see that you were in attendance on that day? Can you see your name under Those Present?
---Yes.

And I take you through to page 7.---Mmm.

Which is actually page 3 of that volume.---Yeah.

10 You'll see towards the end, there's a heading Code of Conduct?---Mmm.

And you'll see it's resolved that a Model Code of Conduct 2013 and accompanying procedures for the administration of the Model Code be adopted for commencement on 1 March, 2013. You see that?---Yes. Thank you.

And so you moved that resolution? You see that written in the bottom, right-hand corner?---I don't recall but it's there.

20 THE COMMISSIONER: You mightn't recall but the record shows that, doesn't it?---I'm sorry. Sorry. I'm saying I don't recall but now I see it in front of me, it is there.

Yeah.

MS HEGER: Yes. And you obviously received a copy of the code of conduct prior to voting on it on this occasion?---It would have been part of the business paper, yes.

30 Yes. And you read that code of conduct prior to voting on it?---I don't recall whether I did or didn't but - I'm, I'm aware of the code of conduct. I'm not saying, I don't know whether I've read it or not and did - - -

THE COMMISSIONER: Did you generally read the business papers before you attended council meetings?---Generally, yeah.

MS HEGER: And it was also resolved on that day that the code of conduct be forwarded to all members of council advisory and other committees and council's Human Resources Department to manage the distribution of the
40 code to staff and councillors. Do you see that?---Yes, that's what it says there, yeah.

And you accept it's likely following that meeting the code of conduct would have been distributed to you and all councillors?---I don't know whether it was distributed but it's part of the business paper, so I would have had a copy of - - -

All right.---But it doesn't matter. Irrespective, yes, would have had, everyone - - -

- 10 Can I go back to, well, Exhibit 124, page 165? You see in the second paragraph there in the last sentence, it says, "It is the personal responsibility of council officials to comply with the standards in the code and regularly review their personal circumstances with this in mind." Do you see that? ---Sorry? Which one? The second paragraph?

The second paragraph, last sentence.---Last sentence. Yes.

You understood it was your personal responsibility to do that, as at March 2013. Correct?---Absolutely.

20

Can you see in the next paragraph, it says, "Failure by a councillor to comply with the standards of conduct described under this code constitutes misconduct for the purposes of the Act." And you understood that as at March 2013. Correct?---I don't know whether I understood it or not, but I note it's there. It's common sense.

All right. And you understood it was common sense as at March 2013. Correct?---Yes. Yes, it was common sense.

- 30 And it says the Act "provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification for civic office". You understood that as at March 2013. Correct?---I understood it, but I didn't agree with it.

40 What didn't you agree with, Mr Hindi?---Because that code of conduct never stands, if you took it to the Supreme Court, which has been done on so many occasions, it has been found to be lacking heaps and it's not adequate. And the Supreme Court has, has made a decision against that code. And I can, I can cite you two or three cases, but, anyway, probably not now.

Right.

THE COMMISSIONER: But you mentioned a moment, it was just common sense?---Yeah, no, I, in terms of common sense, I understand what it is but in terms of legally how it stands, this, people have taken this code to the Supreme Court and they have won, as councillors who challenged it in terms of the penalties and, and what you can, the range of penalties. And the Supreme Court says, no, you can't apply those penalties based on this 'cause this is really, and that's why it's being revisited now even after how
10 many years, 15 years, it gets revisited every time because it's, the court always rules against it. But, anyway, but most of it is common sense. So that's what you're talking about here.

MS HEGER: Yes. You certainly understood some penalties could be imposed for breaching the code of conduct - - -?---Yes. Absolutely. Thank you.

- - - and you understood that in March 2013. Correct?---I don't recall whether I understood it at the time, but I know it now, what were, 'cause
20 I've had so many code of conducts put on me, so - - -

You must have understood that as at March 2013 that you could face penalties for breaching the code of conduct. You must have understood that?---I, I do not recall what was, what my mind was thinking at the time, whether I did or I didn't, but I know now it is.

All right. Can I take you to clause 3.7?---Yes.

You just read clause 3.7 and 3.8 to yourself and then I'll ask you a question
30 about it.---Yes. Thank you.

You understood those were your obligations as at March 2013, didn't you?
---Yes. They're common sense.

Thank you. And you understood as at March 2013 that the reason why the code of conduct imposed specific obligations regarding the development decisions is because development decisions can result in very large benefits to developers as well as significant impacts on the local community?---I didn't know that the time, no.
40

Well, it's common sense, isn't it?---The whole thing is common sense.

All right. Clause 4.1, please. Just read clause 4.1 and 4.2 to yourself and I'll ask you a question.---Excuse me, excuse me. Yes.

You understood those were your obligations as at March 2013, correct?---I did, but can you explain to me what a reasonable person is, and an informed person is?

10 THE COMMISSIONER: Please don't ask questions.---Okay, sorry. Yep.

Just listen to the questions.---I'm listening, Commissioner, but - - -

No, no, no.---I'm, but that's why I - - -

Just a moment.---Sorry, sir.

Don't fire questions back at Counsel Assisting.---Sorry, sir. I won't do that. Thank you.

20 No. Listen and answer.---Thank you.

Do you understand that?---Yes, thank you.

MS HEGER: You've already accepted you understood those were your obligations as at March 2013, correct?---No.

I thought you had accepted that, Mr Hindi. Are you now saying you didn't understand that?---Which one, 4.1? Sorry, 4.1? Are we talking about 4.1?

30 4.1 and 4.2. You understood as at March 2013 that those were your obligations?---Yes, in general, yes.

All right.---Common sense, in general.

And insofar as 4.2 was concerned, you understood your obligation was to either avoid or appropriately manage any conflict of interest, correct? ---Absolutely. Correct.

40 And you understood the onus was on you to identify conflicts of interest, correct?---Yes, to the best of your ability, yes, and knowledge.

Can you just read clause 4.5 to yourself?---Yes, yep.

As at March 2013, you understood that's what a pecuniary interest involved?---Yes.

Clause 4.7, just read that to yourself. Actually, read clause 4.6 as well, please.---Okay I'll start with 4.6. Yes.

10 Starting with clause 4.6, as at March 2013, you understood that a person will be taken to have a pecuniary interest in the matter if the person's spouse has a pecuniary interest in the matter?---Which is the same as a relative, as a brother, as a cousin, as an aunty, as an uncle. Yes. They're in the same category.

Yes. And insofar as clause 4.7 is concerned, you understood those were your obligations as at March 2013?---Yes.

20 Go through to clause 4.10, please. Read clause 4.10 to yourself.---Yes. 4.10, I have, yeah.

As at March 2013 you understood that's what a non-pecuniary interest entailed, correct?---Generally, yeah.

Read clause 4.12 to yourself, please.---I've read it, yes.

As at March 2013 you understood those were your obligations insofar as non-pecuniary interests were concerned?---No. No.

30 Well, which part of it didn't you understand? The first part is "If you have a non-pecuniary interest that conflicts with your public duty you must disclose the interest fully and writing." Did you understand that as at March 2013?---No. It's not in writing, that's the, what I don't understand. I understand the conflict but it doesn't have to be in writing. We used to do it verbally in the meeting.

Yeah. At a council meeting, you mean?---Yes. So I just want to make, make it clear, that's all.

40 All right. So you understood that if you had a non-pecuniary interest you must disclose it at least at a council meeting orally, you understood that? ---Yes, absolutely.

THE COMMISSIONER: Did you ever make any disclosures yourself in council meetings?---I've been on council for 17 years so I don't recall but from my recollection I would have done some, of course.

Very well.---Yes, I would have done some. I mean, I, I can mention a couple of recent ones but not going back to 2013. I don't recall that far, no.

10 MS HEGER: And you understood as at March 2013 that you had to make a disclosure of a non-pecuniary interest even if the conflict was not significant in your assessment?---Yes.

And you understood you had to do that as soon as practicable, correct?
---Well, you have to do it at the council meeting and the committee meeting. So I don't know what "as practicable" means, but anyway.

Read clause 4.15 to yourself, please.---Excuse me. Yes.

20 As at March 2013, you understood that a non-pecuniary conflict of interest will be significant in the circumstances set out in that clause, correct?---Oh, I understood (a) and (c) but not (b).

You didn't understand that a non-pecuniary conflict of interest will be significant where you had a particularly close relationship with someone involved in, say, a development application? You didn't understand that?
---It, I don't know the definition of "close" and that's where the problem is. It's become subjective and every councillor, you ask councillors everywhere, they don't know what it means and that's why it's subjective, that's why it's loose. It's got to be defined better and it's not defined. So at
30 the time maybe I, it was hard to determine exactly what closeness means.

Well, whatever "close" may mean, you understood that if you had a friendship or a business relationship with someone involved in a development application that could pose a non-pecuniary conflict of interest? You understood that, didn't you?---Absolutely, a business relationship, 100 per cent. A close friend, I don't know. It's very simple.

THE COMMISSIONER: What don't you know?---Sorry, sorry, Commissioner. Sorry, go on.

40

No, no, no. But the word “close” is ordinary English word.---No. That’s close for a lawyer, not for an, for an engineer. That’s not - - -

The word “close”?---Yes. Because there’s a definition, because I had a – can I, may I say something, if you don’t mind, if you want me to explain, or no?

10 Yeah, sure.---I had a code of conduct put on me about being close to somebody and it went through the process and I was found out not to be close with that person. So to them it was close, to me it wasn’t and I was found to be correct. So in terms of closeness, this is very subjective. So if it’s close like, you know, you’ve been with somebody, been mates for a long time and you hug and kiss and you go out and drink, maybe, but sometimes when it’s on the border, that’s what makes it hard.

MS HEGER: Well, accepting that the word “close” has a range of meanings and different people might take different views about that - - -? ---Thank you, yep.

20 - - - you understood that if a friendship was close that - - -?---You still haven’t told me what - - -

Just let me finish my question.---Sorry. My apology.

You understood that if a relationship, a friendship was close, that may pose a non-pecuniary conflict of interest, didn’t you - - -?---Yes.

- - - as at March 2013?---No. Because you haven’t explained to me what closeness is.

30

THE COMMISSIONER: Look - - -?---I’m sorry.

No, no, no. Please don’t behave this way. I mean, you’re being very rude. So just - - -?---I’m sorry.

- - - calm down - - -?---Okay. Maybe my voice is too loud, so that’s why you think I’m rude? I’d better, I’d better go back.

40 No, no. It’s nothing to do with your voice being loud.---Okay.

I find it very difficult to accept that you don't understand an ordinary English word, such as "close".---Okay. I accept it. Let's go. Let's move on. Thank you. Let's move on. I accept - - -

MS HEGER: So you - - -?--- - - - if that's what you want to hear, Commissioner, I accept it. Let's move on.

10 THE COMMISSIONER: Don't be rude.---I'm not being rude. I'm just saying because you're not accepting what I'm saying. So what do you want me to say?

MS HEGER: You understand, Mr Hindi, the premise of my question is that the word "close" does have a range of meanings?---Yes. Thank you.

You understand that's the premise of my question?---I, I agree. Thank you. I do.

20 Nevertheless, you understood that insofar as your friendships were concerned - - -?---Yes.

- - - if a friend of yours was involved in a development application coming before council, you had to make an assessment of how close the relationship was, didn't you?---Yes.

Yes. And if the relationship was particularly close, as you understand that word - - -?---Yes.

30 - - - that would pose a significant non-pecuniary conflict of interest, wouldn't it?---Absolutely. I agree.

Thank you.---Thank you. I agree.

Can you read clause 4.16 to yourself?---Mmm. Yes. Thank you.

And you understood those were your obligations - - -?---Yes.

- - - as at March 2013. Correct?---Yes. Sorry. I interrupted. That's a habit.

40 Could you read clause 4.17 to yourself?---Yes.

As at March 2013, you understood those were your obligations. Correct?
---Yes, I did. Yeah.

Thank you. Can you go to clause 5.1, please? Could you read clause 5.1 to yourself?---Yes.

You understood those were your obligations as at March 2013. Correct?
---Yeah.

10 Can you also read clause 5.2 to yourself?---Yeah.

So at March 2013, you understood those were your obligations. Correct?
---Yes.

Could you read clause 5.5 to yourself and let us know when we need to turn the page?---Yes. Yeah.

As at March 2013, you understood those were your obligations. Correct?
---Yes.

20

And if we go back to paragraph (c) insofar as that's concerned, you understood that that has two elements?---Mmm.

First, you cannot accept any gift or benefit that may create a sense of obligation on your part. Correct?---Yes.

And, secondly, you understood that you could not accept any gift or benefit that may be perceived to be intended or likely to influence you in carrying out your public duty. Correct?---Yes.

30

Thank you. You know Philip Uy. Correct?---Yes.

You have referred to him as Faye. Is that right?---Yes. Yes.

You've known him since at least 2012. Correct?---No. I don't recall.

You don't recall when you first met him?---No.

40 Well, can you say that you've known him since at least 2014?---Well, likely, yep.

And how did you meet him?---At a function.

I'm sorry?---Sorry. To the best of my recollection, it's probably at a Chinese function. That's where you meet most Chinese.

All right. Mr Wong has given some evidence that he introduced you and Philip Uy at a function in Hurstville. Is that your recollection?---No.

Do you deny that's what occurred - - -?---Yes.

10

- - - or you just can't remember?---I deny it.

Okay. Well, do you have an actual recollection of the function at which you met Philip Uy?---Not really. Just I've been to so many functions, I can't tell.

Well, you've been to so many functions and you can't recollect the particular function in which you met Philip Uy. How can you deny that Mr Wong was the one who introduced you?---'Cause he never did. Simple.

20

All right. But you can't remember who did introduce you?---He introduced himself to me.

Oh, you have a recollection of that, Philip Uy coming up to you and introducing - - -?---Yes, but I don't know, when. Yes, thank you, but I don't know when, at what function, what time, what date, what hour, I don't know. But I do recall. And it's not just him, it's a lot of other Chinese – sorry, it's a lot of other Chinese that come and introduce themselves to you.

30

I understand that. I'm just asking about Philip Uy at the moment, you understand?---Well, yes, I do. I've told you, yeah.

And who met Philip Uy first? Was it you or Mrs Hindi?---I don't recall.

You also know Wensheng Liu, correct?---Yes. Sorry, I know him as Mr Liu. I don't know Wensheng Liu until there was an inquiry as Wensheng.

40

All right. But you now know who I'm referring to when I say Wensheng Liu, correct?---Yes, thank you, yeah. I thought I was speaking too loud, that's why I put it up.

That's all right. And when did you first meet Wensheng Liu?---I don't recall. It would be either I think 2016, '15, I don't remember. I never had any much dealing with him.

Well, we'll come to the dealings you have had with him in a moment.
---Mmm. Ah hmm.

You attended a dinner in Chinatown on the 18th of March, 2016, where he was present, correct?---Correct.

10

Had you met him before then?---I don't recall whether I did or not. I don't recall, no. I think that was the first time but then I don't want to be taken as misleading, wilfully misleading the Commission, so I don't, I don't know.

All right. Your wife, Mrs Hindi, runs Sydney Realty, correct?---Yes.

And has done since 2011?---If that's what you say, fine.

You're not sure of the date?---I don't know exactly, but around that time.

20

Maybe 2012, I think. But anyway, I could be wrong.

Okay. And you knew that if she had a financial interest in a matter coming before council, that would give rise to a conflict of interest for you, correct?
---Absolutely.

And Mrs Hindi has given evidence that for reason she didn't tell you about her business dealings within the Hurstville City Council area. Are you aware she's given that evidence?---Yeah, yeah.

30

All right. But she didn't always observe that in practice, did she?---Sorry?

She didn't always observe that in practice, did she?---I don't know.

Well, from time to time she did tell you about business dealings that she was having within the Hurstville City Council, didn't she?---She would have, yeah, she may have, yes.

40

All right. And so it wasn't a practice of hers at all, was it?---No, no. No, no, no. Let's not stick on the word "practice". Practice is not, practice is always broken sometimes. It could be broken, there may not be people that follow the rules, I don't know. But if that's her practice, that's hers, not

mine. But I, from my recollection, she may have sent me some emails, she may have spoken to me about certain things that she believes in her mind that don't jeopardise my position on council.

All right. Well, can I take you to a couple of those examples.---Yes.

I'll show you Exhibit 251.---Yep. Just wait. Let me get my glasses on.

You can see that on-screen?---When I put the glasses on, I can, yes. Okay.

10

It's an email from Sydney Realty Online to the person named there.---Ah hmm. Ah hmm.

Bcc to yourself.---Yes.

Dated 12 September, 2013.---Yes.

And there's a draft letter attached.---Ah hmm.

20 We go over to the letter.---Ah hmm.

And just take a moment to read that letter to yourself.---Mmm. Oh. Yep.

Numbers 5 and 7 Richard Avenue, Peakhurst was within the Hurstville City Council area, correct?---Absolutely.

And you can see that Mrs Hindi in this letter is proposing a commission fee of 1.5 per cent plus GST with respect of this potential sale.---Ah hmm. Ah hmm.

30

Why was she copying you to this email attaching this letter?---I don't know. She must have a reason.

Well, on your understanding why was she doing so?---My understanding?

Yes.---I wasn't sitting in her mind so I don't know.

I'm asking for your understanding - - -?---No, no, but you're - - -

40 - - - as to why you were copied to this email.---Would you like me to make assumptions? Would you like me to presume? Would you like my view?

THE COMMISSIONER: What was your understanding as to why this email was being sent to you, if you did have an understanding?---My understanding at the time, I don't know what it was 'cause I don't recall, but I can tell you what I think my understanding is, what I'm assuming it is. If you want that, I'm happy to do it. But at the time, I can't tell you.

MS HEGER: Please tell us what your understanding is now.---She's probably telling me that – can you go back to that, that letter, please?

10

Certainly.---Thank you. She's trying to maybe, there's, there's a couple of things, reasons she'd be sending it to me. She was probably saying – I've just got to make it clear before I, I make a comment on this. Mireille Hindi was 18 years old when she came to this country. She spoke no words of English, none whatsoever. So she may have at the time, and she would have, sent me something about marketing and about things or about letters to say, "Does that sound good? Am I making sense?" and so on. So that's, that's one thing I want to put on the record. So - - -

20 Well, just pausing there.---Yes, yes.

You said Mrs Hindi came to Australia when she was 18 years old.---Mmm, mmm.

And so by the time she sent this letter she'd been in Australia for many years.---Oh, yeah.

30 Spoke perfectly good English by this time, didn't she?---Mmm, well, you've had people here that have been here for 30 years and they had to have an interpreter, didn't they? So what, how do you make that assumption?

Well, Mr Hindi, that's not an answer to my question. By the time she sent this letter, on your understanding she spoke and wrote English perfectly well, didn't she?---No, that is not true.

You're denying that?---Absolutely. She doesn't, she does not write well. She spends a lot of time putting words together to be able to get it write 'cause she doesn't want to be embarrassed. That's her business.

All right.---It doesn't mean she does it freely like everyone else does. So big difference. However, if you looked at the letter, I had a "henuine" buyer. I mean, it shows you how good that is.

Mr Hindi, that's a typo. That's - - -?---Well - - -

10 That's not a difficulty with writing the English language, is it?---Okay, anyway, so if I, I'm happy to tell you what I think. This one has no impact on anything. All it's saying to me, this is, this is a letter I'm sending to a, to a, to a client.

And your best evidence is she was copying you in so that you could review her use of the English language, is that right?---Something like this or, yeah.

20 But by this time she was already sending the letter to the recipient. Why would, if she was going to consult you on the use of the English language, she would have done it beforehand, wouldn't she?---Sometimes you do that and sometimes you, you, you learn for the next time. So if I told her, "You've made a mistake and done a few things," she'll fix it up for next time. So I, that's my thought. As I said, I'm only making, that's my view. If you don't believe my view, then it's up to you. I'm only giving you my view. I wasn't giving you facts or hard evidence why she sent it. There's no facts or hard evidence here.

Well, Is the real reason she copied you in because you were providing her with some advice about 5 and 7 Richards Avenue, Peakhurst, from time to time?---I don't recall that.

30 Can I show you Exhibit 252?---Ah hmm.

40 And just before we get there, one more question on the previous letter. If you were aware that Mrs Hindi was going to get a commission from the sale of 5-7 Richards Avenue, Peakhurst, if a DA then came before Hurstville City Council concerning 5-7 Richards Avenue, Peakhurst, the fact that she stood to gain a commission from the sale would pose a conflict of interest for you, wouldn't it?---Absolutely. However, I'll get it clear, if that commission was on foot, which means it is current, it has not been, the contract has not been finished, then I have a conflict. If that thing has been completed and finished and a DA comes to council, I don't have a conflict. It's clear.

THE COMMISSIONER: I don't understand that.---You don't? Can I explain it, Commissioner, then?

Sure.---Slower. Maybe I'm going a bit fast. If, if, hypothetically, she sent an email to me saying, "I have just received a commission from 5-7 Richards Avenue and I have just sold it. It's not subject to anything, I've just sold it," not subject to anything, just sold it, outright sale, and a DA comes to council, I don't have a conflict. It's already happened. No conflict. I managed my conflicts. I don't have one, so I can vote on it. Had
10 somebody sent me a, a, saying, "I've got a commission and that's subject to a DA and I haven't got it until the DA comes" or for another 12 months when the DA comes, of course I have a conflict I have to declare. It's clear.

MS HEGER: All right. So - - -?---Common sense.

- - - in your mind there was no difficulty for you in knowing she was negotiating a commission of 5-7 Richards Avenue, Peakhurst, is that your evidence?---I mean, I don't know if she told me. Maybe, again, maybe she told me because we were trying to buy properties in that area as well. It was
20 just newly rezoned and we were trying to buy property. Maybe she was trying to tell me what the prices are like. Now, it would have been easy, sorry, to say that, Ms Heger, it would have been easier for her not to send an email, just give me a call and say, or come and see at home. We're husband and wife, you've told us, we all sit together, she can tell me "I've just got a commission." There's no need to email that. What would she email it for?

Well - - -?---Because she, she felt there's nothing wrong and I felt, and it's up to me as a councillor to make an informed decision whether I have a conflict or not with the information in front of me. She doesn't have to
30 worry about it, I do.

All right. Can I show you Exhibit 252?---Yep.

This is an email from Sydney Realty to yourself, 23 April, 2014.---Yep, ah
hmm.

It says, "Hi Mireille, please find attached order on the agent for the above properties is requested." If we go to the next page, there is says "The matter was settled today. We enclose the purchaser's solicitor's authority for you
40 to account to the vendor for the deposit."---Ah hmm, okay.

Why was she forwarding this to you on your understanding?---I don't know. Again, if you would like me to give you my assumptions or, I'm happy to give you my views or, or my impression but - - -

Yeah.--- - - - I can't tell you what - - -

If you don't remember what your understanding was at the time, tell us your understanding is your understanding now.---No, I can't remember at the time. Yes, okay. So I don't recall what, the understanding at the time. It
10 may have been that I've just, I've sold this one, it's not subject to anything so maybe she's saying, "If you get something on council, that is, that you may have to make a decision whether you have to have a conflict or not." I don't know. Maybe that's what she was trying to, just a precautionary thing, "Here, I've, I've just finished that deal and it's up to you, you decide what you do, whether you have to" – so by sending me that, I become aware. The whole code of conduct's about awareness, if you're aware of someone's conflict, not you have to go and do research for, for the next 10
20 days, who, who's got what and who buys what, had who sells. It's an awareness. So now, by this sending to me, I don't know why she did, it's an awareness. If I'm aware then I make a decision whether I declare conflicts or not when it comes to it. That's number 1. And number 2, she was probably trying to tell me, just give me information about what the area's going for. It's a brand new area, it was starting to, people buy, and we were thinking buying around in that area to be developed. We want, as you probably know, I've been called the biggest developer in Hurstville ever. I develop it all the time. I'm pro-development. Con Hindi loves developers and loves pro-development. That's why everyone doesn't like me.

All right.---Let's move on, anyway.

30 Thank you. Well, Mrs Hindi's evidence was initially that she deliberately didn't tell you about business dealings she had within the Hurstville City Council area. You're now saying sometimes she did tell you, so that you could make an assessment as to whether you had to declare a conflict. Is that what you're now saying?---What I believe Mrs Hindi was saying, and I'm not putting words in her mouth, because she made the thing, but I listened to it, is that's her practice being, as an ex-councillor of Kogarah Council, she knows what it's like not to be put in a predicament like this. So when, as I said, when something is on foot, a contract is on foot, which
40 means it has not eventuated yet, there was no way you can tell anybody about it. When it has been completed, which it has been, then you can

decide whether you want to tell people or not. Some of that stuff would be, in my opinion, and let's get it right, there might have been a sign out, out the front. They're all public, these are public things. So anyone can see it. Everyone knows. So, so with her telling me, she doesn't have to tell me. I've seen the sign on, on the, on the front lawn, Sydney Realty, Mireille Hindi.

10 Yeah, but the sign doesn't tell you the amount of the commission, does it?
---So what? That's finished, completed. She doesn't tell me the commission before it happened. It's completed. That's what I think. Anyway, that's my understanding. So I can't, I can't sit here and speculate what was in her mind at the time.

Well, you say she doesn't you the commission before it's happened but in the previous exhibit, 251, she was copying you into negotiations on a commission - - -?---That's - - -

20 - - - that is, prior to it being finalised.---Well, that's a negotiation. That's not, on foot. That is not a contract. That's on foot. I said anything that's on foot. If it's on foot, it's happening, there's DA in council, I have to declare interest. Now, whether she tells me or not, I don't know. I don't sit in her mind and, I don't sit on her mind or work out when she tells me or doesn't. She tries to protect me as a councillor as much as possible because she was a former councillor and she knows what it's, we have to do. So that's all I can say. More than that, I'm talking too much.

Right. Can I show you Exhibit 253?---Yes. Thank you.

30 It's an email from yourself to Mrs Hindi on 11 July, 2014?---Yeah.

Just have a read of that to yourself.---Yeah.

Can we go to the attachment? You'll see there's a map which includes 5-7 Richards Avenue on the left-hand side, do you see that, number 20?---Yes.

Go back to the first page. Why were you sending this to Mrs Hindi?---I don't recall that I sent it.

40 THE COMMISSIONER: But you did?---Yes, I did. I can see it, Commissioner, but I don't recall why I sent it.

MS HEGER: Well, one possibility is that you knew Mrs Hindi was going to be involved in selling the apartments if this development went ahead. Did you know that at the time?---Was not aware of that.

Were you sending this email to Mrs Hindi because you thought it was useful information for her business purposes?---No, but would you like me to give you my views or impression now why I would have sent it?

10 Certainly.---Not at the time. So I can't recall why I sent it at the time. This is only my impression at the moment and my view is because the area was changing. There has been a lot of debate from the, from the residents. They did not, they wanted that R3 to be reversed back to an R2. They wanted that reversed. And so the question was asked is how many DAs have we done in there? Is it possible to reverse? And, and that's what, that's what this map was about, to show us how much has been done because we believed that area is not suitable for an R3 zoning. Even though the staff thought it was suitable, we didn't think it was suitable for rezoning. So it was sent to us and if I was trying to hide it or doing anything, I wouldn't be using my council email to send it to anybody. So I just felt, yeah, here's the
20 information, have a look at it, that's it. These are, nothing, nothing like that, I don't see it as (not transcribable)

But why did Mrs Hindi need to know that information?---Because probably I sent it to other people, as well. It wasn't just for - - -

Well, you only sent it to one person in this instance. Why did she need to know that information?---It's like everybody else, they probably want to know what's happening in the area, so I just sent it. I don't recall why I did it at the time. There must have been a reason. I don't, I don't recall why I
30 sent it at the time 'cause there must have been a reason, but I do not recall that reason.

Well, you have to accept, Mr Hindi, that these series of emails demonstrate that by July 2014 you and Mrs Hindi weren't keeping your business dealings separate at all, were you?---Yes, we were.

But only insofar as you say there was a contract on foot - - -?---Yes.

40 - - - that related to land within the Hurstville City Council area. Is that the practice you say was adopted?---I don't know. You're confusing the word practice. You've got to understand. This is a very small real estate agency.

It's not one that's got 20 people sitting there and following codes and rules and so on. One person by herself.

THE COMMISSIONER: What's the relevance of that?---The relevance is sometimes these things are not followed exactly to the letter of the law. I don't know. You'd have to ask her. But I don't know. But it is a practice from her point of view. I wouldn't use the word "practice". It is, from her point of view, she does not tell me anything that may jeopardise my position on council. That's the way I feel and that's how we've been dealing with it.
10 Now, whether things have been emailed to me because of marketing, because of printing, because of can I get your opinion on something, it makes no difference. She needs help. Instead of saying to the person "Let's help you," you can't just leave her, throw her in the deep end, so there's a bit of help. But then again, if I become aware of something that accidentally inadvertently she sent to me, then I'll have to make a decision whether I declare interests or not. So simple. It's got nothing to do with it. I'm the one that makes a decision.

MS HEGER: You said you wouldn't use the word "practice" and that's
20 because it wasn't a practice at all, was it?---Sorry, don't, don't use the English words with me 'cause I'm not a lawyer, I'm an engineer, so I don't understand what - - -

THE COMMISSIONER: Please.---Sorry, I don't understand "practice", sorry. I, I don't know what you mean. Sorry, can you, can you run the question again - - -

MS HEGER: My point is - - -?---Tell me.

30 - - - that Mrs Hindi did not diligently keep from you all the business dealings that she had, all the contracts that were on foot relating to land within the Hurstville City Council area, did she?---Could you explain to me what "diligently" mean?

THE COMMISSIONER: Oh, please.---I'm sorry, Commissioner. You may think that I can speak English well. I don't.

You don't know what the word "diligent" means?---No, I don't. If I did, I wouldn't be asking. I'm not trying to - sorry.
40

Please don't raise your voice at me. Don't raise your voice at me.---Okay, thank you. Sorry. My voice - - -

You're telling me on your oath that you don't know what the word "diligent" means?---Yes. It's on oath. I just did the sign of the cross on oath that I don't know.

MS HEGER: All right. We'll do it this way, Mr Hindi.---Sorry.

10 From time to time Mrs Hindi did in fact tell you about contracts that she had on foot relating to land within the Hurstville City Council area, didn't she?
---I don't recall any. I don't recall.

Well, you now know, don't you, that Mrs Hindi entered into a buyer's agency agreement with The One Capital Group in July 2014, correct?---I know now, yeah.

Can I show you that document - - -?---Yes.

20 - - - which is 3.22, Exhibit 196.---Mmm.

Go to page 3, please.---Ah hmm.

The start of the agreement, please.---Ah hmm.

Had you seen this document prior to this investigation, Mr Hindi?---Yes.

When did you first see it?---October. 20th, 20th of, I think 20 October, 2020.

30 And was that in relation to this investigation or some other context?---No, this investigation.

Okay. And what were the circumstances in which you saw it?---Well, your lovely staff came in and did a search warrant, didn't they? I was there.

And that's the first time you ever saw this agreement?---Yes, yes.

Did Mrs Hindi mention to you around this time, July 2014, that she had entered this agreement?---No.

40

Did she tell you she'd entered any agreement with One Capital Group?
---No.

Did she tell you she'd entered any agreement relating to the Landmark Square property?---No.

And you understand when I say Landmark Square I'm referring to the property at the address indicated in this agreement? You see under the words "Location"?---Yes.

10

You understand that's what I mean when I say Landmark Square?---Yes, okay. Yes, thank you.

So, I'll ask you again. Around this time, July 2014, did she tell you she'd entered an agreement relating to Landmark Square?---No.

Mr Hindi, you were supportive of Mrs Hindi's business at Sydney Realty, weren't you?---As supportive as any husband can be to his wife's business.

20 Of course. You wanted to see it succeed?---Not really, didn't worry me.

You weren't interested in whether your wife's business succeeded or not?
---No, she was a housewife with four kids. She was just doing it as fun, so why would I care? I had a good job, I was earning good money. I didn't need her to do anything but she, she - - -

I'm to saying you needed the money, Mr Hindi, but certainly as your wife of many years you were interested in whether or not her business succeeded, correct?---No.

30

When she did succeed in her business you enjoyed celebrating her success?
---No.

You didn't?---No. She celebrated my success when I did at work, because that's important. That was just part-time, nothing. It wasn't actually, there's no, there's no office, there's nothing, there's no staff, there's nobody. What a success, of course not.

40 When she sold a big property you've never celebrated with her before?
---No, absolutely not.

All right. And so she never mentioned to you that she stood to gain \$500,000 if the sale of the Landmark Square property went ahead, is that right?---That's right.

She never mentioned to you she stood to gain any money if the sale of the Landmark Square property went ahead?---No, she never told me.

All right. You now know that One Capital Group entered options for Landmark Square in July 2014, correct?---(NO AUDIBLE REPLY)

10

You know that now?---Yeah.

Did you know that at the time in July 2014?---No.

Mrs Hindi didn't mention that to you around that time either?---No.

Well, I suggest to you, Mr Hindi, given the money at stake, and given the emails we've seen previously, it's much more likely that she did tell you about this agreement around that time. Do you deny that?---Absolutely.

20

All right. You voted on the voluntary planning agreement for the 1-5 Treacy Street development in November 2014, correct?---I assume, yeah. That's what you're telling me. Yeah, fine.

And before you vote at a council meeting you generally receive business papers from council staff?---Sorry, was that Treacy Street or Landmark Square?

30

That was Treacy Street.---Oh, sorry. Because we're jumping now. Thank you, so - - -

We are jumping around.---Yeah, thank you. Okay. Treacy Street, yeah.

Before you vote on a development at a council meeting you receive business papers from council staff, correct?---Correct.

And your practice is to read them in advance of the vote, correct?---I don't want to use the word "practice." Generally I do read them.

All right. Can I show you volume 1.3, page 70? This is the council staff's report in respect of the voluntary planning agreement for 1-5 Treacy Street, Hurstville.---Yes.

And so you obviously received and read this report prior to voting on the VPA for Treacy Street, correct?---I, I don't recall.

It would have been in accordance with your practice to do so, correct?---As I said, I don't use "practice." Generally I do.

10

All right. And when you received this report you saw that one of the interested parties, as listed there, was GR Capital Group Pty Ltd, correct? ---Ah hmm, yep.

And you saw there that there was a company extract included? Do you see that?---Where is that?

Under the words "GR Capital Group".---Sorry, where? It's got GR Capital Group only. That's all I've got. Where is the extra?

20

Can you see under Interested Parties, it says "Company extract included", yes?---Where, where is that? Yes, yeah, but I, I can't see it.

No, but you see those words that I've just read out, correct?---Well, it doesn't mean, doesn't mean anything. Yeah, I have - - -

THE COMMISSIONER: What do you mean it doesn't mean anything? ---Where is it? I can't see it.

30

It suggests, doesn't it, that the company extract - - -?---Yes, it does, Commissioner. Absolutely.

- - - accompanied the business papers?---Yes. But I, doesn't mean I've looked at it, doesn't mean I can see it. I don't, I know what you're saying but I can't recall it.

Thank you.---I can see it's there but I can't recall it.

40

MS HEGER: Well, the reason why company extracts are included is so that councillors can look at the directors, shareholders involved in a company for the purposes of assessing whether they have any conflict of interest, isn't

it?---Absolutely. I was the one that actually moved the motion to get council to start giving us that, giving us the directors.

Yes. So you well understood then the purpose of including company extracts - - -?---Absolutely. Absolutely.

- - - in a report like this. Yes?---Yeah, 100 per cent.

10 And for that reason, you generally read company extracts - - -?
---Absolutely.

- - - when they were – can you just wait until I finish my question - - -?
---Sorry. Sorry.

- - - otherwise it causes issues with the transcript.---I know, the transcript.
Yeah. Sorry.

20 Thank you. For that reason, it was your practice to read the company
extracts when you received a report like this, wasn't it?---Generally, I do.

All right. And so assuming you did read it on this occasion, you would have
seen that Wensheng Liu was a director of GR Capital Group?---Yeah.

And the sole shareholder of GR Capital Group?---Yeah.

Did you know Wensheng Liu - - -?---Nuh.

- - - by this time - - -?---No.

30 - - - November 2014?---Never. Nuh.

Did you know by this time, November 2014, that Philip Uy was involved in
1-5 Treacy Street in any way?---I don't recall that.

You can't recall any discussions you'd had with Philip Uy - - -?---No.

- - - about 1-5 Treacy Street - - -?---Around that time, no.

40 - - - by this time?---Yes. No.

All right. Mr Badalati has given evidence that he believes you were aware both Philip Uy and Wensheng Liu were involved in 1-5 Treacy Street around this time and that he quite likely spoke to you about it. What do you say about that?---Was that his evidence on 2 July or 7 July or 14 July or the 5th, 'cause they all changed, so can you - - -

It didn't change in this respect, Mr Hindi.---Well, can you tell me where, please? I want you to look at the transcript, what he said - - -

10 THE COMMISSIONER: What difference does that make?---I, I need to know is that what he said. If he tell me, fine, but I didn't - - -

It's being put to you that it was said.---That is not true. I've never met Wensheng Liu around that time.

MS HEGER: No, but I'm not asking you whether you met him around this time.---I did not, no.

I'm asking whether you were aware that Philip Uy and Wensheng Liu were
20 involved in 1-5 Treacy Street by this time?---No. No, I was not aware at that time. No.

Right. But you accept that if you read this company extract, you would have known Wensheng Liu was a director and shareholder?---Can I repeat what I said earlier? I never knew the guy's name was Wensheng. I thought he was Mr Liu. And I never knew him at that time. So when you say "Wensheng Liu" there's millions of Lius. So I'm not here just to work out or I wasn't there to work out who's Liu? Could have been Nancy Liu's brother, cousin. As a councillor, I don't know.

30

THE COMMISSIONER: But that's why the word "Wensheng" is being used - - -?---No, no.

- - - so that you do understand who's being referred to.---Thank you, Commissioner, but I'm talking about at the time of November '14, I did not know who Wensheng Liu is, Wensheng, as in Liu. I knew now, as of the, with all due respect to Mr Liu, because he's called Mr Liu, not Wensheng Liu. So I didn't know. No.

MS HEGER: All right. So your evidence is that even if you saw Wensheng Liu's name on the company extract, you didn't know who that was at this time?---Nuh. Nuh. And I didn't know him at all, anyway, at that time.

Can I go back to the council staff's report?---Yes.

Page 72 of that document. Can you see it says there in the second paragraph, "Council staff have reviewed and considered the documentation associated with the offer. The following comments are provided on the proposed offer, however this information has not been conveyed to the applicant's lawyer and the offer has not been reviewed by council's lawyers"?---Mmm.

You accept, of course, that it's best practice for a VPA offer to be reviewed by council's lawyers before council votes in favour of it?---No.

Why not?---Why should they? You're still negotiating at the moment. You're not actually putting all the fine details on it. So they can do it at the end. They can nicely summarise it and put the legal terms in it. This is not legal. This is just what you're offering, what you're going to give.

Well, on 19 November, you and other councillors voted in favour of a particular VPA offer.---Yes.

Do you not think it would have best practice for council's lawyers to review that before you voted in favour of it?---Well, if, no, sorry. Excuse me. Just, I've got a sore throat, so I've got to keep taking water. Now, let's put it this way. If the council staff felt that it's imperative that they send it to the lawyers and get their opinion, they had plenty of time to do it. So why haven't they done it? They had plenty of time to do it. Why didn't they? Because it was not required, you didn't have to in (not transcribable) the VPA.

Well, another possibility is that there was a practice in place whereby council staff was required to report on VPA offers at this point in time and so they were required to put forward this report regardless of whether council's lawyers had reviewed it.---That is not correct. That is not correct.

There wasn't such a practice?---No, of course not. Because you don't just report to councillors to vote on something that's halfway through or still doing something. You give them the final thing. This is what they're offering.

But that's not what was done here.---Sorry?

That's not what was done here.---It is.

It wasn't a final offer in that - - -?---It is. It's a final offer.

Well, Mr Hindi, the report says - - -?---Yes.

10 - - - that the following comments are provided.---Yes.

But they haven't been conveyed to the applicant's lawyer, so there'd been no negotiation in that respect, had there?---It hasn't been – sorry, sorry, can you repeat that, I'm sorry?

In the second paragraph - - -?---Yes.

- - - it says, "The following comments are provided on the proposed offer. However, this information has not been conveyed to the applicant's
20 lawyer." So to that extent there hadn't been negotiation with the applicant about this, had there?---So why would that – sorry, whose responsibility is it to put this thing up to councillors? It's not mine. It's not the mayor, it's not any councillor. It's the general manager. So why did the general manager put it up? That's what you should be asking. Sorry, I'm not trying to tell you what to do, but that's what the question should be. Why didn't the general manager? He's put it up, he believes it's ready to go. He puts it up to council. If he doesn't believe it's right, he does not put that report to council. He has the ultimate decision.

30 THE COMMISSIONER: Yes, but councillors have the ultimate decision as to whether they'll send it back.---No, sorry, Commissioner. Before councillors can vote on anything, it has to go up and the GM decides if it goes up. So if it doesn't go up, they can't send it back, can they?

No, if he sends something up and it's not ready to be voted on - - -?---Yes.

- - - the councillors have the power to send it back.---So why does the
40 general manager send it up who gets paid half a million dollars? Why does he send it up - - -

Please, Mr Hindi. I'm just saying to you, and it must be the case, if something comes up to you to be voted on and it's not ready to be voted on - -?---Yes.

- - - you don't vote, correct?---No, well, no, you still vote 'cause if you believe it's a good offer, you vote.

10 No.---That's why you send it to the councillors, to make a decision. I'm sorry, you send it to the councillors to make a decision. One minute you say you send it back, the next minute you say why did you – I'll tell you why I voted for it if I get there, but - - -

No, no, no, no. We'll get to that.---Yeah.

But the bottom line is if something comes up and it's half-baked, it's not ready to go - -?---Yes.

20 - - - surely as part of your duties as a councillor you just don't vote on it. ---Sorry, that's, that's the tunnel vision we're looking at. Let's look at the other tunnel vision. The GM shouldn't have put it up there if he felt or he or she felt that it wasn't ready.

So you vote on things on the basis that they come up through the GM? ---Yes.

If they come up through the GM, you just vote?---Yes. Because he believes they're ready to go.

30 But what do you believe?---I believe I'm making, as an elected representative - - -

But that makes it worse, doesn't it?---No - - -

If you just vote on things that come up through the GM without deciding for yourself that they're ready to go, isn't that an abdication of your responsibilities?---Okay, now, can I finish, Commissioner?

40 If you want to, yeah.---Thank you. What I was saying is when thing that comes to council half-baked, if they are, and the general manager for some reason decided to put them up, we have an obligation under the Act and the code of conduct to ensure that we make an informed decision. An informed

decision is based, as an elected representative, on the technical information in front of me, which is a report like this, as well as I've got to take the political side of it, I've got to take the community side of it, I've got to take all the other side of it. That is my duty as a councillor under the Act, to make an informed decision based on the, all the information available to me. Now, if that has gone to the lawyers, has it, I felt it was ready to go. Nothing wrong with that. That was my opinion. I don't know what the others felt. There's 12 people to vote.

10 That's not an answer to my question. My question is this.---Yes.

If the general manager puts up something that is not ready to go - - -?---Yes.

- - - whatever you see your duties and obligations as being, you don't vote on it, do you?---You have to vote. You can't just say, "I'm sending it back." I mean, you could send it back and say, "We defer it."

Of course, and you've done that from time to time.---Yes, absolutely.

20 I've seen it. You've deferred.---Of course. Absolutely. Of course you can do that. However, if you felt like the thing is ready to go and council as a whole believes that it's ready to go, then they vote accordingly. There's 12 councillors, so whatever they voted, it can be deferred, it can be approved, it can be rejected, it can be amended. There's a lot of things you can do.

Thank you.---Thank you.

MS HEGER: All right. So you considered on this occasion it wasn't necessary for you to make an informed decision that the offer be reviewed
30 by council's lawyer's, correct?---Sorry, it was an informed decision that I believed. Because what the lawyers do is just work around it nicely, massage it to become a legal document. That's what the lawyers do. I've been on council for 17 years. That's exactly what they do.

So the answer to my question was, yes, you did not consider it necessary to make an informed decision to have council's lawyer's advice on this offer?--Sorry, sorry. I don't understand the question. I don't understand - - -

40 You didn't need council's lawyer's advice on this offer to make a decision on it?---No, absolutely not.

All right. You see on the same page it says, “In summary, the proposed works and dedications and not considered to provide sufficient public benefit for the following reasons” and the four reasons are set out there?
---Ah hmm. Oh, you want me to read them?

Sure, read them to yourself and I’ll ask you a question.---Oh, sorry. Sorry, sorry. Yes. Thank you.

10 Did you form the view that the offer did provide sufficient public benefit?
---Absolutely.

And why was that?---First I we’ve got to work out what the definition of “public benefit” is.

THE COMMISSIONER: Oh, for heaven’s sake.---No, no. Commissioner, I’m trying to answer. If you want me to say yes or no, I’ll do it but if you don’t want me to - - -

20 No. Just listen to the questions and answer them. Mr Corsaro, I’m going to adjourn pretty soon. If this witness continues with this behaviour, I’m going to adjourn so that you can have a word to him.

THE WITNESS: Sorry. Okay. Can you just repeat the question?

MS HEGER: Why did you consider this offer provided a sufficient public benefit?---I don’t know.

30 Reading the council staff’s assessment there doesn’t jog your memory?
---No.

All right. Even sitting here now can you come up with a reason as to why this offer provided a sufficient public benefit?---No, I can’t because the Commissioner won’t allow me.

So I’m asking you the question and you’re very welcome to answer the question, Mr Hindi.---Thank you, Ms Heger. Thank you, Ms Heger. I’m happy to tell you why.

40 Please do.---The offer that was provided is more than adequate to provide public benefits. Let’s look at, just on itself, by itself, number 3, “The dedication of retail floor space and a car space are not considered to be of

public benefit.” How is that not a public benefit when someone’s giving you retail floor space that you can give out to the youth of Hurstville, that they can use it, the youth. How can that not be a public benefit.

Well, there’s been evidence in this inquiry that the particular floor space that was proposed to be dedicated wasn’t, given its circumstances and location, of any real benefit to council.---It’s in the - - -

10 Why did you disagree with that view?---Because it doesn’t mean what, this is an opinion of one officer. It is an opinion of one person.

Yes, and I’m asking you to tell me - - -?---Yes, I am.

- - - why this particular retail floor space that was offered here was a useful one for council’s purposes?---I, yes, can I finish? That’s one officer making that call. This is in the middle of Hurstville CBD and are we saying that retail in Hurstville CBD is not good? It’s not actually, it’s, that’s, the person who wrote that report, that’s their opinion and I respect it, and I respect every report that’s written by any staff. They’re entitled to their own
20 opinion, there’s no pressure, there’s no influence on them what to do. However, we are, as an elected representative of the community, we can make a decision whether it’s a public benefit or not. We have the right to do it and in this case I felt that on its own, and we haven’t got to the next one, that on its own is good enough. Let’s get to the next one about giving you dedication of land to widen the underpass. Whoever thought about widening an underpass? We were going to widen an underpass that is one car in, one car out in the middle of a CBD. That was a bottleneck through the T-map, that came up. So one person says it’s not adequate, I believe it’s more than adequate. And may I say some, if you would like me to tell you
30 why it’s more than adequate.

Please do.---According to Mr Michael Watts’ examination and his cross-examination, he said I would have voted for, for the, for the increase in floor space for Treacy Street on its own without a VPA, without a legal bribe. That’s called a legal bribe. That’s exactly what they are.

I’m not sure that was his evidence.---Yes, it is, a hundred per cent.

40 All right.---You can check it and I’ll check it for you.

His evidence was that - - -?---He was cross-examined – sorry, go on,

- - - the DA could be approved without any VPA at all?---Oh, well, there you go. So - - -

No, no, I'm asking you. Is that your understanding of his evidence?
---Absolutely, a hundred per cent, he was cross-examined on that as well.

10 All right.---So it was the cross-examination quickly said, "If we didn't have this VPA, would you still vote it on its merit?" "Yes." So why are we asking people for VPA other than a legal bribe? Why? Anyway, I'm not here to change the whole council's rules, but that's exactly what VPAs are all about. That's why they're not consistent. That's why people, if one's opinion is different than somebody else's opinion, the only thing about this council, as Hurstville City Council was, you had 12 councillors that had to vote while this one was prepared by one person's opinion. You had 12 councillors that voted. If they all agreed, fine. If they didn't agree, then moves on. So I felt there's a lot of benefit in here and there was no issue with that.

20 All right. You were also a member of the Joint Regional Planning Panel which voted in favour of the Treacy Street DA, correct?---Yes.

That was in April 2015, correct?---Yes. I don't recall but you, through the inquiry I remembered, yeah, I believe through that, yeah.

30 Did you know by that time that Wensheng Liu or Philip Uy – well, let's start with Philip Uy. Did you know by that time that he was involved in the 1-5 Treacy Street development?---Just trying to remember. I think I did, yeah. Yeah, I think I did.

And how did you know that?---I don't know. Someone must have told me. I don't have a really, I don't really know exactly how. I don't recall. That's honestly. I don't recall how it's came about.

Well, by that time, 1 April, 2015, had you had any discussions with Philip Uy about 1-5 Treacy Street?---I don't recall discussing it. May have but I don't recall it.

40 All right. And what about Wensheng Liu? Had you had any discussions with him prior to 1 April, 2015 about 1-5 Treacy Street?---I don't believe so. I don't believe so.

All right. Now moving through to May 2015. Can I show you the statement of Nigel Dickson at paragraph 17.---Nigel Dickson, yeah.

It's Exhibit 157. All right, just read paragraph 17 to yourself and I'll ask you a question.---Sorry? Paragraph 17?

Yes, please.---Thank you. Yes, thank you.

10 All right, you were the mayor at this time, 5 May, 2015, correct?---Yes.

And Mr Dickson's evidence is that they were seeking a meeting with the mayor, that is yourself, and Mr Dickson confirmed orally that he didn't suggest Mr Badalati or Mr Sansom come along. Did you invite Mr Badalati and Mr Sansom to this meeting?---I don't recall.

Well, it's likely that you invited them, isn't it?---No. Could be the general manager could have invited them. Could have invited all the councillors, but they're the only three attended.

20

All right. Well, by this time you were working together with Councillor Badalati and Councillor Sansom on the Landmark Square planning proposal, correct?---No, that's not correct.

You hadn't had any discussions with them prior to this meeting on 5 May, 2015 about the Landmark Square planning proposal?---I don't recall specific conversations but we may have had general conversation about the hotel within the area. We definitely wanted the hotel in the area. That was the whole discussion was about, about the hotel. Five, five-star hotel.

30

You understood by this time, 5 May, 2015, that both Councillors Badalati and Sansom supported a hotel in Hurstville, is that right?---Yes.

And thus supported the Landmark Square planning proposal, correct?---The hotel's going to be on Landmark, then they supported Landmark.

All right. Well, I suggest that you did invite both Mr Badalati and Mr Sansom to this meeting, and the reason you did so is because you understood they were in favour of the planning proposal?---That is not true.

40 Number 1, I didn't, I don't recall inviting them. But, number 2, they are in favour but I, I don't recall inviting them. However, it may, it's probably

possible that I did invite them. And I can tell you why I think I may have invited them because around 5 May, 2015, Hurstville City Council was blowing up. It was on the front page of The Sydney Morning Herald, it was everywhere.

10 What do you mean by “blowing up”?---Well, the council was self-imploding, councillors accusing each other, GMs, everybody, no one trusted anyone, no one didn’t want to know anybody. So if I did invite those two people and other councillors, it, I may have because I wanted to ensure that I’m not set-up for anything for the future because people were setting people up around that time - - -

So you invited the two of them because you trusted them. Is that right?
---No, no, no, no. This is not what I said. It’s not what I said. I said I may have invited both of them and other councillors to be there ‘cause I want witnesses while I am in a meeting because once you start putting file notes and you come out three years later, you want to have witnesses. At that time, as I said, I was on the front of the papers around that time. But why was I on the front page?

20

That’s exactly

- - -

30 So your practice from that point was to always have another councillor in every meeting you attended. Is that your evidence?---Well, this, again, I don’t like using the word “practice”. Generally, I would if they’re available. You’ve got to remember something. This is 3 o’clock in the afternoon. Not everyone’s actually not working, not everyone, like Councillor Badalati, was a, was a pensioner, retired. People were working. They have to leave work. I probably had to leave work early to come in. So people had to leave work early. So not everyone can make it. Even though you invite other councillors, they don’t make it. Sometimes, sorry, Ms Heger. Sometimes, we invite councillors for a photo opportunity, which is a great thing to put in the paper for them. And you invite 12 of them, only two show up not because they don’t want to, ‘cause they’re at work. So other councillors may have been invited. Again, under the code of conduct, it is clear that any information you give to one councillor, you must give to the other councillors, so they can all make the same informed decision. So if I was invited here, the GM had a duty to invite other people, as well, to
40 ensure we all got the same information. That is in the code of conduct.

Did you give Mr Dickson your mobile phone number at this meeting?---Of course not.

Well, Mr Dickson gives evidence that he did, in fact, have your mobile phone number in his phone around this time.---Mmm.

How did he get it?---Well, let's start with Mr Dickson first. When was that statement?

10 THE COMMISSIONER: Can you just answer the question, please?
---Sorry? Can you repeat that? If you want me to just answer (not transcribable) I won't make any comments at all.

MS HEGER: Mr Dickson's evidence is that he did have your mobile number - - -?---Yes.

- - - in his phone around this time. How did Mr Dickson get that phone number?---Why don't you ask him?

20 I'm asking you.

THE COMMISSIONER: You're being asked.---Well, I said I don't know and you (not transcribable)

MS HEGER: Was your mobile phone number publicly available - - -?
---Absolutely.

- - - on the Hurstville City Council website?---It was on, it's on the website. Yes, it's on the website.

30

It was on the Hurstville City Council website - - -?---Absolutely.

- - - as at May 2015. Is that your evidence?---Absolutely. It's always been there. My number's always been there, available to everyone in public. It doesn't mean I answer my calls, but it is there.

All right. So that's the answer then, is it?---Absolutely. Now - - -

40 You didn't give it to him?--- - - - again, again, I, no, I don't recall giving it to him, but again, as a mayor, and you've got cards, you can give it to people. That's the whole aim of the card. You get, you get printed 500

cards, I mean, you give it to people. You can't leave them in your pocket and leave them at home. And my number is public, so it didn't make any difference.

You understood at the time of this meeting that the applicant for the planning proposal was The One Capital Group. Correct?---I don't know who it was but I, I knew that it's somebody. I don't know it's called One Capital. I don't know.

10 Well, it's likely that the company putting forward the planning proposal was mentioned at this meeting on 5 May, 2015, isn't it?---I don't recall that happening.

The planning proposal was subsequently lodged in June 2015. You now know that?---I don't recall but if you tell me that, it's fine.

And when the planning proposal was lodged, were those documents provided to you around that time?---Well, what do you mean provided to me "at that time"? When is "that time"?

20

Around June 2015.---Like, at the council, at that meeting or before or after or whatever.

On any occasion around June 2015.---Yeah. He might have left, he might have left copies to council, of course. And it's a, it's a common practice, sorry, Ms Heger. It's a common practice with councillors when they meet developers, owners, architects, planners, they always leave them, always. Invariably they leave them plans, so you can take away and digest them and read them 'cause not everyone can read plans, so - - -

30

And you did in fact read the planning proposal around that time, June 2015?---Did I read it? Well, it was, it was briefed to us, so – and I'm pretty good at planning so I understood it. It wasn't that difficult.

Well, I'm asking you did you read it, and I think your answer is yes. ---Sorry, so, yeah, you don't read planning if, I mean, you just went through the planning, you mean, is that what you're saying?

The planning proposal. Did you read it around this time, June 2015?

40 ---Sorry, sorry. There's a thing called, there's no such thing as planning proposal as a document I have to read. It's, it's actually drawings. You go

through the drawings. Here's the elevation, here's the thing. If that's what you're asking me.

Well, there's a report prepared by the planner describing the planning proposal and the changes that are sought to the Local Environmental Plan.
---Was that given to us there?

I'm asking you did you receive it and read it around June 2015?---Can you show me the report, please, that we're talking about, Ms Heger?

10

Certainly.---Thank you.

Volume 1.3, page 259. So this is the cover sheet for the planning proposal.
---Yes.

And if you flick through a few pages, there should be a report from Dickson Rothschild attached.---Ah hmm.

See that?---Yeah, yes.

20

So can you see there's on the next page some letters attaching the owners' consent?---Ah hmm.

So did you receive and read that bundle of documents around June 2015?
---Of course not.

Why do you say, "Of course not"?---Because they're not given to us. They are given to the staff at the counter and they're put into the computer. They're not given to councillors. Those application forms and all that,
30 they're not given to councillors.

All right. Is that an appropriate time for a morning adjournment, Commissioner?---Certainly.

SHORT ADJOURNMENT

[11.32am]

40

THE COMMISSIONER: Take a seat.

MS HEGER: Mr Hindi, could I show you paragraph 25 of Mr Dickson's statement?---Yes. Ah hmm, 25.

There he refers to a lunch that he had with who he describes as Philip Ly, I want you to assume that's Philip Uy, on 18 May, 2015 at a Japanese restaurant. And then at paragraph 27 he says that when he arrived he saw Philip sitting with Councillor Hindi. You did attend that meeting at the Japanese restaurant on 18 May, 2015, correct?---I don't recall that.

10 Do you have any reason to doubt Mr Dickson's evidence in that regard?
---Sometimes I do, but I'm not sure with this one.

All right. You don't have any recollection of that meeting at all?---No.

Can you recall who invited to attend the meeting?---I don't recall. I don't recall the meeting, I don't recall who invited me.

It's likely it was Philip Uy who invited you if you did attend, isn't it?
---Possibly.

20

Were you having discussions with Philip Uy around this time about the Landmark Square planning proposal or 1-5 Treacy Street?---What time was that, what dates?

May 2015.---May 2015, that's when we had the council meeting.

Yes. So you'd earlier met at council on 5 May, 2015 and this is another meeting about two weeks later.---If, if, if it did happen it would have been Philip Uy or Faye, I call him, yeah, would have invited me.

30

All right. And while you don't recall the meeting, can you say now why he might have invited you to attend this meeting?---He might have invited me like a lot of other people invite councillors, just to meet with their architects and, and they, they tell you what they're doing and so on. So we've had several meetings with other – sorry. You're asking about this one, so I, I don't want to generalise about others. No, he was just probably asking me to come and see, meet his architects.

40 Well, you just met the architect at a meeting at council on 5 May, 2015.
Why was it necessary to meet with the architect and Philip Uy again two

weeks later at a Japanese restaurant?---As I said earlier, I don't recall the meeting.

All right. And sitting here now you have no idea as to why it was necessary to meet again on this occasion?---No, I don't.

At paragraph 27 Mr Dickson also says, "I felt, based on the circumstances of the meeting, Philip and Councillor Hindi had been talking prior to me arriving and were familiar to each other."---Ah hmm.

10

You and Philip Uy were in fact familiar to each other by this time?---No.

18 May, 2015, correct?---Well, depends how familiar. Familiar, like I've known him, yes.

You knew him?---Yes, I knew him but I'm not sure - - -

You had his mobile phone number around this time?---I don't think I had. '15, I don't think I had. May, may, may have. I don't recall because I, I, I don't recall calling him. Very, very, very rarely I would have called him.

20

You mean around this time, May 2015?---Yeah, yeah, '14, '15, very rarely I would have called him.

All right. Mr Dickson, in this paragraph, says, "I can't recall specifically if a woman I now know as Mireille Hindi, who I understand to be Councillor Hindi's wife, was present at this meeting or a subsequent meeting" but in his oral evidence he said he said he was fairly certain she was present at this meeting. I appreciate you don't recall the meeting, but sitting here now can you explain why Mrs Hindi attended this meeting, if she did?---As I said, I don't recall the meeting but if, if she was, it would have been because – what time was that meeting, if you don't mind me asking?

30

18 May, 2015.---No, no. The time, the time. Have you got a time, because I can't see the screen, the previous screen. Is there a time that he said in his diary? Yeah, okay. I thought so.

About lunchtime.--- Yeah, so around lunchtime. I would have, I probably would have called her and said, "I'm having lunch down there," if I was called, I was meeting an architect, "Come down, have lunch and we'll just go." So she comes to the city sometimes and does shopping and she goes,

40

“Yeah.” So that’s what it would have been. Sort of, I would have probably asked her, I’m not sure. As I said, I don’t recall it but that’s normally when it’s around lunch.

Well, could you have invited Mrs Hindi because you understood she had some involvement with the Landmark Square planning proposal around this time?---Absolutely not. I don’t know what she was going to do there, but anyway. Absolutely not.

10 So you didn’t understand by this time that she’s reached some agreement with One Capital Group regarding the Landmark Square property?---No, no, no. Can I just put that on the record, if you don’t me asking, it’s for you, Ms Heger, is that I, I think I said that at my private hearing, all my functions that I’ve been to, council functions, meetings with people and all that, mainly with council functions and all that, my wife is 95 per cent comes with me. 95 per cent of the time she is there with me. Not because of any reason, she just goes with me to every function, every, every, any, anywhere I go, every conference, everywhere else she comes with me. So it’s not
20 uncommon for me to be with my wife at any place, that’s why I’m trying to put that on record.

Well, you say she comes with you every time. I’ll take you to a meeting you had with Philip Uy at a coffee shop later where she didn’t attend. So I’m asking you why she attended this occasion and not others.---No, no, let’s get it right. I said council functions and that’s not a council function. I just put that on the record, the other one.

Well, this one isn’t a council function in the sense that it’s held offsite.
---No, that’s what I said. I appreciate it’s not a - - -

30 All right.---I’m just saying that why did she come to that meeting? Don’t know. Can’t recall the meeting so I can’t tell you why. I mean, that’s the evidence of Mr Nigel Dickson, isn’t it?

It is.---Is that, did he have a file note or is it just a diary entry? It’s a diary entry, isn’t it?

He had a diary entry and he’s prepared a statement about the meeting.
That’s what I’m reading to you now.---No, no, he didn’t have, well, that’s in
40 2022.

All right. Well, let's not - - -

THE COMMISSIONER: I don't recall him being challenged on that.---He was challenged on that.

On this, on this meeting, was he?---He was. Not challenged in a way that whether I was there, the challenge was 2022, you didn't have a file note. This is just your, you're trying to make, you're, you're trying to remember things - - -

10

Okay.--- - - - eight years before.

MS HEGER: All right. It also says, in paragraph 28, "At the meeting I listened to Councillor Hindi talk about how council may deliberate on the planning proposal for Landmark Square that had been lodged."---Ah hmm.

Do you have any reason to dispute that evidence?---Absolutely.

What's your reason?---Because he didn't have a file note.

20

Well, no - - -?---This is eight years old.

Let's assume for a moment that that is his actual recollection of the meeting, so let's not talk about file notes or the like. This is the evidence that he has been given, that he has given. Do you have any reason to dispute it?---So can I just read it for a second? So which, which, which part of the thing you're talking about?

30

The first sentence of paragraph 28.---Okay. No, I never said that. Never discussed how council may deliberate or won't deliberate.

Well, you said you don't have any recollection of this meeting, so how can you say so confidently that you definitely didn't talk about this?---'Cause I don't talk to people how I'm going to vote or what I'm going to do. I just listen to architects. That's what I do. My job is to listen and then - - -

40

Well, he doesn't say that you were going to give an, that you'd given an indication of how you were going to vote, but it suggests that you were explaining council processes regarding the Landmark Square planning proposal, doesn't it?---"See, it's interesting that Mr Hindi's explaining to an architect that's been there for over 40 years' experience, knows every

councillor, knows every trick in the book, I'm going to tell him how we deliberate." Of course he knows. He knows better than me how these things happen. Why would I explain to him for?

THE COMMISSIONER: Then why would you meet with him at all?
---Because you meet with architects, a lot of the time with owners, with mums and dads, anybody that wants to meet. We had a, we had a thing in Hurstville Council we'll meet with all applicants, with all objectors, to listen to their views. And that's how you make an informed decision. The
10 problem with architects and owners who have put development application, we, as councillors, some councillors seem to listen to objectors more than the actual developer, right? So it was, it was a rule that I had, I meet with everyone, I listen to them and then I make my decision on the floor. It's simple. That's why you meet with them. You have to. You have an obligation. People want to lobby you, so you have an obligation to listen.

MS HEGER: Yes, but you'd already met with Mr Dickson at the council offices two weeks earlier. You're still not able to provide any explanation as to why it was necessary to meet again at this Japanese restaurant?---I
20 don't know. They, maybe Philip Uy wanted to invite – I don't know. I don't know, I don't recall the meeting.

And was it usual for you to meet with planners offsite at restaurants?
---Absolutely.

Can you give another example of doing that?---Oh, heaps. I'm just trying to remember some. It was a lot of, there's a lot of Lebanese developers that I met with offsite, heaps.

30 At restaurants?---Absolutely. Doesn't mean they paid, they pay out of but you meet with them. Because the question becomes as a part-time councillor and as a person that have a very busy full-time job, and I had a family of four, I don't have the time to go and meet with people whenever. And so if they can come and see me around my lunchtime, after work, in between, I'll do that. Wherever it's most appropriate to meet those people. They have to come and see me. I don't go and see them 'cause I don't have the time for it.

40 But you had the time to travel to George Street on this occasion.---No, I work in the city.

All right. And the other examples where you've met with developers at restaurants, were they also cases where the developer was intending to lodge a planning proposal or a DA in the very short term?---Yes, of course.

In the next month or so?---Absolutely. They, they give you the planning and say, "What do you think? You're going to vote on this application. Do you think, what, what do you recommend?" And I say, "You've got to talk to the staff." However, they, the problem with, with, with the development application and the whole system is you talk to staff but the ultimate
10 decision-makers are the councillors. So if you don't get the views of the councillors, what they're thinking, they'll vote against it on the night. And then you would have spend the whole year with the staff and someone, they vote against it 'cause they don't believe in it. And an example I can give you, a very simple one, is child care and boarding houses. They comply 100 per cent. Staff recommend them every time and without a doubt, they get voted unanimously down, like, by Hurstville City Council, unanimously down.

All right. You gave evidence earlier that around this time, council was
20 blowing up and you were nervous about attending a meeting as a councillor on your own at council offices?---Yes.

Why didn't you invite any other councillors along to this meeting at the Japanese restaurant?---'Cause I didn't arrange the meeting.

You were entitled to invite whoever you liked, weren't you?---People can't come. It's my lunchtime. It's, it's that little window, 12.00 to 12.30. It's my lunchtime.

30 Did you try to invite any other councillors to this meeting?---No. No, I didn't, and I don't - - -

And why is that?---I don't recall the meeting, so I can't tell you why I didn't invite anyone. I can't recall it. I can't tell you.

All right. Mr Uy's evidence was that 1-5 Treacy Street was also discussed at this meeting. Do you recall that?---Well, if he has that recollection, I don't doubt it, but if it's what he said, it's what he says. I, I don't recall it.

40 All right. So assuming you did attend this meeting with Mr Dickson and Philip Uy and - - -?---Yeah.

- - - both Landmark Square and Treacy Street were discussed, you obviously understood by this time that Philip Uy had a role in providing instructions to Nigel Dickson - - -?---No.

- - - in regard to both developments? No?---I, no, I don't know what you mean by "instructions" but he's, he's involved as an adviser on the thing. I don't know what his role was. I had no idea.

10 Advising whom?---Probably the owner of the site. I don't know what he's doing.

Well, you must have understood by this point that his interest was more than just an ordinary member of the public in these two developments. Correct? ---That's not correct. How would I know? What information do I have?

Well, you just said you understood him to be advising the owners in some way.---Advising, yeah, but advising somebody, advising does not mean you have an interest - - -

20

Well, do people usually provide advice on very valuable, multi-million dollar developments without getting anything in return in your experience? ---Absolutely, absolutely they do. Absolutely.

Is that what you understood Philip Uy was doing on this occasion?---Yes. Yes.

30 Providing advice for free to the owners?---I don't know whether it's for free or not. I don't, it's, it's not my duty under the code of conduct to determine what people are being paid or not being paid. My duty is if I'm aware of anything that prohibits me from, from voting on that application, I will reassess and re-evaluate my, my perceived conflict of interest and act accordingly. So for me, Mr Uy or Faye, I don't know what his role was. So when this application comes to council, when they put the papers in front of you, they put the company extract, they put the directors. They put all this and say, do I know these people? Yes, I do. I vote or don't know, don't know. Then I have to sit here and work out from months earlier, a year earlier, what these guys, because there's a lot of Chinese, there's a lot of Chinese that, there's a lot of Chinese people that are middlemen and they
40 pretend they own the actual sites. There's a lot of things happening on Kogarah North, up in Kogarah, so - - -

Well, I suggest to you that by this time, you had very good reason to suspect that Philip Uy had some sort of financial interest in both the Treacy Street and Landmark Square developments.---Not financial interest, no, I didn't know.

10 Did you suspect?---I don't sit there suspecting anything from anybody 'cause I, the reason I'm being, 'cause you're honing in on one particular example of, of Landmark. If we look at all the other applications that I've dealt with and how people deal with me, half the people, I don't even know if they're owners, they're not owners, they're actually friends of somebody. I just help. They ask for opinion, I just give them my opinion, I move on. When the application comes in front of me, then I will decide whether I have a conflict or not. You don't decide that a year earlier.

All right. You said you could give some examples where you've met developers at restaurants - - -?---Yes.

20 - - - relating to DAs that were about to be lodged at council?---Mmm.

What are some of those examples?---Well, I don't recall now but I have. I don't recall it now. I can't give it to you. I've, I'll give it to you later. Don't, don't have it now in my head. I mean, if, if you want me to tell you one, whether about to be lodged or lodged, I met with Coombes, the Coombe's building, you know, the Coombe's building up in Hurstville? We've had a couple of meetings with the applicant because he's been trying to get a commercial building in Hurstville, see my whole, the whole thing for me is - - -

30 Just pause there. Who did you meet with?---(not transcribable) Coombe. Only probably one or twice.

At a restaurant?

THE COMMISSIONER: You said "we". Who accompanied you?---I don't recall but "we" as in me and him with somebody else I don't recall. I think Mr Badalati might have been there.

40 Right.---But I don't recall exactly, but I think he was there.

MS HEGER: And this is at a restaurant or a café?---Yeah, a café in the city.

And when was this?---I don't recall. It was probably, sorry, I'm just trying to think. Through this council, I'm not sure whether it was Georges River Council or Hurstville Council. I, I don't recall the time, really. And I - - -

And your wife didn't come to that meeting?---No. I've met other people if you want to talk about a development on Princes Highway, Carlton. I met with the, with the applicants at a coffee shop in Carrs Park, and my wife was there. I met a, an architect in Surry Hills with a, for a DA that's going to be
10 lodged with council for Railway Parade, Kogarah. I met with the architects and my wife down there and if it comes to council I'll declare interest. If it doesn't come, but that, that, that was going to the Local Planning Panel. So it had nothing to do with me. So there's a lot of, there's one at Leichhardt that I met with the architect for something in Leichhardt, I was asked to help in Leichhardt Council, or Inner West. So there's a lot them we do. It was a common practice, especially around Hurstville City Council, maybe not more Georges River Council but Hurstville City Council, because we dealt with a lot of DAs in Hurstville City Council. Every DA virtually came to council but in Georges River you don't deal with DAs, only planning
20 proposals basically. So you're not dealing with them. So for the past four years you didn't have to meet with many and you didn't have many planning proposals to deal with. It was, it was the DAs that you had to – you met a lot of mums and dads. We went onsite to look at the issues, why staff are not approving it. So that was just common, that's what a councillor does.

All right. At paragraph 34 of his statement, Mr Dickson says "I recall Mireille" – if we can just get that back up on-screen. "I recall Mireille saying it was difficult to speak to Councillor Hindi and that she would be
30 available to be contacted and provided me her contact number. I am reasonably certain Mireille gave me that number at the Japanese restaurant on 18 May, 2015." Do you recall that happening?---No, I don't.

Do you know whether she told Mr Dickson that she would be available to be contacted about the Landmark Square planning proposal?---Absolutely I don't think she would have. As I said, I don't recall the conversation so I don't recall if she would have. However, Mireille's mobile number is all over the website at Sydney Realty. So he could have grabbed it from there if he wants to and he's pretending that he didn't know Mireille before
40 Landmark, which was not, was incorrect, in our cross-examination because Hillcrest Avenue was one of them that he knew.

All right. Well, I'm not sure that the timing of that contact was ever established.---No, it was timing, it was established with - - -

But nevertheless, did Mireille, from time to time, tell you that Nigel Dickson or Philip Uy had contacted her about the Landmark Square planning proposal and pass on information from them to you?---She would never ever have told me that Nigel Dickson had called her, other than maybe one or two occasions and that's not regarding Landmark Square.
10 That's regarding Blakehurst that we were trying to develop and maybe regarding Hillcrest Avenue but in relation - - -

All right. And what about Philip Uy?---Sorry?

What about Philip Uy?---Oh, Philip Uy. She probably, she probably would have mentioned, yeah, that he called her and he, he's got problems, he's got this, and I go, yeah, don't care. She probably would have called.

You said you don't care?---I mean, okay, let's get the words right, if you're
20 using every word that comes out of my mouth, I'd better get it right.

Well, it's your evidence, Mr Hindi. So pick your words carefully.---Okay, thank you. I don't recall what she said.

But from time to time she would say "Philip Uy has called me. He's got some problem with Landmark Square", is that right?---I don't recall.

You don't recall her ever doing that?---I don't recall.

30 What about Elaine Tang, did she ever say "I've met with Elaine Tang and she said she's got some problem with the Landmark Square planning proposal"?---I don't recall.

All right. Can I move forward to November 2015 and show you volume 30.1? Which is MFI 67.---Mmm.

Now, I want to focus on the entries for 6 November, 2015.---Oh, yep.

You see where they start?---Yeah.

40 And do you see at 12.27pm highlighted in green - - -?---Yep.

- - - there's a call of four seconds duration from Vince Badalati to yourself, you see that?---Ah hmm. Four seconds, yep.

And you see that the start location and end location are Rhodes Waterside Shopping Centre, you see that?---Ah hmm.

And then a few minutes later you call Mr Badalati back for 20 seconds.
---Ah hmm.

10

And you see the locations marked there?---Ah hmm.

I want you to assume that those are recording the locations of mobile phone towers off which the mobile phone signals are pinging, for want of a better word.---Doesn't mean we're on top of it but around it.

Yeah, you understand what I've just said?---Yes.

20 All right. We go to the next page. Then there's a call at 1.58pm of seven seconds duration from yourself to Mrs Hindi.---Ah hmm.

Do you have a recollection of meeting Mr Badalati and Philip Uy in Rhodes on 6 November, 2015?---No, I don't.

So you're not denying that that occurred, you just can't remember, is that right?---I can't say denied or not denied 'cause I don't recall.

Okay.---Around that particular time and particular spot, particular date, I don't recall.

30

All right. But you have met with Mr Badalati and Mr Uy from time to time around the Rhodes shopping centre area?---Probably once or twice, yep.

All right. Could I show you – I'll just tender that document. That'll be Exhibit 289.

#EXH-289 – VOLUME 30.1

40

MS HEGER: Can I show you volume 30.3. This is an email from your Ausgrid address to your Gmail address on that same day, 6 November, 2015, at 9.58am, and the subject is "Listening devices". Why did you send this email to yourself?---I don't recall sending that to myself.

Well, it rather suggests, doesn't it, that you were concerned about listening devices on 6 November, 2015?---Can I just have another look at it? 6 November, 2015. At that time I wasn't the mayor, was I? Mmm, I wasn't the mayor. No. But I was on the front page of every paper you could think of. So I was on The Sydney Morning Herald front page, I was on the ABC, I was on Channel 9, Channel 7, everywhere you can think of, because of asbestos and everything else, and, and the poisoned pen that Hurstville Council had, and people sending allegation about staff having affairs and all these things.

THE COMMISSIONER: What's that got to do with listening devices? ---Well, it could have been that I'm trying to see can people, can people listen to what you're saying when it came to all these emails that were sent, could we find out. Because we, commissioned KPMG to go and find out for us who was sending those emails and all the other stuff. So maybe that's the time we're trying to work out can people listen to, how do you get it, how do you get that information, can you work out who sent what. It's to do with metadata and all this. And I know it says listening device. Oh, now I probably remember what that is.

MS HEGER: Yes? And what was it?---That is to do with a conversation that was taped with the General Manager Victor Lampe at the time. And that was a, it was all over the paper that I shouldn't have taped it and against the Act and all this. Probably I was trying to listen to listening devices, what does it mean, to be taping people.

Why did you need to send an email to yourself with the subject line "Listening devices" if that material was all over the paper?---Okay. Could you, before, before we go too far in here, this is a forward of what? What are we forwarding?

No, it's just an email from yourself to yourself with the subject line "Listening devices".---So what's the heading of it? What's the heading of it?

That's the subject of the email.---I'm surprised that the subject is up the top, not down the bottom. Normally it's after date. Why is the subject up the top if that's what I sent to myself. I'm surprised that subject is up the top.

THE COMMISSIONER: You've got some doubts, have you, that this was sent to you by yourself?---Well, I'm not doubting, I'm just trying to work out why would I send it to myself? Like, you know, I can have the easy way out and say I don't recall it, which I don't. I'm just trying to put things together, I'm not making it all up. I'm just trying to recollect - - -

10

Well, we're trying to find out too.---Yeah, I'm trying to recollect, Commissioner.

Yep.---Is why would I have sent it? But I'm looking at that, why isn't the listening device down the bottom? It's usually at the bottom, you don't normally see that, do I don't know. Normally your, your subject is down the bottom and by sending listening devices, did I send any attachment with it?

20 MS HEGER: There's no attachment to this email.---Oh, I don't recall that. I mean, it could be anything. It's like, we're speculating here.

Well, it rather suggests that on 6 November you were doing something and you were worried about it being overheard by someone, doesn't it?--- Absolutely not.

And I suggest to you that you were worried about a meeting between yourself and Mr Badalati and Mr Uy in Rhodes on this day being overheard. Is that right or wrong?---That is, I disagree with that.

30

But you can't tell us why you sent it to yourself, can you?---You're talking about eight years ago and you're going to, I'm going to tell you why I sent one pissy little thing? I do a lot of google searches, a lot. Actually my kids call me Mr Google. That's what I do, I good things. Not because I, I want to know, I'm just interested. I'm an engineer so if I look at "listening device" as an electrical engineer, I'm interested in that stuff.

40 THE COMMISSIONER: So interested that you would send yourself an email?---Yeah. Maybe, maybe for me to, to remind me that I have to go and read more about it and do it. Sometimes I forget, because you've taken my phone, I can't recall anything, because I take photos. I take things, that's

what makes me remember. I don't remember things. So, as an engineer, I do that. It's a way to do. Some people dictate, some people take files notes. I don't take file notes, I just take photos or do something. That's how I do it.

MS HEGER: Can I put a more specific suggestion to you?---Yeah.

10 That on 6 November, 2015 you were discussing something with Philip Uy and Vince Badalati about 1-5 Treacy Street or the Landmark Square planning proposal and you were worried about it being overheard.---I disagree with that.

All right. I'll tender volume 30.3.

THE COMMISSIONER: Thank you. Exhibit 290.

MS HEGER: Which will be Exhibit 290.

20 **#EXH-290 – VOLUME 30.3**

MS HEGER: Can I show you volume 1.4, page 8? Exhibit 127. So this is a file note of a meeting on 12 November, 2015 at council. The attendees included Nigel Dickson.---Ah hmm.

Then Mayor Badalati, Councillor Sansom and yourself.---Mmm.

30 Now, Mr Dickson's evidence was that he sought a meeting with the mayor, that is Vince Badalati, at this time. Did Vince Badalati invite yourself and Mr Sansom to this meeting?---I don't recall but it's likely.

And it's likely because by this time the three of you were all supportive of the Landmark Square planning proposal, correct?---Not necessarily.

40 All right. Well, why do you say he invited you?---Again, as I said, the council was self-imploding at the time. That went on from '15 to '16 and maybe he was trying to protect himself. I'm not, I shouldn't speak on his behalf but I'm, I'm speculating here, that's what he wanted us.

Well, there were a number of council staff present there as well who could

have been a witness to this meeting if one was needed. Why was it necessary to invite Councillor Sansom and yourself?---Really? You call the staff witnesses to yourself? I don't think they're witnesses to any councillors, when they go and put file notes and no-one gets to see it. How can you be a witness to something? This is an issue I had with the council from Georges River. They take file notes, they take minutes of workshops, what you said but they don't give it back to you to actually say "Yes, this is what I said." You don't confirm it. So you've got to have other councillors with you.

10

You didn't trust council staff to take accurate records of meetings and so you considered it was necessary to bring other councillors as witnesses, is that your evidence?---That's not what I said. I'm not saying that I didn't trust council staff but sometimes council staff may interpret what I say and what others say in a different way that what we actually, how we articulated the, the message. So sometimes they, we articulate it in one way and they interpret in another way and that's why you want to have someone with you to be able to say "That's not true." So that's what happens with file notes. Three years later they come out and they become gospel.

20

All right. The file note records that at this meeting you expressed support for a hotel in the Hurstville area. That's right, isn't it?---It is a hundred per cent – I don't know about the meeting but I, it's my, my view, I've always expressed support for the hotel, and that was demonstrated in a newspaper article in February 2015, St George Leader. I was the mayor with the Chamber of Commerce and Councillor Nancy Liu, and we took a photo saying, "We need a hotel in this area." Minister Andrew Robb or some minister came to the area. He goes, "You need to identify a site for a hotel, you need to be the regional centre of the south." And that's what stuck in my mind and that's what we were pushing for is a hotel in the area.

30

All right. Thank you. If we move forward to page 11.---Ah hmm.

So this is an email that Nigel Dickson sent reporting on this meeting. You weren't copied to this email but I'm going to ask you a question about it. ---Ah hmm.

40

About halfway down the page it says the councillors are seeking to have the PP, that is the planning proposal, and the VPA reported to a council meeting in December 2015.---Ah hmm.

Is that what happened?---No, that's not true. That's not my recollection. I know Councillor Sansom said that was his, but not mine.

You weren't keen to have the planning proposal and the VPA reported to a council meeting in December 2015?---It is not my duty to put those reports up. It's the general manager's duty to put them up.

THE COMMISSIONER: That wasn't the question. Can you ask it again?
---No, I wasn't keen. I had – sorry, I wouldn't say, I, I was indifferent. I
10 didn't, I didn't care. I never mentioned about the meeting. You can ask me
why and I'll tell you.

MS HEGER: I won't ask you that question. Can I show you volume 2.30,
page 7. Message number 52. Message number 52 is a message from Philip
Uy to Wensheng Liu. See it's dated 17 November, 2015?---Ah hmm.

So a few days after that meeting at council. It says, "Mr Liu, you are our
leader, our light. Our project hasn't been approved yet and are worried that
someone might cause trouble at our back. Will explain and report to you
20 clearly on return. Chubby and Middle East told us to be quiet."---Mmm.

I want you to assume that Chubby is a reference to Mr Badalati and Middle
East is a reference to yourself.---Mmm.

Did you tell Mr Uy to be quiet?---Absolutely not. So Chubby is, is Vince, is
Mr Badalati, is that correct?

Yes. And Middle East is a reference to you.---So according to Nigel
Dickson, I was the Fat Man. How does that work?
30

We're not interested in Nigel Dickson's evidence at the moment, Mr Hindi.
---No, because that was in evidence that was given that I'm the Fat Man and
I had infrequent conversation with Uy (not transcribable) with Wong.

I understand that. I'm asking you about this message at the moment.
---Thank you. Thank you.

And Philip Uy has confirmed that Chubby was a reference to Vince Badalati
and Middle East was a reference to you in this text message.---Thank you.
40 Thank you.

Now, what this message suggests is that Philip Uy had been talking to you and Mr Badalati about a project and that you'd told them, told him to be quite. Did that happen or not?---No.

All right. Around this time, November 2015, were you giving any advice to Philip Uy about the Landmark Square planning proposal or 1-5 Treacy Street?---I don't recall.

I'll just mark that for identification, MFI 69.

10

THE COMMISSIONER: Thank you.

#MFI-069 – VOLUME 2.30, PAGE 7, MESSAGE NUMBER 52

MS HEGER: Can we go to volume 1.4, page 35. This is an email from Nigel Dickson to others.---Mmm.

20

You're not copied to this email. It's dated 1 February, 2016, and it attaches some minutes of a meeting of the Design Review Panel regarding the Landmark Square proposal. And it says "I met with Philip Ly" I want you to assume that's Philip Uy "the client, on Saturday, and he's been in touch with Councillor Hindi." Did you have a discussion with Philip Uy about the Design Review Panel's comments around this time, February 2016?---I don't recall that. Can I just make a comment if you don't mind or not?

30

Go ahead.---Thank you. I mean, Mr Nigel Dickson is saying that Philip Uy has been in touch with Councillor Hindi but he keeps calling me "the Fat Man" so it may have been Councillor Badalati that he's referring to because the - - -

All right. Thank you for that comment.--- - - - because the, because the conversation between them's been "the Fat Man".

All right. Can I show you from the statement of Nerida Stores, page 24?

THE COMMISSIONER: Is that an exhibit at the moment?

40

MS HEGER: Yes, it will have an exhibit number.

THE COMMISSIONER: Thank you.

MS HEGER: Exhibit 167.

THE COMMISSIONER: Thanks.

MS HEGER: It's a file note prepared by Ms Stores on 9 February, 2016, regarding a meeting regarding the draft employment lands study and council report. Now, you understood at this time that the draft employment lands study concerned the Landmark Square property, amongst others. Correct?
10 ---Amongst others, yeah.

And you also understood that the draft report had proposed in addition to rezoning of that land, a certain FSR and a certain height - - -?---Yes.

- - - for the Landmark Square land?---Yeah.

And in the second paragraph there, it's recorded that Tina Christy explained the processes surrounding the employment lands study and how it was relevant to the assessment of planning proposals. Do you see that?---Yeah.
20

And that continues on into the next paragraph. Just read that to yourself till you see an NS outlined.---Yeah.

So you understood at this time that the employment lands study provided a strategy for industrial lands. Correct?---Yes.

And you understood that that strategy was relevant when assessing planning proposals regarding land falling within the scope of that study. Correct?---I don't know how relevant but, yeah, it is. It's not - - -
30

You understood it was relevant?---Well, it depends. If it's a, if it's a draft, it could be relevant and if it's a final, it can be relevant, too. Yes, it is relevant.

All right. And, as is recorded in this note, you acknowledge that it was important to follow the process. Correct?---I don't recall if I said that or not.

All right. But you accept that it's generally important to follow those kinds of processes?---You follow processes but sometimes, you're always, there's a lot of shortcuts to processes sometimes and we've used them before.

All right. If we go to the next page, it says in the second paragraph "both VB and CH raised concerns over the controls on a number of sites, Durham Street, Penshurst Street and Penshurst Lane. They could not understand why the Durham Street site had not been allocated higher FSRs and bonus FSRs for a hotel, given the size of the site, while other sites such as
10 Penshurst Lane, which is smaller, has the same FSR." That generally is an accurate record of the concerns that you conveyed this meeting, correct?
---Yeah, in amongst other things, yeah.

In other words you were unhappy with the recommended FSR in the employment lands study regarding the Landmark Square site?---That's not true. I was unhappy about a lot of other things in the employment lands study, including Landmark - - -

Yeah, but that included - - -?---Including Landmark - - -
20 - - - the FSR that was proposed for the Landmark site, didn't it?---Yes. Yes. And I was not, not happy with others as well.

All right. And so you asked for the reporting on the employment lands study to be deferred, didn't you?---I'm sorry, that is not true.

All right. If we go to the next page it says "The meeting concluded with VB and CH indicating that the draft employment lands study not be reported back to council and that it remain deferred at this stage." Is that accurate or
30 not?---That's not accurate and we have, we have cross-examined on that one too.

I understand that.---Now, can I ask a question? Who was the mayor at the time? Was it Councillor Badalati, isn't it, at the time? Is that right? Yeah.

No, you're not asking the questions, Mr Hindi.---Oh, sorry. My apologies.

If your counsel wants to ask you further questions in re-examination then he is able to do so.---My apologies, yeah. My apology. Thank you.
40

Well, what I want to suggest to you is that you did propose that the employment lands study be deferred and the reason you did that is because you didn't want it to be obstacle to the approval of the Landmark Square planning proposal. What do you say about that?---That is not true.

THE COMMISSIONER: When you say it's not true, are you saying that what is recorded there is untrue?---There's two things. What's up there is not true because I don't dictate what goes back to council, that's number 1. It's the general manager's duty, not mine.

10

MS HEGER: Well, just pausing there. You may not dictate what goes on the agenda for a council meeting, that doesn't mean you can't suggest that it be deferred.---I can't suggest - - -

Did you suggest that or not?---No, I did not because I can't suggest. It would be inappropriate to do, to do so under the code of conduct. I don't give - - -

20 Well, it may be inappropriate but did you do it or not?---No, of course not.

THE COMMISSIONER: Sorry, I'll come back to my question.---Yes, thank you, Commissioner.

30 Is it your position that what's been recorded there by Ms Stores is just false?---That's probably her recollection but I, yeah, I would say false, yes, it is. Because I would not have indicated to her, I wasn't the mayor, number 1, and I wasn't the GM. They're the two most important people in that meeting. So I would not be suggesting anything contrary to that. I can't, I can't suggest it. Now, all I can do as a councillor, when it comes to council on the floor, I can vote against it or defer it. That's all I can do, but I can't tell them what to defer.

You can vote against it or defer it?---Yes. Vote against it, defer it, even make amendments on the floor on the night.

Sure.

40 MS HEGER: Well, and I'll make a more specific suggestion to you, that you did suggest that the draft employment lands study be deferred and you were doing that partly to promote the interests of Philip Uy. What do you say about that?---That is not true because we can still use the draft report as

a guide. Doesn't have to be final report because it already came to council and it was still a draft. So - - -

But a draft report carried less weight than a final report, doesn't it?---Well, it depends.

Well, in these circumstances?---No, it doesn't. It's still a draft report, you can still use it as a guide and, and, and let's get it right. Sorry to say that. The employment lands study is not part of an LEP, it's still a policy. So it's
10 not going to be a part of the LEP or anything at the moment. So - - -

No, but it's a strategy that informs the assessment of amendments to the LEP, correct?---Yes. Yes. When it gets to it. Yes.

All right. But you didn't consider it was important to finalise that study before voting upon the Landmark Square planning proposal, is that right?
---You're making it sound like I was the only one that's voting on council.

THE COMMISSIONER: Please just answer - - -?---Oh, sorry. I didn't
20 know what the question is. I'm sorry, I could barely - - -

Well, if you listen.---Yeah, I was trying to but, I'm sorry, Commissioner. Yeah, sorry, Ms Heger.

MS HEGER: You held a view that it wasn't important to finalise the employment lands study prior to voting on the Landmark Square planning proposal as you did in April, 2016, correct?---That's not correct. I can tell you why, but anyway.

30 Yeah, well, why is that?---Because as I said before, this employment land study wasn't only about Landmark Square. It was about Penshurst Lane, it was about Forest Road, it was about so many others. So we weren't happy with so many others. So that's why it may have been deferred and says, "No, we want to look at it further. Has to go to a workshop." Because the others are, are the issue, not just this one. So the whole thing was not right.

THE COMMISSIONER: But including - - -?---In our opinion.

40 But including Landmark Square.---Yes, absolutely included it. So you can't just say I'm going to vote for Landmark and leave the others, so. But it just

again it was up to the general manager and the mayor to decide what they want to do with the agenda and what goes up and what doesn't go up.

MS HEGER: This draft employment land study recommended a lower FSR and a lower maximum building height than the applicant was seeking for the Landmark Square planning proposal, correct?---I don't recall, but if you're telling me that, it's fine.

Well, assume that to be the case.---Yes.

10

I'm suggesting to you that one of the reasons that you didn't want it finalised was because you thought it would be an obstacle to the applicant getting the FSR and the height that it wanted.---Again, it wasn't my decision whether to finalise it or not, so with all due respect, it's not my decision. Can I show you again the statement of Mr Dickson at paragraph 75?---Ah hmm.

20

There Mr Dickson refers to another meeting with Philip Uy, Wensheng Liu, yourself and Mr Badalati at the Novotel in Brighton-Le-Sands in February 2016. And you did attend such a meeting, didn't you?---I don't recall attending that meeting.

You're not denying it?---I can't deny it.

You just can't remember, is that right?---I cannot deny it. But I can't remember it. I can't recall attending that meeting.

30

And even though you don't recall the meeting, sitting here now can you explain why it might have been necessary to have that meeting in February 2016?---I can't tell you.

And Mr Dickson says in his experience it was, the meeting was exceptional in that it was held in a courtyard atrium of a hotel. If the meeting did occur in that forum, that is an exceptional circumstance, isn't it, in that it's unusual in your experience?---No, it's not, 'cause Mr Dickson has attended many with other councillors in environments like this. Many.

40

At hotels?---Oh, it might not be a hotel. It might be a restaurant, maybe a bar, maybe somewhere, but he has attended, I know that for a fact. So I don't know why he's saying it's exceptional.

He also says towards the end of that paragraph that “Councillors talked about when the planning proposal could be put to council, and I understood they were talking to council staff about this.” I take it since you don’t remember the meeting, you can’t dispute that aspect of evidence?---He seems to add those words every time into his statement for some reason.

Well, can you just answer my question?---No, I don’t.

10 I take it since you don’t recall the meeting, you don’t dispute that aspect of his evidence, is that right?---Yeah, again, I, I, I don’t recall that. However, when you use the word “the councillors”, does that mean the three of us spoke in one tone at the same time? So he’s not being specific.

Let’s assume he’s suggesting that you were included in that, that you talked about when the planning proposal could be put to council and that you were talking to council staff about this.---So the three of us spoke at the same time? Okay, I don’t recall that.

20 All right. Can we move to paragraph 78 of that statement. At paragraph 78, Mr Dickson gives evidence about another meeting with Philip Uy at Macchina Espresso in Kingsgrove which you and Mr Badalati attended and this is March 2016. And you did attend such a meeting, didn’t you?---I don’t recall but if it’s, if it said I did, I did. I don’t recall (not transcribable)

30 All right. If we go to the next page. And he says, “I recall the councillors saying they would ask the staff to look more fully at the amended planning proposal for Landmark Square. They said they didn’t understand why the staff were reluctant to consider the hotel as they felt it was a great opportunity.” And I take it, since you don’t remember the meeting, you can’t dispute that aspect of his evidence?---I mean, I don’t recall it but I would have said things, like, to that effect. I would have said things about the hotel. That’s normally what I would say. It’s encouraging the hotel. And it, looking at that, it’s saying that there was an amended plan, amended planning proposal. So I don’t recall it, but if I was there, it would have been, we’re putting in an amended plan, which most architects or people tell you it’s what they’re doing. So it’s probably correct.

40 Okay. If we go through to paragraph 83, Mr Dickson gives evidence of another meeting on 14 March, 2016, with Philip Uy in Surry Hills which you attended, he says. And you did attend that meeting, didn’t you?---I

don't recall that because he called me "the Fat Man" there and I wasn't a fat man.

Yes, but he also says - - -?---No, I'm just saying that's - - -

- - - he met with you in person and he's quite capable of recognising you, isn't he?---Can we go, can we go to the next page of that one?

10 Certainly. If you wish to read the end of paragraph 83.---Yeah, see, "I was (not transcribable) told that the Fat Man was going to be there." So how does that work? Sorry. I'm just trying to work out, there's, it, this is, this is an affidavit.

No, but Mr Dickson goes on to say that he met with you and Philip Uy in person - - -?---Yes.

- - - at a café in Surry Hills.---I don't - - -

20 And you accept, don't you, that Mr Dickson is quite capable of recognising you when he meets you in person, isn't he?---Well, I'm trying to put two and two together, but I don't recall the meeting.

All right. So you're not denying that this meeting occurred. You just don't recall it. Is that right?---I can't deny or not deny because I don't recall.

30 All right. And Mr Dickson says, "Councillor Hindi was at the meeting to report to Philip Ly about the progress of Landmark Square at council." I take it you're not in a position to dispute that evidence, either?---Can we go back to the previous page, if you don't mind? I just want to see the date again.

Yes.---(not transcribable) March. Really, I don't recall it. I don't recall the meeting. It may have happened. I'm not saying it's not. It's likely but I, I don't recall.

You were, in fact, working in Surry Hills around this time, 14 March, 2016. Correct?---It was, it wasn't all the time.

40 I'm sorry?---I was working at Homebush Bay.

But, from time to time, at Surry Hills?---Yeah. From time to time, yeah, there was a site in there that I'd drop in every so often. Yeah, I did drop in every so often there, yeah.

All right. By this time, 14 March, 2016, you'd attended a number of meetings with Philip Uy regarding the Landmark Square planning proposal. Correct?---Correct.

10 And it was very clear to you by that point, wasn't it, that he was providing some advice to the owners of the Landmark Square property or the applicant for the planning proposal. Correct?---Nuh. That's not correct.

Well, I think you've already given that evidence, Mr Hindi - - -?---What?

- - - that you understood Philip Uy was providing some advice to the owners - - -?---Advice, yeah. Yeah. Advice.

Yeah. So you understood that as at 14 March, 2016, didn't you?---Yes.

20 Now, I want to suggest to you that it was crystal clear by this point after a series of meetings with Philip Uy, sometimes involving Nigel Dickson, that Philip Uy had some sort of financial interest in the Landmark Square planning proposal. What do you say about that?---That's not true.

And, by this time, you'd attended a number of meetings with Vince Badalati regarding the Landmark Square planning proposal, hadn't you? I've taken you through those already.---Vince Badalati, his couple, couple of meetings, yeah.

30 Yeah.---In the presence of Mr Badalati, yeah.

Yes. And as at March 2016, you and Mr Badalati were working together to promote the Landmark Square planning proposal, weren't you?---That is not true.

You were doing what you could to assist Philip Uy to get the Landmark Square planning proposal approved, weren't you?---That is not true.

40 Well, that's why you met him on a number of occasions up until this point in March 2016, isn't it?---That is not true. Well, I met, 'cause I met with others as well on other - - -

THE COMMISSIONER: Forget the others, but what about him?---Yeah, I've met with him. Of course, it's my job as a councillor to meet people.

Yeah. Yeah. That's your answer, is it?---Yes, absolutely.

So you met him because it's part of your job as a councillor to meet?
---Absolutely. Yes.

10 And no other reason?---No other reason.

Very well.

MS HEGER: By this point, March 2016, you had a very good idea of what the Landmark Square planning proposal involved, correct?---As the mayor in two thousand and, in May 2015, I had a good idea what it was because they came and presented to us.

20 Quite. And so there was no need for you to repeatedly meet with Philip Uy in February and March 2016, just to learn more about what the planning proposal involved, was there?---No, there is because it was an amended plan. It was an amended planning proposal, so they just wanted to show us the amended planning proposal. Because we can't vote on the old proposal, it's got to be the new one.

Well, you were capable of receiving those documents from the council staff and reading them for yourselves, weren't you?---No, I wasn't because they don't give them to you till the day, till three days before the council meeting.

30

Well, you could have asked for them - - -?---They don't give them to you.

- - - rather than meet with Philip Uy on multiple occasions - - -?---You don't
- - -

- - - if you wanted to know more about the planning proposal, couldn't you?---You're right, but they don't give them to you. I'm not allowed to.

40 Did you ask?---No, because I know what the, what the rules are. They don't give them to you till they come to council. They don't go and photocopy thousands of documents and give them to people. You don't. But however,

however, we get, we get briefed in workshops. That's where we get to see the plans and see things which we've had probably a couple of workshops before the March '16.

Well, what I'm suggesting to you, Mr Hindi, is that there was no need for you to meet with Philip Uy repeatedly just to learn more about the development. The true position is that you were providing advice to Philip Uy from time to time on the Landmark Square planning proposal over this period. What do you say about that?---That is not true. He has a, he has a
10 very capable team of Nigel Dickson and others, and they can provide the advice. My job was not to provide it. My job is to have a look and see what I think as in, as a councillor. Would you support a hotel? Would you support something like this? Is that what the council's looking for in the Hurstville CBD that is growing, that wants to be the regional centre of the south. Is a hotel good for us? Do you like it? Would you guys be happy with that? So - -

And by March 2016 you'd made it quite clear that you supported a hotel on the Landmark Square site.---Yep. Ah hmm.

20

It wasn't necessary to meet with him repeatedly to tell him that either, was it?---Well, if an architect wants to meet me, I meet with the architect. So what's wrong with that? It's an architect.

Yeah, but the latest meeting in 14 March, 2016 – that was with the architect, sorry.---Yeah. I've never met with him on my own. I don't recall meeting with Philip Uy on my own.

THE COMMISSIONER: Ever?---As I said, I don't recall. So don't hold
30 me to the word "ever", but I don't recall on that that I've met with him.

No, you don't, as I understand what you've just said is that you don't recall ever meeting Philip Uy on your own.---That's not what I said. Don't use the word "ever", Commissioner, with all due respect.

No, no, but is that your evidence?---No.

What is your evidence?---My evidence is I don't recall meeting him on my own. I don't recall. There may have been incidents but I don't recall them.
40

So you don't recall ever having a meeting with him on your own?---Yeah, I don't recall meeting because, because his English is pretty bad, so if he has to talk about planning, I just get the architects or the planner. That's the whole aim.

MS HEGER: All right. A few days later, on 18 March, 2016 - - -?---Sorry, sorry, Ms Heger. Commissioner, I'm talking about around '15/16, that's what I was talking about. Not, not '19/20/21/22. I'm talking about '15/16 I'm talking about.

10

THE COMMISSIONER: Thank you.

MS HEGER: All right. A few days later on 18 March, 2016, you attended a dinner in Chinatown, correct?---Correct.

And who invited you to that dinner?---From my recollection it's me and Badalati at the time.

20 And he, did he explain to you what the purpose of the dinner was?---Oh, just said we're talking about waste-to-energy. His, his, he mentioned to me that somebody came to his office, he met with them and they want to do waste-to-energy. It's a great thing for the environment, great thing for New South Wales. You're an engineer. You like this thing. You've been working on it. Do you want to – and I said, yes.

There was no realistic - - -?---Which, which happens very often.

I'm sorry?---Which happens very often.

30 There was no realistic possibility of a waste-to-energy plant being built in the Hurstville City Council area, was there?---I never talked about Hurstville City Council. It was Councillor Badalati did. My, my thing was Dubbo, not here. I was thinking of starting with St Marys. That doesn't work, Dubbo. Because at the time the minister, Matt Kean, decided to, that we can't build them in Sydney and you've got to be so many kilometres away from houses, so I started looking at Dubbo. So Hurstville was never on the map to be waste-to-energy conversion.

40 All right. So when you attended this dinner, you understood that what was to be discussed was a waste-to-energy plant out west somewhere, is that right?---No. It was to attend a dinner to talk about waste-to-energy with

somebody who has four, four, I won't call them factories, four power stations, four or five power stations in, in his, in China, that he's experienced in that field and he would like to do something here. We never talked about Hurstville, St Marys, anywhere. We just talked in general about waste-to-energy and what he's got to offer. The biggest thing about waste-to-energy, you're incinerating the waste and Chinese, with all due respect, is they think they've got the best technology but then it emits too much pollution. So wanted to read it, I wanted to digest it, I wanted to go and look at it, I wanted to see, is it really good that we can bring to, to New
10 South Wales, because not everyone that burns waste is actually environmentally friendly.

All right. But you understood that if it was to be built it wasn't within the Hurstville City Council area. So why were you interested to attend this dinner and talk about waste-to-energy?---I'm sorry? I've got, I've got a businessman who's worth billions of dollars that says "I would like to do waste-to-energy in New South Wales" and I don't attend? It's a great opportunity to do that. I took a - - -

20 Why did you need to attend, what was your particular interest or expertise in a waste-to-energy plant?---My expertise? I have more expertise than anyone on waste-to-energy. I've done a lot of research on it and I'm still doing it till now. So I know about waste-to-energy and I know the conversion and I know what we have to do. So somebody who says "I'm happy to invest money in New South Wales", and at the time from my recollection is that China were not taking the waste anymore from us because they used to take all our waste and they're not taking it. So we thought what a great idea, we'll start converting kitchen waste it's for all the kitchen waste and all that. So I thought what a great idea.

30 What particular work had you been doing on waste-to-energy prior to the time of this dinner, 18 March?---What kind of work? Research.

THE COMMISSIONER: What sort of research?---I read books, googled, talked to my friends from Cumberland Council, talked to my friend from Sutherland Shire Council, talked to people in Dubbo. So that's what you do, you just talk. These things don't come up, this is not like building a house or building a unit. This is, this is, if it's going to happen, it's like, it's amazing, you'd be putting New South Wales on the map for the first one
40 ever to be done. We looked at, at Dubai, how they, how they do it at Dubai and we thought what a great idea, let's do the same here. But do we get

Chinese technology or do we get German technology or do we get European technology. That's why I wanted to see what's going on.

MS HEGER: All right. Philip Uy attended this dinner in Chinatown correct?---Correct.

And you knew by this time that he was involved in some way with both Landmark Square and 1-5 Treacy Street, correct?---Sorry, can you repeat that?

10

You knew by this time that Philip Uy was involved in some way with both Landmark Square and 1-5 Treacy Street, correct?---It depends how you say "involved", but, yes, as an adviser, yeah. Yeah.

Yep. And Wensheng Liu was at this dinner as well, correct?---Correct.

And you also knew by this time that he was involved in Landmark Square and 1-5 Treacy Street, correct?---At that time we're talking, yeah, roughly that time, maybe, yeah. Yeah.

20

All right. And you knew that the Landmark Square planning proposal was likely to be voted on by council the following month, correct?---I didn't know whether it was the following month or the month after or the month after. I don't, I don't - - -

Well, you knew that a council vote was approaching at some point in the next couple of months?---Yeah. Maybe, maybe a couple, maybe three, I don't know. As I said, we don't look at the agenda, they don't tell us.

30

All right. So it must have occurred to you at some point when you saw Philip Uy there and Wensheng Liu there that this dinner had something to do with Landmark Square or Treacy Street, no?---No. Why would it?

Well, you saw both Wensheng Liu and China Liu sign a document at this dinner, correct?---Yeah, they signed a piece of paper.

And can I show you Exhibit 278, which volume 18.8?---Excuse me.

40

VIDEO RECORDING PLAYED

[12.59pm]

MS HEGER: Right. We can stop it there. You can see in that video the first page of the agreement they were signing. There was some text on the front. You saw that in the video?---No, no, I didn't see it.

Right. Then I'll show it to you again.---I'm sorry. I'm not being rude, but it wasn't in still shot, wasn't still shot.

10 That's all right. I'll show the first few seconds to you again.---Yeah, a few seconds, just to see if there's still shots, 'cause (not transcribable)

VIDEO RECORDING PLAYED

[1.01pm]

THE WITNESS: Okay.

MS HEGER: You can see there's some text in the first page of the bundle there?---I can't read it. Doesn't tell me - - -

20

Well, I can tell you now that it had in English the words "One Capital Group".---Sorry? Can you tell from that, looking at it?

No, but I'm telling you to assume that it had the words "One Capital Group" on there and you obviously would have been able to see that, sitting right next to them. Correct?---No, no, that's not correct. Why would I be able to see it?

30 'Cause you were sitting right next to them, Mr Hindi.---Yeah, but it doesn't mean I was looking at their documents.

Well, you were looking in their direction in the video. Didn't you see that? ---Yes, so what does that mean? Doesn't mean I was reading things. I could be looking in their direction. Doesn't mean I'm reading something.

THE COMMISSIONER: If you look at the (not transcribable) - - -?--- Sorry, sir?

40 If you look at the (not transcribable) on the video, what's the word?--- Focused.

Focused, interested.---Absolutely, so it's like I'm looking at Ms Heger here but it doesn't mean I'm looking at (not transcribable) here, so there's a difference.

Let's just play it through.---Play it. You can see me looking, yes. I'm probably amused because there's no witness there to witness the documents. That's why I'm amused.

10 **VIDEO RECORDING PLAYED** **[1.02pm]**

THE COMMISSIONER: You seem pretty interested, don't you agree, in what's going on?---No, I'm, I'm always a person, I've always, I don't know the right word I use, but I'm always curious about things, so I don't - - -

Yeah, well, at the very least you were curious.---I mean, you can't tell from that I can read it, so I don't know how you - - -

20 No, I'm not asking you about that, but I'm saying, suggesting to you from that that you appear to be curious about what was going on.---Well, I wouldn't say curious because the way I'm looking at this one is that when I know people sign contracts, and we all know there's a lot of legal people here, you need to have a witness. Where's the witness to those documents? They're just pieces of paper they're signing.

Yeah, but you look pretty interested in what - - -?---I'm interested, maybe, maybe he's signing waste-to-energy, I'm excited maybe, I don't know. It was waste, to do with waste-to-energy, oh good.

30 It was being filmed too, wasn't it?---I don't know it's filmed. I didn't know.

Yeah, well, there's a - - -?---Yeah, we can see the film, yeah, I understand, Commissioner, there's a film, but I don't, I don't know because what I'm looking at is it could be waste-to-energy, I don't know. So we're assuming here by sitting here looking at this I can actually see the word One Capital.

No, no, no, no, no. Forget the word One Capital.---So what are we saying?

40 You're sitting right up next to them.---Yes.

And you're looking at what they're doing.---Yes.

You were at least curious as to what they were doing.---I wasn't that curious. Didn't care. Why would I care? If I had James Packer and Murdoch signing something next to me - - -

Oh, please.--- - - - why would I care?

I don't want to hear all that.---Well, why would I care?

10

Do you or do you not agree - - -?---Yes.

- - - that you were interested in what they were signing?---No, I was not.

Didn't care at all?---No, didn't care less - - -

Right.--- - - - what they were signing, 'cause I was interested in waste-to-energy. And, Commissioner, doesn't look like you – I took the second trip with a senior minister of this government to confirm to you that I was doing waste-to-energy, and you're still picking on this one, not the second trip. Because the second trip adds weight to what I was doing here.

20

We'll come to the second trip.---Yes. Well, I hope we do. I hope we do.

Please don't speak to me like that.---No, I'm sorry, Commissioner, but I'm just, it's, it's, it's – sorry, Commissioner. My apologies. I apologise.

MS HEGER: Did you ask anyone what this agreement was about?---I don't recall asking anybody but I recall Badalati telling me it was something to do with projects in China. Now, that's my recollection. I'm not sure, a hundred per cent sure.

30

All right. Well, what I suggest to you is that you could see very well on the front page of that document that it said One Capital Group.---I didn't see. I did not see that.

You didn't see that?---No.

All right.---Can I add something to it too?

40

No, no.---All right, okay.

You can't, Mr Hindi.---Okay, all right.

It was a simple question and you've given the answer.---No, because I was going to give you another answer.

10 Were you going to give a different answer to what you've just given?---I was going to say, we've all seen the document, now it's been on the exhibition, or in the thing and it says "You cannot disclose this agreement to any third party."

All right.---So, so, oh, we're hiding, no, you can't disclose, not supposed to. How, how can they tell me?

All right. Thank you, Mr Hindi.---All right, thank you.

20 And I'll make the more specific suggestion to you, is that you understood very well by this point that One Capital Group was the applicant for the Landmark Square planning proposal, correct?---By that time, yes.

Yes. And so I suggest to you you did see the words One Capital Group on this document and you did think that it had something to do with the Landmark Square planning proposal. Do you accept that or not?---That is, that is incorrect because we have not, the report has not come to council to tell me who the applicants are. We don't even know who, who the One Capital is. We - - -

30 I'm sorry, Mr Hindi, I just put to you that you understood by this point One Capital Group was the applicant for the Landmark Square planning proposal.---I didn't know at the time.

And I thought you accepted that.---Sorry, in - - -

Are you retracting that now?---In recollection, I'm trying to think that, how would I know this, on this unless it's come to council in front of me? Then I look at the report and say "Oh, One Capital." I don't know names.

40 You might know it because you'd had a series of meetings with Nigel Dickson - - -?---Yeah, but no-one's mentioned the word One Capital.

Please. Wait until I have asked my question.---Sorry. My apologies. Yeah, yeah.

You might know it by this point because you'd had a series of meetings with Nigel Dickson, Philip Uy, other councillors, council staff about the Landmark Square planning proposal. On that basis, you must have known by this point that One Capital Group was the applicant for the Landmark Square planning proposal. Do you deny that or not?---I don't recall.

10 All right. Who paid for your dinner this evening?---Mrs Hindi.

How did she do that?---She left money on the table.

You saw her do that?---Yeah. I - - -

How much did she leave?---Two \$100 notes. It wasn't left on the table. There was a, there was the waiter there and she said "Here, here's the money."

20 All right.---Because you can't pay them.

Is that an appropriate time for a lunch break, Commissioner?

THE WITNESS: Oh, already?

THE COMMISSIONER: Yep.

LUNCHEON ADJOURNMENT

[1.07pm]

30