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INDEPENDENT COMMISSION AGAINST CORRUPTION

STEPHEN RUSHTON SC
COMMISSIONER

PUBLIC HEARING

OPERATION GALLEY

Reference: Operation E19/0569

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 15 JUNE, 2022

AT 10.00AM

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

THE COMMISSIONER: Take a seat.

MR BADALATI: Thank you.

THE COMMISSIONER: Mr Badalati, the oath you took yesterday continues to bind you. Do you understand that?

MR BADALATI: Yes.

10 THE COMMISSIONER: And the section 38 declaration I made yesterday will continue.

MR PARARAJASINGHAM: Thank you, Commissioner.

THE COMMISSIONER: Thank you.

MS HEGER: Mr Badalati, you're aware that Wensheng Liu's company, One Capital, acquired some options to purchase part of the Landmark Square property in about August 2014, is that right?---Yes.

And you were aware of that around that time, August 2014?---I believe so, yes.

10

How were you aware of that fact?---I think Philip Uy told me.

All right. So you had some discussions with Philip Uy about the fact that One Capital had acquired the options, is that right?---Yes.

And did you have discussions any earlier than August 2014 with Philip Uy about Landmark Square?---I don't recall.

20

Okay. Did you have discussions with Wensheng Liu?---No.

And what else did Philip Uy tell you about the Landmark Square proposal at that time?---That, well, it, it was my belief that they had purchased it outright. I wasn't aware at that stage that it was just an option.

Did Philip Uy discuss with you the fact that there was an intention to lodge a planning proposal to amend the Hurstville Local Environmental Plan?---I recall council was looking at all the industrial lands right throughout the local government association and that land was part of the discussions at council.

30

Are you referring to the employment land study?---Yes.

All right. But did Philip Uy ever indicate to you that there was an intention to lodge a planning proposal in respect of the Landmark Square - - -?---Yes.

And at what point did he indicate that to you? Was it around this time in August 2014 or a bit later, or a bit earlier?---I don't recall the exact time but it would have been around that period.

40

Well, if it helps, the planning proposal was in fact lodged with Hurstville

City Council in June 2015. So had you had discussions with Philip Uy about the intention to lodge a planning proposal before that date?---Yes.

Can you say how long in advance before that date, a few months?---It's hard to remember exactly the time.

Okay. And before the planning proposal was lodged in June 2015, had you had discussions with Con Hindi about the Landmark site?---Yes. I believe so.

10

And had you told him that Philip Uy was involved with the Landmark Square site in some way?---I, I can't remember but I know that Philip Uy was talking with Con Hindi at the time.

At around what time? Just before the planning proposal was lodged in June 2015?---Yes.

20

And what were the nature of those discussions between Philip Uy and Con Hindi on your understanding?---Oh, it's about, it would have been about the proposed planning proposal.

THE COMMISSIONER: How did you become aware that there had been these discussions?---Oh, we were all talking at the, at the time, Commissioner.

Right.

30

MS HEGER: When you say you were all talking, you were talking to Con Hindi about the planning proposal?---Yes.

Were you talking to Philip Sansom as well around this time, just before the planning proposal was lodged?---Yes. I believe others were as well.

Who are you referring to when you say "others"?---Philip Uy and Con Hindi.

You believe Philip Uy was talking to Phil Sansom, as well?---Yes.

40

And what led you to believe that?---'Cause Philip Sansom spoke to me about it, as well.

Before the planning proposal was lodged in June 20, 2015?---Yes.

What did Philip Sansom say to you about it?---Initially, he asked if I was aware that Philip Uy was involved in Treacy – sorry, in Landmark and we just had a discussion.

In your discussions with Philip Sansom, was it mentioned that Wensheng Liu was involved in the Landmark Square planning proposal, as well?---I believe so.

10

So it's your belief that around this time, i.e., just before it was lodged in June 2015, Philip Sansom was aware that Wensheng Liu was involved? ---Yes.

And was he aware that it was Wensheng Liu's company that intended to lodge the planning proposal?---As far as I am aware, he would have known.

And I'll ask the same question about Mr Hindi. Was he aware that Wensheng Liu was involved in that Landmark Square planning proposal at this time?---Yes.

And was he aware that it was Wensheng Liu's company that was intending to lodge the planning proposal?---I believe so.

So, of course, One Capital then lodged the planning proposal in June 2015. Can I just show you a document which is Exhibit 127, volume 1.4, page 5? So this is an email from someone at Hurstville City Council to yourself and Laurie O'Connor?---Yeah.

30 Was Laurie O'Connor the acting general manager at that time?---Yes.

It's dated 4 November, 2015, at 4.19pm.---Mmm.

It says, "Vince and Laurie, Sarah from Dickson Rothschild telephoned on behalf of Nigel Dickson requesting a meeting with you both regarding Landmark Square." Do you see that?---Yes.

On your understanding, why was Mr Dickson requesting a meeting with you, in particular, at this time?---I think they were frustrated at how long things were taking, from memory.

40

And why was the request made to you as opposed to any other councillor?
---Well, I was mayor and Julie Attard was the mayor's secretary or PA at the time.

She was your PA at the time?---Yes.

Right. Can I then move to page 8 of the same exhibit? You'll see this is a note of a meeting that occurred on 12 November, 2015?---Yes.

10 You'll see the attendees are recorded as Nigel Dickson - - -?---Yes.

- - - as well as Brett Daintry who was, as I understand, also advising the applicant at that time. You see that?---Yes.

Also records that you were in attendance, as well as Mr Sansom and Mr Hindi. You see that?---Yes.

And various council staff. Now, you'll recall that the email from Ms Attard referred to Nigel Dickson requesting a meeting with you?---Yes.

20

And there was no mention of Mr Sansom or Mr Hindi in that email that we just went to, was there?---No.

And so can you explain to me why Mr Sansom and Mr Hindi came along to this meeting? Did you invite them?---I could have. I think I did.

And did you invite them because by this time the three of you were working together on the Landmark Square planning proposal?---Yes.

30 And was there an agreement between the three of you at this time that you would work together to promote the Landmark Square planning proposal?
---Yes. From my part, what I was mainly interested in was the hotel. I was keen for a hotel to come into Hurstville.

Could I just move to the next page in this document?

40 THE COMMISSIONER: Just before you do, when was it approximately that you received the \$70,000 cash in respect of Treacy Street? You may have answered that yesterday but I just want to clarify it in my mind.---It was in 2015.

MS HEGER: And I think your evidence was that it was after the JRPP had voted on the Treacy Street DA on 1 April, 2015.---Yeah.

Is that still your evidence?---Yes.

THE COMMISSIONER: So it was certainly before this meeting took place?---Yes.

10 So at that point in time, according to you, both you and Mr Hindi had taken \$70,000 from Mr Uy in respect of Treacy Street?---Yes.

And you provided certain assistance which you explained yesterday?---Yes.

And can I take it that by November 2015 you were proposing to do the same thing in respect of Landmark Square?---Sorry, Commissioner, when you say we were proposing to do the same thing - - -

20 Well, that's a very poor question, I'm sorry. I'll withdraw it. Were you proposing to provide assistance in respect of that development?---Yes.

And at that point in time did you have an expectation that you might receive a benefit?---I, I don't recall if it was at that point in time. In fact, it wasn't until I got the money that I knew anything.

Well, I can understand that but you must have had – I mean, people don't do this sort of thing for nothing. You'd already received \$70,000. Can I take it that – well, firstly, it's pretty clear that you, Mr Hindi and perhaps Mr Sansom were going to provide, can I say, ongoing assistance?---Yes.

30 And what I'm interested to know is whether, in your mind at that point in time, you thought that you might obtain a further benefit?---I may have at the time, yes.

It's likely, isn't it?---Likely, yeah.

Yeah. Thank you.

40 MS HEGER: It says on page 9, the fourth-last bullet point on the page, "CH", which seems to be a reference to Con Hindi, "commented that Hurstville needs a hotel." Do you see that?---Yes.

Does that accord with your recollection of this meeting?---Oh, it's hard to remember exactly who said what.

All right. But around this time you certainly understood Mr Hindi to be in favour of a hotel in Hurstville?---Yes.

And you shared the same view, as you can see on the second-last dot point, "VB commented that a hotel would have a positive impact on the local economy and community benefits."---Yes.

10

Was that your view at the time?---Yes.

Can I show you another document, which is in the same volume, page 10. So Exhibit 127, page 10. Do you see this is an email from Nigel Dickson to Elaine Tang, among others?---Yep.

20

Saturday, 14 November, 2015 at 9.18am. It says about halfway down the page, "Councillor Sansom said a hotel had been sought for many years by councillors in the area and noted the excellent views from the elevated location to the city waterways and mountains." Now, just pausing there, this appears to be a report by Nigel Dickson on that 12 November meeting back to his clients.---Right.

What's said there about Councillor Sansom's views, did you understand Phil Sansom to have a view to that effect around this time?---Yes.

30

And it also says there, "Councillor Hindi spoke to support the design amenity shown in our presentation, the large hotel lobbies, double-height retail and business facilities. Councillor Hindi supported the large outdoor square proposed in the development and indicated it would be a potentially important community" – it says "pace", I think that means "place" – "for events in Hurstville." Does that accord with your recollection of what Councillor Hindi said at this meeting?---Yes.

And then it says, "All councillors supported the proposed rooftop pool and recreation areas and spoke to the excellent potential views to the city from these spaces." Does that accord with your recollection of the meeting? ---Yes.

40

All right. So fair to say that you and Mr Sansom and Mr Hindi supported this proposal at the time.---Yes.

And in fact supported it quite strongly at the time.---Yes. I believe that's the meeting where Mr Dickson brought some books on the proposed hotel.

Right.---And we were quite impressed with what he gave us.

Okay. Go over to the next page. It says about halfway down, "The councillors are seeking to have the PP and the VPA reported to a council meeting in December 2015. Two meetings are scheduled but Carina
10 cautioned that this report will still need to be prepared by staff. The acting GM spoke of the reporting time for the meetings and the tight schedules in December for meeting times."---Yes.

Does that accord with your recollection of the meeting?---Yes.

And is it fair to say that you were keen to have the planning proposal and VPA reported on to council as soon as possible?---Yes.

And did Mr Sansom share that view?---Yeah. I believe the three of us
20 shared that view.

All right. And is that because you were under some pressure or there had been a request from Philip Uy or Wensheng Liu or someone else that it be brought before council quickly?---I don't recall if Philip Uy spoke to me about it but we were keen to get the hotel into Hurstville.

And were you keen to bring it before council quickly because you thought that that might accelerate some benefit to you at the time?---No. And if you know, what Carina said I think ended up being correct. It took them a bit of
30 time so, yeah.

Yes. The assessment report was not finalised until April next year.---Yeah.

All right. So you deny that at this point you were seeking to have the planning proposal reported on because you thought it might accelerate some benefit to yourself?---Correct.

Did you later attend a meeting at the Novotel in Brighton-Le-Sands regarding the Landmark Square planning proposal?---Yes.
40

And were there in fact two meetings, one in February 2016 and then another one closer to the council meeting in April 2016 at the Novotel?---Yeah, we did meet.

You met – well, I'll ask you in a moment who attended but you attended - -
-.-Yes.

- - - two meetings at the Novotel.---Yes.

10 One in February, one in April. Is that right?---Oh, you're telling me those are the dates, yes.

Okay. It sounds about right to you.---Yeah.

Okay. The first meeting in about February 2016, who attended that meeting?---It was Mr Hindi, Mr Sansom and myself.

Was that the first meeting or the second meeting? There was one meeting where it was just the three of you. Is that right?---Mmm.

20

Yourself, Philip Sansom and Mr Hindi?---Yes.

Who was at the other meeting?---Don't recall, sorry.

Well, can I ask you this?---Yeah.

Did you attend a meeting at the Novotel where Nigel Dickson was in attendance?---I don't think so.

30 Well, did you attend a meeting at the Novotel where Philip Uy and Wensheng Liu were in attendance?---No. No.

You don't recall such a meeting?---No.

All right. If Mr Dickson's evidence was that such a meeting took place, would you dispute that or are you just saying you don't recall?---I don't recall. I don't recall ever meeting Mr Dickson at the Novotel.

All right.

40

THE COMMISSIONER: And do we take it, you don't recall meeting Mr Nguyen – sorry, Mr Uy at the Novotel?---No.

MS HEGER: And you don't recall meeting Wensheng Liu at the Novotel? ---No.

I'll ask you about the other meeting that was closer to the council meeting that three of you attended in a moment. Before I get there, do you also recall attending a meeting at Macchina Espresso in Kingsgrove where Nigel
10 Dickson was in attendance? And this would have been March 2016.---Not that I recall.

Again, if it was Mr Dickson's evidence that such a meeting took place, you don't have any reason to dispute it? You're just saying you can't recall?---I can't recall it.

Can you recall any other meetings that you had with Con Hindi leading up to that council meeting on 20 April, 2016, other than the one at the Novotel which I'm coming to?---We would have had a few.
20

Your evidence is you would have had a few meetings with Con Hindi leading up to the 20 April vote. Is that right?---And, and Philip Sansom.

With Philip Sansom, as well?---As well, yeah.

The three of you meeting together?---Sometimes it was just me and Con Hindi. Sometimes just with Philip Sansom. Other times the three of us.

And on any occasion, was Philip Uy at the meeting, as well?---I met with
30 Philip Uy there, a few occasions at, at - - -

When you say "there" where are you referring to?---At Kingsgrove in Macchina café.

And on any of those occasions was Con Hindi also in attendance?---Yes. Can you say when that occurred?---No. Sorry.

Was it close to this council meeting on 20 April, 2016?---It could have been
40 - - -

Okay. So you recall a meeting and this is at Macchina Espresso again or at some other coffee shop in Kingsgrove?---I think it was at the Macchina.

All right. And it was just the three of you – Philip Uy, Con Hindi and yourself?---Yes.

And at that meeting, the Landmark Square planning proposal was discussed?---Yes.

10 And this was definitely prior to the 20 April, 2016, council meeting. Is that right?---Yes.

And did you discuss with Philip Uy which way you were going to vote on the Landmark Square planning proposal?---I think he knew that because of my support for the hotel.

You'd made clear to him your support for the hotel at Landmark Square?
---Yeah.

20 And at this meeting, did Con Hindi make clear his support for the Landmark Square planning proposal?---I believe so.

Can you recall what he said?---No.

And what about Philip Sansom? Was he ever in attendance at a meeting with you and Philip Uy in the lead-up to this council meeting?---In Kingsgrove or - - -

30 Or anywhere.---Anywhere. Again, I don't recall but, yeah, he was supportive.

Your recollection was that Philip Sansom was supportive of the proposal?
---Yep.

And you discussed with him which way you were going to vote on the proposal?---Yes. I believe so.

40 All right. And he made it clear to you that he was going to vote in favour of the planning proposal?---yes.

THE COMMISSIONER: Just, we're talking about Sansom, aren't we?

MS HEGER: Yes.

THE COMMISSIONER: I'm just trying to work out why Mr Sansom was so actively engaged in supporting this project. If I can ask you to think back, did Sansom know that you had received a benefit in respect of Treacy Street?---No.

10 Did he ever suggest to you that he knew that Mr Hindi had received a benefit?---No, Commissioner.

What's your explanation for him being so active with you and Mr Hindi and sometimes, of course, Mr Uy? Why was he involving himself in that way, as you understand it?---Oh, he'd been close with Philip Uy for a long time and, yeah, I, I could only assume, and I - - -

No, you don't have to assume. I just, I meant- - -?---No, I don't want to do that here.

20 No, no, no. I understand that. I'm just trying to find out, you know, an explanation for why he was involved to the extent that he was. I mean, I can understand why you and Mr Hindi were, that's pretty obvious, but it's just a bit of a mystery to me at the moment why Mr Sansom was involving himself at that level, and you tell me that he had known Mr Uy for many years but did you ever see or hear anything to suggest that he expected to get a benefit from his assistance?---No, Commissioner. Sorry.

Thank you.

30 MS HEGER: You mentioned the fact that you had a meeting at a coffee shop with Con Hindi and Philip Uy about the planning proposal. Was it common practice for you to meet with persons who were interested in DAs or other applications before council off council premises?---Yes. There had been other times.

All right. Can you name an example?---I met the, with the owners of Hurstville Business Park.

40 That's the same site that Malcolm Gunning was emailing you about in 2013 and 2014, is that right?---Yes, yep.

When did you meet with the owners of Hurstville Business Park?---Again, it would have been about 2016, early '16.

Right. Did - - -?---Or it may have been when we went back. Sorry, I don't recall the exact timing.

Okay. Did Wensheng Liu still have some sort of interest in Hurstville Business Park at that time?---No. They were new owners.

10 Okay. Can I ask you about the dinner in Chinatown on 18 March, 2016? You attended a dinner on that date with Philip Uy and Wensheng Liu, correct?---I was invited to the dinner by the other Liu.

By Yuqing Liu?---Yep.

All right. I'll ask you about that in a moment but at the dinner was Philip Uy, correct?---Yes.

And Wensheng Liu, correct?---Yes.

20

Mr and Mrs Hindi were there?---Yes.

And Yuqing Liu was there, correct?---Correct. Sorry.

Elaine Tang was there as well?---I believe so.

Earlier in March 2016, you had met with Yuqing Liu at your office at council. That's right, isn't it?---Yes.

30 And you were mayor at the time?---Yes.

And Yuqing Liu talked about his interest in setting up a waste-to-energy plant in New South Wales?---Yes, correct.

That's right. And did he discuss the Landmark Square or Treacy Street development at that meeting?---No.

Was he particularly interested in setting up a waste-to-energy plant in Hurstville?---He was.

40

Right. And what was your reaction to that?---Well, we didn't have any land where it could go.

And you told Yuqing Liu at this meeting?---Yes, I believe so.

Okay. And at that meeting, Yuqing Liu invited you to attend this dinner in Chinatown on 18 March?---Yes.

10 And did he say why he was inviting you to the dinner?---No. He just invited us to dinner. I assumed to speak more about the kitchen waste-to-power idea.

All right. And then who invited Mr and Mrs Hindi?---I asked the, one of Mr Yu, Liu's translators if they could come along because Mr Hindi was an engineer and he understood a lot more about it than what I did.

20 All right. And when you were at this dinner in Chinatown, you observed Yuqing Liu and Wensheng Liu signing an agreement, correct?---Yeah, correct.

And you now know that that agreement related to the Treacy Street development and the Landmark Square development, don't you?---Now I do, yes.

By the time you attended this meeting you knew that Wensheng Liu's company was the applicant for the Treacy Street DA?---Yes.

30 And of course by this time Philip Uy had paid you \$70,000, you say, in respect of the Treacy Street development?---Yes.

And you also knew by this time that Wensheng Liu's company was the proponent for the Landmark Square planning proposal, correct?---Correct.

And you also knew that Philip Uy was involved in that planning proposal? ---I did but I wasn't sure of his actual role, yeah.

40 Okay. So when you saw both Wensheng Liu and Philip Uy at this dinner, the thought must have occurred to you, does this have anything to do with Treacy Street or Landmark Square?---Well, that was, they did the signing at the end of the dinner and I remember asking one of the translators there

what were they signing and I was told that it related to some projects in China.

And you accepted that at the time, did you?---Well, I didn't know the relationship between the two Lius, what their business dealings were.

Okay. Did you have a discussion with Mr Hindi along the lines of "I wonder why Wensheng Liu and Philip Uy are here. Do you think it has anything to do with Treacy Street or Landmark Square?"---No, no.

10

And he didn't make any such observation to you?---No.

All right. I know you then took a trip to China in April 2016 and I'll ask you about that at a later time. But on that trip to China, of course you went?---Yes.

And Mr and Mrs Hindi went?---Yes.

Philip Uy was there?---Yes.

20

Wensheng Liu was there?---Yes.

And Yuqing Liu was there, of course?---Yes.

Yes. All right. I'll come back to the details of that at another time.---Yeah.

Can I just go back to that meeting at the council office with Yuqing Liu in March 2016? Did Wensheng Liu make the introduction for Yuqing Liu to yourself at that time?---No.

30

So how was the meeting arranged?---Oh, somebody either rang my PA at the time or asked me whether I would meet with them and it was not uncommon to meet with different groups.

All right. So your evidence is that that first meeting at your office at council you were not aware of any connection between Yuqing Liu and Wensheng Liu.---No.

Is that right?---No.

40

Could I then move ahead to the council meeting on 20 April, 2016 and show you a document which is Exhibit 127, volume 1.4, page 255. This is for the record an email from Michael Gheorghiu to Elaine Tang and others dated 15 April, 2016 at 9.59am. You'll see it says, "Dear Elaine, council issued their agenda and assessment report this morning for the planning proposal that will be heard at the council meeting on 20 April, 2016." And then you'll see further down under the heading Political Discussions it says, "Discussions need to occur at the relevant political levels to make them aware of the recommendation." Do you see that?---Yes.

10

Now, I accept this isn't your email and you're not copied to this email but you'd construe that reference to "discussions need to occur at the relevant political levels" as being a suggestion that either Philip Uy or Elaine Tang speak to yourself. Is that right?---It could have been, yes.

Okay. And did you in fact have discussions with Philip Uy or Elaine Tang after the assessment report was published? And I can tell you the report was actually published the day before on 14 April.---On the, I don't recall if either one of them spoke to me about it.

20

Okay. Do you know if Con Hindi or Philip Sansom spoke to one of them about it?---I don't.

All right. Can I show you another document which is volume 19.3. Now, I can tell you this is a record of calls between as you can see yourself and Mr Hindi and also Mr Sansom.---Ah hmm.

And you'll see also there's a reference at the bottom to Ching Wah Uy which is Philip Uy.---Right.

30

Can I ask you to focus on the entries halfway down the page on 18 April starting at 17.44pm. You'll see there's a reference to Brighton-Le-Sands. ---Yes.

And then there's a few more references in the following four rows to Brighton or Brighton-Le-Sands. Do you see that?---Yes.

And they all appear to be calls or texts between yourself, Mr Hindi and Philip Sansom or one of you.---Yes.

40

Do you see that?---Yes.

And do you think it's likely this was the day on which you met Mr Hindi and Mr Sansom at the Novotel in Brighton-Le-Sands?---I believe so, yes.

And by this point you were obviously aware of council staff's assessment report on the planning proposal which had been published a couple of days before. Correct?---Correct.

10 And you obviously discussed that assessment report with Mr Hindi and Mr Sansom at this meeting.---Yes.

And did you agree on this occasion that you would prepare a resolution that departed from the staff's recommendation?---Yes.

Whose idea was that?---I think it was Mr Sansom's.

Okay. And did he say why he was proposing to draft such a resolution?---A lot of it was about the hotel. We didn't want to lose the hotel at the time.

20 Okay. And can you recall what Mr Hindi said at this meeting?---We were all in agreeance that, you know, we should put in an amendment to the paper, and if the general manager or the acting general manager agreed, he could change it or leave it as it was.

Right. And it's likely, isn't it, that before this meeting, you had discussed the assessment report with Philip Uy?---I could have, yes.

30 Did you discuss it with Elaine Tang before this meeting?---I don't recall speaking to Elaine about it.

Do you know whether by the time of this meeting, Mr Hindi or Mr Sansom had spoken to either Philip Uy or Elaine Tang about the assessment report? ---No, not that I recall.

THE COMMISSIONER: Tell me the reason why you met apparently at the Novotel rather than meet sometime at council premises?---We would, Commissioner, we would often meet at different places, coffee shops or - - -

40 One inference you could draw, I suppose, is that you met offsite so that council didn't see you associating with each other just before this very

important council decision?---But councillors, Commissioner, were allowed to speak to each other.

No, I'm not suggesting for one moment they weren't. What I'm saying here is just before this meeting, two days before the meeting, you're catching up at Brighton-Le-Sands, and I know you could talk to each other in a pub if you wanted to. But why on this occasion did you choose to speak at the Novotel?---Somebody suggested we meet there and we did. There was no particular reason why there.

10

Well, you knew when you were going there, though, didn't you, that you were going to discuss this application?---Yes.

Yeah. And you knew before you went there that you, despite council's report, were going to, in effect, oppose what was being proposed by council?---Before that meeting, I didn't have a view on it – sorry. I didn't go with the express intention of changing the paper. But I think it was Mr Sansom who suggested he would draft up a, a, a change to the paper - - -

20

Well, there wouldn't be any need to meet with each other, would there, if there was going to be no discussion about opposing the paper? I mean, if you were going to support it, you were going to support it. But was it the case that you were getting your heads together to see whether there was a way you could stop what was being proposed?---Yes.

And you say Mr Sansom was the one who suggested that an amended resolution or amended motion should be drafted?---Yes.

And you agreed to that happening?---Yes.

30

And I take it Mr Hindi did as well?---Yes.

Yeah, thank you.

MS HEGER: All right, could I just show you the assessment report that staff prepared, which is Exhibit 133, and while that's being brought up I take it you obviously received and read that report prior to the council meeting?---Yes.

40

So this is a document entitled Planning Proposal – Site Bounded by Forest Road, Durham Street and Roberts Lane, Hurstville. You recognise this as

the report, assessment report on the planning proposal prepared by council staff?---Yes.

All right. And you'll see under the heading Executive Summary it says, "The applicant's planning proposal requests first a change of zoning from light industrial to mixed use." You see that?---Yes.

And also proposed "an increase in maximum building height to 65 metres for site A and 25 metres for site B". You see that?---Yes.

10

It also proposed "an increase in FSR to 3.5:1 for site A and 1.5:1 for site B". You see that?---Yes.

As well as "a bonus FSR incentive of 1.5:1 for a development including hotel and motel accommodation and a range of community and infrastructure uses". You see that?---Yes.

All right. You'll also, if you go over to the next page, page 2 of this document, and you see the heading Author Recommendation.---Yes.

20

And you'll see in the paragraph just before that it says, "This report provides an assessment of the planning proposal request without a planning agreement, as the draft offer to enter into a planning agreement has been withdrawn." You see that?---Yes.

So obviously you were aware when you voted on this proposal that the VPA offered by One Capital had been withdrawn at this time?---Yes, I would have read that at the time.

30

All right. You'll see there that the author of the report recommends that "council support an amendment to the LEP" - - -?---Yes.

- - - "subject to an appropriate mechanism being available to assist in addressing the road and traffic infrastructure demands and improvements within the city centre generated by the future development of the site". You see that?---Yes.

Including mechanisms such as, "One, council entering into a planning agreement with the applicant." You see that?---Yes. Yes.

40

“Or alternately if this mechanism is not available, preparation of an amendment to the Hurstville section 94 Development Contributions Plan.” You see that?---Yes.

And then it was proposed that the planning proposal, “One, rezone the site from industrial to mixed use.” You see that, at point number one?---Yes.

“Increase the maximum building height from nine metres and 10 metres to a maximum of part 18 metres to part 40 metres.” You see that?---Yes.

10

And number four, “Increase the maximum floor space ratio for the site from 0.6:1 and 1:1 to a maximum of 2.5:1.” Do you see that?---Yes.

So obviously you understood at this time council staff were recommending lower building heights than what was sought by the applicant?---Yes.

And you understood council was recommending a lower floor space ratio than what was recommended by, than what was sought by the applicant, correct?---Correct.

20

You’ll also see under point six there’s a recommendation by staff that, prior to any post-Gateway public exhibition, the applicant prepare a contamination assessment report for the subject site. You see that?---Sorry, which point’s that?

It’s just under point six.---Oh, sorry.

See the reference to a contamination assessment?---Yes.

30 And in the last paragraph on that page it’s recommended that “Council resolve to commence preparation of an amendment to the Hurstville Development Control Plan.” Do you see that?---Yes.

All right. I’ll come back to those points in a moment as we work through the questions. Can I then show you another document which is back in Exhibit 127, volume 1.4, page 257. You’ll see this is an email from Philip Sansom from his personal email address to Con Hindi and yourself. ---Yes.

40 Again, at your personal email addresses.---yes.

Dated 19 April, 2016 at 2.08pm. Mr Sansom writes, “Please see below and make any alterations or suggestions.” Do you see that?---Yes.

And then he’s put together what appears to be a draft resolution.---Yes.

Which you will see has some similarities with what the staff had proposed in their assessment report, but some differences, and I’ll go through the differences in a moment.---Yes.

- 10 I’ll do that now. So you can see that – I’ll ask you this question first. Why is it that this was being circulated between your private email addresses, as opposed to your council email addresses? It rather appears, would you accept this, that you and Mr Sansom and Mr Hindi were trying to hide the fact that you were preparing this resolution from others at council?---No, not really. I think it’s, back then, or I used to use my private email for a lot of council work, so for me it wasn’t anything out of the ordinary.

All right. It might not have been out of the ordinary for you - - -?---See - - -

- 20 Sorry, go ahead.---If, if I hadn’t have agreed with quite a few of those points, it just wouldn’t have got anywhere and, you know, council email for me, at home, whereas I had my personal email on my phone. At the time I didn’t have council email on the phone. So it was much easier using private email addresses.

THE COMMISSIONER: This was sent shortly after 2.00pm in the afternoon.---Yep.

What was your position at this time within council?---Mayor.

- 30 Is it likely that you would have been at council at 2.00pm on a Tuesday in that capacity?---I could have been. I just don’t know, Commissioner. I, I, I would go in most days but I wouldn’t stay the full day.

- So it might be said that the reason why you and others were using the private email addresses is that you didn’t want anyone at council to know that, in effect, you and the others were putting your heads together in respect of this particular development. Do you accept that?---Well, no, because this would have been sent to the general manager after we gave Mr Sansom, we
40 agreed with this points.

Yep.---So I don't think it was to hide from the council because it ended up going to the general manager.

I understand that. There would have been no point in drafting it unless that was going to be the ultimate result but – oh, I'll stop there. All right. Carry on, thanks.

MS HEGER: You'll see that in this draft resolution at point 2 it proposes to increase the maximum building height to 65 metres for site A and 25 metres for site B.---Yes.

Which was obviously higher than what the staff had recommended.---Yes.

Whose idea was that to propose the higher heights?---It's a, a similar height to a development which was just across the road. The, I'm just trying to think of the name for that development, it's just across the, Durham Street.

All right. But my question is whose idea was it to revert to a height that was more similar to what the applicant was seeking?---I don't recall if it was Councillor Sansom or Mr Sansom. It could have been him.

Did you have discussions with Philip Uy or Elaine Tang around this time, where they said, "We really need that higher height. Can you include that in your draft resolution?" or something to that effect?---I don't recall but I, I don't think they spoke to me on it. They may have spoken to one of the others - - -

Do you know whether they spoke to one of the others?---No. I said, they could have. Sorry. They may have, I don't know.

You'll see at point 4, it proposes that the maximum floor space ratio for the site be increased from 0.6:1 and 1:1 to a maximum of 3.5:1 for site A and 1.5:1 for site B. See that?---Yes.

Which again is a more generous FSR than staff had recommended. Correct?---Well, the staff had recommended 2.5:1, yeah. We recommended 3.5:1.

Right. And whose idea was that?---Again, I think it was Mr Sansom's.

And I'll ask you the same question about the FSR. Had you spoken to Philip Uy or Elaine Tang about the need for an FSR of 3.5:1 and 1.5:1? ---Philip Uy may have mentioned it at some time, but it wasn't around when this was drafted. It would have been quite some time earlier.

Do you know whether Mr Sansom or Mr Hindi had had discussions with Philip Uy on this topic?---No, I don't.

10 THE COMMISSIONER: Look, let's just get down to tin tacks on this. You no doubt believed it would be somewhat controversial to override council's assessment in such a significant project?---No. It, it happened before - - -

It was infrequent, though, wasn't it?---It was infrequent but - - -

And I'm not talking about minor developments. I'm talking about one which was a very, very substantial development.---Commissioner, the thing is it was eventually approved at 3.5:1 by the administrator.

20 Yeah, but you didn't know anything about that at the time. At the time you have a report from council - - -?---No. No.

- - - saying this is what's going to happen?---Yeah.

And I'm going to put it to you squarely. Look, the only reason you were prepared to act in this way was because you expected to receive a benefit from doing so. Isn't that right?---Yes.

Yeah. And in plain terms, you were acting at the behest of Mr Uy?---Yes.

30 Thank you. Are we going to take a morning break, this morning?

MS HEGER: Yes, Commissioner.

THE COMMISSIONER: I'll leave it to you as to when you want to do that but - - -

MS HEGER: Yes. I might go on for another few minutes - - -

40 THE COMMISSIONER: Yeah, that's fine.

MS HEGER: - - - and then we'll take the break. All right. Can I show you then page 267 of the same volume? This is an email from Mr Sansom to yourself and Mr Hindi on 20 April at 1.04pm?---Yes.

He says, "Please see attached. Changes and additions have been highlighted in yellow. Please let me know if any changes or okay, and I will take the highlights off and send it to Laurie, indicating I intend to move this so they can have it ready." You see that?---Yes.

10 And if you move to the next page - - -

THE COMMISSIONER: Sorry, what date was that?

MS HEGER: 20 April, 2016, before the council meeting.

THE COMMISSIONER: I think it was around 1 o'clock, wasn't it, that - - -

MS HEGER: 1.04pm the email was sent. You can see the maximum building height has now come down to 60 metres, as opposed to 65, for site
20 A.---Yes.

Can you recall whose idea that was?---I think at the time the officers told us that the maximum height in the area could only be, well, could only go up to 60 metres because of the approaching aircraft from the east-west runway.

Right, and who suggested this amendment, the 60 metres?---I don't recall who suggested it.

30 Okay. You'll see in the third-last paragraph on the page it says, "The applicant prepare a contamination assessment report for the subject site A." So that's an amendment in the previous – well, the council had, council staff had recommended a contamination assessment report for the entire site, but now this is limiting it just to subject site A. You understand that?---I do, mmm.

40 And that's obviously an amendment in the applicant's favour in that instead of having to incur the cost of an assessment report for the entire site, they can just do it for part of the site. You accept that?---Well, site B was owned by other people. The applicant only owned site A.

And are you saying that's why you made this, you agreed to this amendment?---Yes.

Did - - -?---It was, site A and site B comprised virtually the whole block. Down one side, the Durham Street side, there were all different businesses who owned their land, or they were renting their land from the owners. So that's why, if you go point 4, site A's been recommended at 3.5 and site B at 1.5.

10 All right. Can I show you again volume 19.3, which is a record of phone calls. Bearing in mind again this email was sent at 20 April, 1.04pm. If you move over to the second page of the records, you'll see that on 19 April, at 15.33pm, looks like you had a call of 41 seconds duration between, with Philip Uy. You see that in the third row?---Yes.

And it's likely, isn't it, that was a call about the drafting of this resolution? ---It could have been, yes.

20 THE COMMISSIONER: Well, it's likely to have been. Can you think of any other reason why he would have been calling you?---No.

No.---It's likely, yes, Commissioner.

MS HEGER: All right. And then two rows down at 15.48 there's a call, this time of only about six seconds, from you to Elaine Tang. You see that?---Yes.

30 And query whether you actually made contact with Elaine because it was only six seconds long.---I don't think I would have.

All right. But obviously you were calling Elaine Tang about the drafting of this resolution, do you accept that?---Most probably, yes.

Okay. And you'll see a few rows down, again on 19 April, at 15.54pm, there's a call of 1 minute 34 seconds duration from yourself to Con Hindi. Do you see that?---Yes.

40 Which likely was about the drafting of this resolution, correct?---Yes. That would have been part of the conversation.

And it's likely you were reporting to Con Hindi your discussions with Philip

Uy on the topic, isn't it?---That could have been partly true because there were other items on the paper that, that night that we may have discussed as well.

Well, one other item on the paper was Treacy Street, of course.---Yes.

So you might have discussed that as well.---Could have, yes.

10 Okay. But you think it's likely you discussed with Con Hindi the fact that you'd been speaking to Philip Uy about all of this?---That I'm not sure of. With, it was 40 seconds, that call with Philip Uy. It's possible that, well, it's likely that I would have spoken to Philip Uy about it.

And it's likely you would have relayed Philip Uy's views to Con Hindi, isn't it?---I could have, yes.

It's likely, isn't it?---Well, could be likely, yes.

20 MR PARARAJASINGHAM: Commissioner, can I just raise one matter on behalf of Mr Badalati?

THE COMMISSIONER: Sure, yes.

MR PARARAJASINGHAM: I just wonder whether, in fairness to this witness, he should be asked firstly whether he has a recollection of the particular call.

THE COMMISSIONER: Yeah, of course. Of course, yes.

30 MR PARARAJASINGHAM: That might inform the next question.

THE COMMISSIONER: Yeah. No, I agree with that. Thank you.

MS HEGER: All right. Well, first of all, do you have a recollection of the call with Philip Uy on 19 April in the second row there?---I don't have a recollection but seeing it there and with the time, or the duration, I assume that I did speak to him on it.

40 All right. And then when we come to your call with Mr Hindi – bear with my while I identify the reference again. It was at 15.54pm, this call of 1 minute 34 seconds duration. Do you see that?---Yes.

Do you have a recollection of that phone call with Mr Hindi?---I don't but seeing it's there and the length of time, I accept that I did call him.

All right. And you think it's likely it was on the subject of the Landmark Square planning proposal?---That and other items on the paper.

Okay.

10 THE COMMISSIONER: Sorry, Ms Heger, can you just remind me, the email using their personal email addressed which circulated the proposed amended resolutions, what time was that? It was on 19 April, wasn't it?

MS HEGER: At 2.08pm.

THE WITNESS: That was from Philip Sansom to me and Con Hindi?

MS HEGER: Yes.---Yep, yeah.

20 THE COMMISSIONER: And then there was a later email where the document had been highlighted and an agreement was reached to send it to the general manager. What date and time as that one?

MS HEGER: The one that had been highlighted was 20 April at 1.04pm.

THE COMMISSIONER: Thank you.

MS HEGER: All right. Can I then show you the document at page 270? And before I do that, could I just, in respect of volume 19.3, mark that for
30 identification? Number 6.

THE COMMISSIONER: Yeah, that'll be marked as MFI 6. Thank you.

#MFI-006 – VOLUME 19.3, RECORD OF PHONE CALLS

MS HEGER: All right. This is an email again from Philip Sansom to Con Hindi and yourself, 20 April, 2016, at 2.25pm.---Yes.

40

It says, "Con, please see amended version after talking to Vince."---Yes.

And so do you recall having a discussion with Philip Sansom about the resolution around this time?---I don't recall it but it's possible.

Well, it's, it's likely, isn't it, given he said "after talking to Vince", correct?
---Yes.

10 Okay, and if you go to the next page, in fact what I'm going to do is I'm going to bring up a document that compares this version of the resolution to the previous version, which is volume 19.4. Right. So this is a comparison of the previous version of the resolution to this version that Philip Sansom circulated at 2.25pm. You'll see on the left-hand side, which is the earlier version, it includes the reference to, in the first paragraph, addressing road and traffic infrastructure demands. You see that on the left-hand side in the first paragraph?---Yes.

And you'll see that in the second version that has been deleted?---Yes.

20 And whose idea was that?---I don't recall.

Did you have any discussions with Philip Uy around this time about the road and traffic issues?---I didn't.

Do you know if Philip Sansom or Con Hindi did?---I don't know, sorry.

THE COMMISSIONER: Let me put it another way. Was it your understanding that these amendments reflected what Mr Uy wanted?---Yes.

30 Thank you.

MS HEGER: Okay. Then can I show you one more document before the break, and that's at page 274 of the same volume. Another email from Mr Sansom to yourself and Mr Hindi on 20 April, 2016, at 4.44pm.---Yes.

You'll see it says, "Please see final recommendation as sent to Laurie just now."---Yes.

40 If we go to the next page. You'll see at the bottom there is now no longer any reference to an amendment to the Development Control Plan. I'll just let you read the last few paragraphs on the page and satisfy yourself of that.
---Yes.

Sorry, I'll just check whether that resolution continues onto the next page. All right. So obviously there's no reference to the Development Control Plan there. Do you accept that?---Yes.

Which, again, departs from the staff's recommendation. Do you accept that?---Yes.

10 And do you accept that's also an amendment that you understood Philip Uy desired?---I don't recall that.

Can you think of any other reason why you would have agreed to departing from the staff's recommendation in that respect?---No, I can't.

THE COMMISSIONER: But it was an amendment which favoured Mr Uy or anyone he represented, didn't it?---Well, I'm not sure in what way.

20 MS HEGER: Well, the purpose of a Development Control Plan is to set some additional standards in terms of design of the building and the like, isn't it?---Yes. But - - -

And so if you - - -?---That would be covered in the LEP as well, wouldn't it?

Well, the LEP contains some standards but then often there's a Development Control Plan as well that contains additional standards for the development to meet. Do you accept that?---Yes.

30 And so if there's no amendment to the DCP to propose those additional standards, it means there's one less hoop for the applicant to jump through, correct?---Yes.

So this is an amendment in the applicant's favour, you would accept that?---Yeah. When you put it that way, yes.

All right. Did you understand that's something that Philip Uy favoured at the time?---Well, I don't recall him talking to me about it.

40 All right. What about Elaine Tang, did you talk to her about it?---I don't recall talking to her about it either. She, she may have but I just can't recall.

THE COMMISSIONER: Can we take it though that you would have had discussions between yourselves – that is Mr Sansom, Mr Hindi and yourself – in relation to each and every amendment in this proposal?---Yes. He’s, Mr Sansom sent it to me, a copy.

Yeah. Well, you all had input, let me put it that way?---Yes.

10 Yeah. And do you agree that some of these provisions, for example increasing the maximum building height and the adjustment of the, or the increase to the floor space ratio, would have likely been of considerable financial benefit to whoever the developer was?---Yes.

It would possibly involve millions and millions of dollars?---I don’t know how much, Commissioner, but obviously the more FSR you get, the more number of apartments they can build, et cetera.

Yeah, all right. Thank you.

20 MS HEGER: Is now an appropriate time for morning break, Commissioner?

THE COMMISSIONER: Yeah, sure. We’ll take 15 minutes and then come back. Thank you.

SHORT ADJOURNMENT

[11.24am]

30 THE COMMISSIONER: Take a seat. Thank you.

MS HEGER: Mr Badalati, after you voted in favour of the Landmark Square planning proposal on 20 April, 2016, on 9 May, you attended a dinner in Chinatown with Philip Uy and Wensheng Liu, didn’t you?---I could have.

Well, are you saying you don’t have a recollection of the dinner but it’s possible?---It’s possible, yes.

40 All right. Well, let’s see if this jogs your memory. In addition to Philip Uy and Wensheng Liu, also in attendance was Nigel Dickson and Elaine Tang and Con Hindi.---Yes.

Do you recall that dinner?---I do.

All right. Was that an occasion to celebrate the council voting in favour of the Landmark Square planning proposal?---No. I, the dinner I'm thinking of is, there were other people there as well.

Who were those other people?---I'm just trying to think. I cannot recall their names but they were, apparently one of them was very wealthy and he
10 knew Wensheng Liu. If, if it's the dinner I'm thinking of, yeah.

Was Philip Sansom there as well?---I don't recall, I'm sorry.

All right. Do you recall Landmark Square being discussed at this dinner?
---No, not really. It was more in terms of this other guy who was there.

What do you mean by that? What was the occasion for this dinner?---I, I
got invited to go along and when I got there there was two or three guys I
did not know and most of the conversation during the night was in Chinese,
20 yeah.

Right. And who paid for the dinner?---Oh, that I don't know.

Did you pay for your dinner?---No.

All right. Do you know if Mr Hindi paid for his dinner?---I don't know.

All right. You're aware, of course, that the Landmark Square planning
proposal was finally gazetted on 7 August, 2020, correct?---If you say so,
30 yes.

Okay. Well, can I show you an email, which is Exhibit 130, volume 1.7,
page 20? You'll see this is an email from Meryl Bishop from Georges
River Council to, it looks like, all councillors at Georges River Council.
---Yeah.

And some council staff, dated 7 August, 2020 at 2.27pm.---Right.

And you'll see it says, "Good afternoon, councillors. Please be advised
40 Landmark Square Precinct planning proposal has been gazetted effective
Friday, 7 August, 2020." Do you see that?---Yes.

So you were obviously aware on the day that it was gazetted that it had been gazetted, correct?---Yes.

All right. Were you aware at this time that One Capital had an agreement with Prime Hurstville whereby Prime would pay an amount of money to One Capital upon the gazettal of the planning proposal?---No, I was not aware of that.

10 All right. Have you since become aware of it?---I don't believe so. I thought One Capital had gone into administration by that stage.

Yes. Well, by 2020, One Capital was in administration but are you aware that prior to it going into administration it had entered into an agreement with Prime along the lines I mentioned?---No. I wasn't aware. I have no recollection of that.

20 Okay. You didn't have any understanding as at 7 August, 2020 that upon gazettal Prime would pay an amount of money to Wensheng Liu or Philip Uy?---No.

Okay. Can I just play you a telephone call?---Yep.

And before I play it, can I just ask, did Mr Hindi refer to Philip Uy as Faye?---Yes.

And did you sometimes refer to him as Faye?---Occasionally, but mainly Philip.

30 Okay. We'll play the telephone call now.

THE COMMISSIONER: This is a telephone intercept, is it?

MS HEGER: Yes.

THE COMMISSIONER: Thank you.

AUDIO RECORDING PLAYED

[11.59pm]

40

MS HEGER: Right. You recognise your voice in that telephone call?
---Yeah, yeah, yes.

And the other voice is Mr Hindi's voice, isn't it?---Yes.

And I can tell you this call occurred on 8 August, 2020, so the day after the gazettal.---Right.

10 It sounds like from that call you had been trying to get in touch with Philip Uy. You accept that?---Yes.

Why were you so keen to get in touch with Philip Uy about the gazettal?
---Well, most probably just to let him know if he didn't already know.

But why were you so keen to let him know?---Well, there was really no reason - - -

20 THE COMMISSIONER: There must have been a reason. There must have been a reason.---Whether, I don't know.

MS HEGER: Well, the evidence you gave earlier was that you thought by this time, One Capital had dropped out of the picture.---Yeah.

You knew that Philip Uy had been working together with One Capital and Wensheng Liu on the planning proposal?---Yes.

30 So in that context, why were you so keen to tell him the day after gazettal, that it had been gazetted?---I don't know, just for information for him if he didn't already know.

THE COMMISSIONER: That would be highly unlikely, though, wouldn't it?---Well, Commissioner, I can't think of any other reason - - -

MS HEGER: Well, you called him because you understood at this point that Philip Uy still had some sort of interest in the Landmark Square planning proposal. Correct?---Yes. I found out later that he still had an interest in the hotel part of it - - -

40 THE COMMISSIONER: I thought we went through this yesterday by reference to a letter or an email that referred to One Capital and it was signed by Elaine on behalf of Gencorp?

MS HEGER: Yes. Those emails were back in 2018.

THE COMMISSIONER: Were they? Okay. Thank you.

THE WITNESS: Yeah.

MS HEGER: Well, you found out later that he had an interest in the hotel. When did you find that out?---It was last year sometime.

10

All right. So your evidence is that as far as you were aware on 8 August, 2020, Philip Uy had no financial interest in Landmark Square. Is that your evidence?---No, I'm saying that I was unaware that he had any interest in it at that stage. Last year sometime I found out that he still had an interest in the hotel.

All right. Well, as at 8 August, 2020, were you aware that Wensheng Liu still had a financial interest in the Landmark Square planning proposal?

---No. I thought that One Capital did not exist anymore.

20

Yes. Well, I'm asking you about Wensheng Liu, whether it was through One Capital or some other mechanism, were you aware that he had an ongoing financial interest in the Landmark Square planning proposal as at August 2020?---Not that I recall.

Did you expect to receive any sort of payment or other benefit upon the gazettal of the Landmark Square planning proposal?---I didn't expect it - - -

THE COMMISSIONER: Did you get it?---No.

30

MS HEGER: As far as you're aware, did Mr Hindi receive any payment or other benefit from the gazettal of the Landmark Square planning proposal?

---That I don't know.

Right. Aside from the \$100,000 that you received in 2016, did you receive any other payments or benefits in respect of Landmark Square?---No. I received some benefits on the trip to China, the April trip.

What benefits are you referring to on that trip?---Oh, meals.

40

Okay. We'll come back to that topic at another time. Can I then ask you about the – bear with me one moment. Okay. Could I tender the transcript of that telephone intercept, Exhibit 144.

THE COMMISSIONER: Yes. The telephone – I'm sorry. The transcript of the telephone intercept will be admitted into evidence and marked Exhibit 145.

MS HEGER: 144.

10

THE COMMISSIONER: I thought we - - -

MS HEGER: And I'll tender the audio of the lawfully intercepted telecommunication as Exhibit 145.

THE COMMISSIONER: I'm one exhibit out but all right. They are admitted as those exhibits.

20 **#EXH-144 – TRANSCRIPT OF TELEPHONE INTERCEPT SESSION
03486 ON 8 AUGUST 2020 AT 13:19:13 BADALATI TO HINDI**

**#EXH-145 – AUDIO OF TELEPHONE INTERCEPT SESSION 03486
ON 8 AUGUST 2020 AT 13:19:13 BADALATI TO HINDI**

MS HEGER: Could I then return to the Treacy Street development? Yesterday I asked you some questions about the first VPA offer made by GR Capital for the Treacy Street development. Do you recall that?---Yes.

30

And of course you voted in favour of that VPA offer on 19 November, 2014. Do you recall that?---Yes.

As did Mr Hindi and Mr Sansom, of course. Do you recall that?---Yes.

You told the Commission yesterday that you and Mr Hindi, at various times, had discussed how you were going to vote, both in respect of Treacy Street and Landmark Square. Do you recall that evidence?---Yes.

40 All right. Did you discuss with Mr Hindi how you were going to vote on this VPA offer in November 2014 or earlier?---I believe so.

All right. Can you tell me when that discussion occurred?---Oh, no. Sorry, I can't.

Can you tell the substance of the discussions between you and Mr Hindi?
---We're talking Treacy Street now?

10 Yes.---Yeah. There was more than one discussion, there were a few discussions on how high it should go. We spoke about what was allowed, what the area could sustain, things like that, over a period of time.

All right. So that's dealing with the merits of the development application for Treacy Street.---Yes.

I'm not asking you about the VPA offer. Did you have discussions with Mr Hindi about how you were going to vote on the VPA offer?---I believe so, yes.

20 All right. And presumably you said to him at some point "I'm going to vote on favour of it"?---Yes.

Yes. And he said the same thing?---Yes.

All right. Did you have discussions with Mr Hindi about the fact that it was Wensheng Liu's company that was the applicant for the Treacy Street development?---Yes, I think so.

30 All right. You gave evidence yesterday that even in 2013 you'd had a discussion with Wensheng Liu and Philip Uy about the fact that they were interested in developing Treacy Street, is that right?---Yes.

Did Mr Hindi participate in those discussions in 2013?---I don't recall.

All right.---I may have spoken to him about it.

Spoken to Mr Hindi about it?---Yeah. I can't recall he ever spoke to Philip Uy or Wensheng Liu.

40 All right. So you may have told Con Hindi in 2013 that the two of them were interested in developing Treacy Street, is that right?---Yeah.

But do you have any recollection of such a discussion?---I don't. Look, but I think it would be quite likely.

Okay. And why do you say it's likely?---Well, he would have had to find out from somebody. It could have been me, is what - - -

Why do you say Mr Hindi would have had to find out?---Well, I assumed he knew who was behind it.

10 Well, certainly by 2015, when he told you he'd received a payment in respect of Treacy Street, you believed he knew that Wensheng Liu and Philip Uy were involved in Treacy Street, correct?---Yes. Yes.

But can you say that at some earlier point in time, around the time of this council meeting in November 2014, that Mr Hindi was aware that Philip Uy was involved?---I believe so, yes.

Right. And you believe that he knew Wensheng Liu was involved around the time of this council vote in November 2014?---I believe so.

20

At some point you attended a meeting at Wensheng Liu's office in Hurstville regarding 1-5 Treacy Street, is that right?---Yes.

Where was that office?---In Hudson Street. On the corner of Hudson and Forest Road.

In Hurstville?---Yeah.

30 All right. And at that meeting the development at Treacy Street was discussed, correct?---Yes.

And when was this meeting?---Oh, sorry, I, I can't remember the date.

All right. Well, I can tell you that the office for Mr Liu's company GR Capital Group was previously at a different address but was only registered at Forest Road from March 2015. So assuming that to be true, do you think it's likely it occurred sometime after March 2015?---I believe he had an office in a different building in Hurstville before he moved to Hudson Street, and that's where he knew Malcolm Gunning from.

40

All right. I didn't ask you that question. I asked you whether you think, given the office was only registered at Forest Road, which is where you said this meeting took place, it was registered there from March 2015, you'd accept it's likely then it occurred sometime after March 2015?---Yes.

Was the meeting before or after the JRPP voted in favour of Treacy Street on 1 April, 2015?---It could have been before.

10 All right, but you're not sure whether it was before or after 1 April?---No, not, no. I, my head is just spinning with dates and - - -

Right.---Sorry.

I understand. Likely it was sometime in 2015?---Could have been, yes.

Okay. Was Nigel Dickson at this meeting?---He could have been but my recollection was the only time that I was in the meeting with Nigel Dickson was when he came to the council.

20 All right.---And again I could be wrong but I'm just - - -

I understand.

MR PATTERSON: Commissioner, pardon my interruption, but could the witness please keep his voice up? It's very difficult to hear.

THE WITNESS: I'm sorry.

30 THE COMMISSIONER: That's okay.

MS HEGER: All right. Was Mr Hindi at this meeting at Mr Liu's office? ---He may have been. I, he may have been. I can't be sure.

You don't have a recollection one way or the other?---No.

Okay. You're aware that on 1 April, 2015, of course, the JRPP votes in favour of the Treacy Street DA?---Yes.

40 And Mr Hindi and Mr Sansom were members of the JRPP at that time, correct?---Yes.

And your evidence yesterday was that you received your payment of \$70,000 after that date, correct?---Yes.

Leading up to that decision on 1 April, can you recall any discussions that you had with Mr Hindi about Mr Uy or Wensheng Liu being involved in Treacy Street?---I think, I think there had been discussions. I think Mr Hindi knew that Wensheng Liu was involved in, in Treacy Street.

10 And do you think he also knew by that stage that Philip Uy was involved?
---Yes.

Did you have discussions with Mr Hindi about which way he was going to vote on that occasion?---At the JRPP?

At the JRPP.---No.

Did you have discussions with Mr Sansom about which way he was going to vote?---No.

20 Was Mr Sansom aware at this time that Mr Uy or Wensheng Liu were involved with Treacy Street?---Commissioner, can I make an assumption? I – sorry.

THE COMMISSIONER: Say what you want to say.---Yeah, I assume so. That's - - -

And what's the assumption based upon?---The amount of time that Mr Sansom had been involved. It, it was my understanding that he knew.

30 Very well.

MS HEGER: All right. Of course, on 20 April, 2016, you also voted in favour of a further VPA offer that had been made in respect of a modification to the Treacy Street consent. Is that right?---Yes. Yes.

And Mr Sansom and Mr Hindi also voted in favour of that VPA offer. Correct?---Yes.

40 And did you, in circumstances where your evidence is you discussed with them how you were going to vote on the Landmark Square planning proposal at that meeting, you must have also discussed with them how you

were going to vote on the Treacy Street VPA offer. Correct?---That would be likely, yes.

Well, do you recall having those discussions?---No. But, but I'm sure that it did happen but I just can't think at the moment.

10 Yes. Well, your evidence earlier was, at least at that meeting I think you said at the Novotel in Brighton-Le-Sands, you discussed both Treacy Street and Landmark Square. Is that right? Sorry. I might have misrepresented that. Maybe it was a phone call that you had with Mr Hindi that you said concerned both Treacy Street and Landmark Square?---There were other, other papers on the agenda.

Yes.---Yeah.

Yes, all right.

THE WITNESS: Commissioner?

20 THE COMMISSIONER: Yes?

THE WITNESS: Could I take a break, please? I'm just - - -

THE COMMISSIONER: Of course, you can.

THE WITNESS: Just five minutes if possible.

30 THE COMMISSIONER: All right. Perhaps your counsel could let us know when you're ready - - -

MR PARARAJASINGHAM: Certainly.

THE WITNESS: Okay. Thank you.

THE COMMISSIONER: - - - to come back. Thank you. I'll adjourn.

SHORT ADJOURNMENT

[12.18pm]

40

THE COMMISSIONER: Take a seat. Thank you.

THE WITNESS: I apologise for that, Commissioner,

THE COMMISSIONER: No, there's no need to apologise at all. Yes.

MS HEGER: Mr Badalati, you mentioned a couple of times yesterday that you were in favour of the Treacy Street development because you thought the site could handle the extra height, is that right?---Correct.

10 All right. Well, on 17 September, 2014 you moved at the council meeting on that date to adopt a draft Hurstville Local Environment Plan for the Hurstville City Centre which adopted the existing controls, that is a height of 23 metres and an FSR of 3.1 for the site. Do you recall that?---I, I don't but I accept.

All right. Well, if you truly believed that the site could handle the extra height, and that is over and above 23 metres, why did you vote on that day to adopt the existing controls of 23 metres?---Because I, I'm not sure again of the timing of this, but council was looking at the employment lands study
20 for all the industrial land and – (not transcribable). Sorry, I'm getting missed up with Landmark. I don't recall why I did it.

All right. Can I ask you, other than the \$70,000 you received for Treacy Street, did you receive any other payments or other benefits in respect of that development?---No.

And you're not aware whether Mr Sansom ever received a payment or benefit in respect of Treacy Street?---He never said anything. I didn't ask him.
30

All right. And as far as – you don't know whether Mr Hindi received any other benefit than the money he was paid for Treacy Street that you've given evidence about earlier?---No.

Can I then ask you about the period when council was in administration? Of course it went into administration on 12 May, 2016, correct?---Yes.

Now, I'll show you a photograph, which is volume 2.15, page 21.---Yes.

40 Now, you can see this photograph was taken on the 16th of May, 2016. ---Yes.

Do you recognise whose house that is?---Mr Hindi's.

All right. And that's Mr Hindi on the left?---Yes.

The person next to him, that's a gentleman who works with Yuqing Liu, is that right?---I believe so. I, I don't really recognise him as someone I knew. Could be, yep.

10 Okay. And next to him, that's Wensheng Liu, isn't it?---Yes.

Next to him is yourself?---Yes.

Next to you is Philip Uy?---Yes.

And then the next gentleman is Yuqing Liu, is that right?---Yes.

And next to him is Mireille Hindi, is that right?---Yes.

20 Okay. What was the occasion for this dinner? Or not dinner, this gathering at Mr Hindi's house?---That, it was a dinner actually.

All right.---I didn't stay for the dinner because I, back then I used to play tennis on a Monday night and I went off to play. I dropped by there for about half an hour and then I left to go to tennis and they continued on with dinner.

30 Was this an occasion to celebrate the passage of the Landmark Square planning proposal?---No. I believe it was a thank you to Liu from China for the hospitality that he showed us up in Tangshan.

All right. And what do you mean by the hospitality that he had shown?
---Oh, they took us on a tour of the city. They took us to an international flower show that was just about to open up there.

All right. And you said earlier that Yuqing Liu or his company paid for some of your meals on that trip. Is that right?---When we were going around, tourist, you know, touring?

40 Right. I'll tender that photograph and that will be Exhibit 146.

THE COMMISSIONER: Thank you. Admitted as Exhibit 146.

#EXH-146 – PHOTO AT VOLUME 2.15 PAGE 21 DATED 16 MAY 2016

MS HEGER: Can I show you another photograph, which is at volume 2.15, page 40? So this is a photograph taken on 21 July, 2016?---Yes.

10

Do you recognise Mr Hindi on the left there?---Yes.

Is that Mrs Hindi sitting next to him?---It looks like her, yes.

Right. And on your right is Yuqing Liu. Is that right?---Sorry? What name did you just say?

I said Yuqing Liu or China Liu as you've referred to him.---Yeah. Could be, yes.

20

And on your left is Wensheng Liu. Is that right?---It looks like him.

Okay. Do you recognise this as Wensheng Liu's house?---Well, at the time, I believed it was China Liu's house but later I found out that Wensheng Liu was just allowing him to stay there.

Okay. And what was the occasion for this dinner?---They just invited us for dinner. Again, it was whilst we were in administration.

30

It was, but did you understand that they were showing you, well, Yuqing Liu or Wensheng Liu was extending this hospitality to you because they anticipated you'd be voting on Landmark Square or Treacy Street in the future?---They may have, likely that is so.

Well, is there any other reason why you'd be having dinner with Yuqing Liu and Wensheng Liu at this time?---No.

All right. Can I then ask you about that trip that you took to China in August 2018 - - -

40

THE COMMISSIONER: Are you proposing to tender that?

MS HEGER: Sorry. I am proposing to tender that. Exhibit 147.

THE COMMISSIONER: Well, that'll be Exhibit 147.

#EXH-147 – PHOTO AT VOLUME 2.15 PAGE 40 DATED 21 JULY 2016

10

MS HEGER: You gave some evidence that you travelled to China in August 2018 with Mr and Mrs Hindi. Is that right?---Yes.

And you met up with Philip Uy over there?---Yes.

Can I show you volume 2.21, page 36, message number 3?---Yes.

20 So I can tell you this is a message taken from Philip Uy's phone and it is a message from someone referred to as Thomas Chung to Philip Uy. It's dated 10 August, 2018, at 1.11pm. And you'll see it starts "Dear Vince Badalati. We cordially invite you visit Hengqin, Zhuhai, China on August 17, 2018 to become the third-largest free trade zone in China." Do you see that?---Yes.

Did you actually receive an invitation of this kind?---Not that I recall.

30 What did you understand to be – what was your purpose in travelling to China in August 2018?---I think that's when I went with my wife and my eldest daughter. We went to Hong Kong and then we caught up with Mr Uy. He took us into Shenzhen and my wife and daughter did some shopping.

All right. And Mr and Mrs Hindi were on this trip as well, correct?---Yes.

And at what point did you meet up with them? Were they in Hong Kong and Travelled onto Shenzhen or - - -?---No. They were in Hong Kong. We met up in Hong Kong,

And did they meet up with Philip Uy as well?---Yes.

40 And why were you meeting up with Philip Uy on this occasion?---Oh, because he knew where good shops or cheap shops were in Shenzhen. We

had dinner in Hong Kong and then the next day he came with us into Shenzhen.

Did Mr Uy pay for any of your meals on this trip?---He may have but we paid for some as well.

All right. Did you witness him pay for Mr and Mrs Hindi's meals?---I think we ended up sharing the cost over a few nights.

10 All right. So sometimes Mr Uy paid for everyone?---Paid, and then I paid. Yeah, for everyone and then I would pay for everyone and then Mr Hindi would pay for everyone.

All right. Did you meet up with Wensheng Liu as well on this trip?---No, I don't believe so.

Did Mr Uy pay for any of your shopping in Shenzhen?---No, no.

20 Did he pay for any of Mr and Mrs Hindi's shopping in Shenzhen?---I don't know.

Did they in fact travel onto Shenzhen as well?---Yes, yeah.

Yes. All right. And did you discuss the Landmark Square planning proposal on this trip?---That was 2018?

That's right.---I don't recall.

30 All right.---Especially as my wife and daughter was there and Mrs Hindi was there, if we, I don't, I don't believe we did.

Okay. Can I mark volume 2.21 for identification, MFI 7?

THE COMMISSIONER: Thank you. That will be marked MFI 7.

#MFI-007 – VOLUME 2.21, PAGE 36, MESSAGE NUMBER 3

40 MS HEGER: Mr Badalati, you said yesterday that the last time you spoke to Mr Hindi was last Saturday, correct?---Yes.

That's the Saturday just gone?---Yes.

Did you talk over the phone or did you meet in person?---We met in person.

Where did you meet?---At Hurstville in the Westfield.

All right. At a coffee shop there?---Yes.

- 10 Was anyone else present at the meeting?---A gentleman who owns a jewellery shop there in Westfield.

Okay. I think you mentioned that yesterday.---I mentioned that yesterday.

You don't need to mention that person's name.---Yeah.

All right. And before that, when was the last time you had spoken to Mr Hindi?---In person or by phone?

- 20 By phone or in person.---Before Saturday, he had sent me a message if we could meet and then I can't remember whether I called him or sent him a text to say we'll meet on Saturday.

All right, and you recall this public inquiry was announced to the public on 24 May?---Yes.

Did you have another discussion with him around that time?---Around 24 May?

- 30 Yes.---Yes.

Was it before or after the inquiry was announced?---Well, both I think.

All right.---'Cause we would talk every second day or - - -

THE COMMISSIONER: Was it on the telephone or face-to-face?---Oh, both, Commissioner. Sometimes by phone, sometimes in person.

- 40 MS HEGER: And on those occasions did you discuss this inquiry or the investigation generally?---Generally I think we did.

All right. Did he ask you what evidence you were going to give in the inquiry on those occasions?---I think he may have.

Well, do you have a recollection of that or not?---I don't specific, one specific recollection. I just think I - - -

THE COMMISSIONER: There would have been very little else to talk about, wouldn't there, an inquiry having been announced?---Sorry, Commissioner?

10

The inquiry being announced, I mean, surely it was a hot topic between you and Mr Hindi.---Yes, we did speak about it.

Yeah, and did he ask you what evidence you would give?---Yes.

And what did you tell him?---I said I was going to tell the truth.

20 And did he tell you what evidence he proposed to give?---Oh, not really. In a roundabout sort of way, you know, he was saying he didn't do anything wrong or, you know.

But did he express concern when you said you were going to tell the truth? ---I think he did.

What did he say?---Oh, something about, you know, "You'll have to tell, you're not going to tell them about the money," things along - - -

30 No, well, doing the best you can, that's one thing, he said you're not, he asked you whether, he suggested to you you're not going to tell them about the money?---Yep.

Yeah. And what did you say to that?---Oh, I said, you know, if I'm asked I'll have to say it.

And how did he respond to that?---Oh, he kind of went off a bit and - - -

Got angry?---Yeah.

40 Yeah. Yeah. And did he try and persuade you not to give that evidence about the payments?---Oh, I, I don't think he tried to persuade me. I was determined to tell the truth.

All right. But he's reacted, sorry, his reaction was a negative one?---Yep.

He didn't want you to do what you were proposing to do?---Yep.

Can I ask you this, we adjourned yesterday afternoon, did you have any contact with anyone connected with the investigation after you'd finished your evidence?---Here yesterday?

10 After you'd finished here yesterday.---No.

All right. What about during the day?---No.

All right. When's the last time you had any contact with Mr Sansom?---Oh, about two weeks ago.

All right. And that was after this inquiry had been announced?---I think it was just before, Commissioner.

20 All right. And was that a face-to-face meeting or - - -?---Yeah.

All right. Where did that take place?---In Beverly Hills.

Where at Beverly Hills?---The pub there.

In a pub there, all right. And did you discuss this Commission's investigation during the course of that meeting with him?---Well, not really. I did tell him that I had been called here last November, but apart from that - - -

30

Well, he must have asked you, "Well, what did you tell them?"---He did but I didn't say anything.

And was that meeting arranged by Mr Sansom?---It was arranged by me.

Yep. And for what purpose?---Well, I hadn't seen him for quite a while.

Right.---And we just caught up.

40 When you say you hadn't seen him for quite a while, how long was that? ---I think the last time was about November last year.

Right.---It was Melbourne Cup Day.

Right.---Yep. And he's involved with a local basketball organisation there, and the president there knows me and invited me to their Melbourne Cup lunch.

10 All right. Well, let's just get back to the fact that you've been summonsed to give evidence. Did he indicate to you one way or the other whether he had been or was going to be called before the Commission?---No.

Okay. Yes, thank you.

MS HEGER: What about Philip Uy? When was the last time you spoke to him?---Just trying to remember now. It would have been about a, I don't know, a week ago, 10 days ago.

So after the public inquiry was announced?---When was it announced?

20 24 May.---24 May. I think it was after it was announced.

All right. And did you talk about the inquiry or the investigation?---No. He, Philip at times, Philip Uy at times is hard to understand when he gets excited. So I didn't understand exactly what he was saying.

30 Well, what did you discuss if it wasn't this investigation or the inquiry?
---Oh, you know, current council issues. I would help him. He knew a lot of people in the area, and if somebody had an issue, a small issue, 'cause I still know some of the councillors there, he'd ask me to help.

All right. You said before that you didn't speak to anyone connected with this inquiry after you finished giving evidence yesterday, but did anyone connected with the inquiry attempt to contact you as far as you know?---I had a few phone calls last night from friends asking how I was, et cetera, 'cause they saw it on the news.

Did you have any missed calls from Mr Hindi?---I think he did try and call me but I didn't take the call. I think.

THE COMMISSIONER: Why do you think? Did his number come up on your phone or - - -?---Well, yeah, but I'm not sure when it was, whether it was yesterday or the day before. I - - -

MS HEGER: Right, well, can you check your phone now - - -?---Yep.

- - - and see when the last missed call from Mr Hindi was?---Got to switch it on first. Sorry, it's just cranking up. Yep. Yeah. I know he sent me a text message saying "Good luck" on Monday.

10

Did you receive any communications from him yesterday, a missed call, a message, a voicemail?---I can't find it but I think there was a - here we go. The last one I've got is Friday.

So nothing from yesterday then?---But I did, did see something, I'm sure.

All right. What about Philip Uy? Did he make any attempt to contact you yesterday after you'd given evidence?---No.

20 All right.

THE COMMISSIONER: Can we just go back to your evidence concerning the meeting with Mr Uy recently, after the public inquiry had been announced?---Yep.

At that point in time you had been summonsed to appear?---Yes.

Yeah. And were you aware that Mr Uy had also been summonsed to appear?---No.

30

He didn't tell you that?---No.

I want you to assume that he was served with a summons and you had been served a summons. There was an announcement of a public inquiry. I want to know, and do bear in mind that you've taken an oath and there are consequences if you don't tell the truth, it's not that long ago, what did you discuss?---With Mr Uy?

40 Yes. In those circumstances, I'm having great difficulty understanding why it would be limited to run-of-the-mill council matters or local residents or

the like.---Yeah. Commissioner, I'm just trying to recall but maybe he did discuss it, that he had been called.

Yeah.---I'm just trying to think of the date.

Well, he was aware that you had been summonsed?---No. I didn't tell anyone.

Right.---But I think he did tell me that he had been summonsed.

10

All right. And what did he say to you about that? It's not that long ago. ---No.

He, he didn't know why he had been summonsed. Yeah. And - - -

Was there any discussion at all of the fact that he had paid you money? ---No.

Did he seem upset or agitated?---No, no.

20

And is it your evidence that you, until you met up with him, you didn't know why you were going there?---Well, that's what he said to me.

What did he say to you?---Well, he received a summons.

Yeah.---To come in before today, before yesterday on a separate summons.

Yep.---He, he didn't know what they were, what he was going to be asked.

30

Okay. So he didn't indicate any understanding at all that you might be summonsed or that you had in fact been summonsed in the past?---No. No. When you say in the past, you're referring to November or, or last, well - - -

I'm not sure of the date. Was it November?

MS HEGER: It was November.---December, sorry, December.

It was December.---Yeah.

40

Sorry, December last year.---7 December.

THE COMMISSIONER: I just wonder why he needed to meet with you to let you know that he'd been summonsed and didn't know why.---He didn't know why or what he was going to be asked.

And did you discuss that with him?---I said could be anything.

And that was the extent of the conversation?---Basically, yeah.

10 It's likely, though, that he – it's likely that he would have had some understanding of the likelihood that you would be called to give evidence, don't you think?---Well, I didn't tell him.

No, I'm not suggesting you did, but the - - -?---Maybe, I don't know.

20 Well, this occurred, as I understand it, after the public announcement of the inquiry, and it would have been very clear from that two things. One, who's going to be called. Two, you're going to be called. And three, actually, there would be an investigation into whether or not you and others have received any benefits from him and others. I mean, that was clear at the time you had your conversation with him. Correct?---Well, we didn't go that far, Commissioner.

Well, on your evidence you just talked about he was not sure why he's been called, one.---Yep.

And, two, you just talked about trivial matters.---Yeah, he said he wasn't sure why, what he was going to be asked. I think that's what I said before.

30 Well, did you give him any indication as to what you thought he would be asked?---No, not really, 'cause I had no idea.

Thank you.

MS HEGER: I have no further questions for Mr Badalati at this time.

40 THE COMMISSIONER: All right. Well, what I'm proposing to do, Mr Badalati, is to stand you down. That is you'll be free to go today but we are going to have to get you back. At some point in the future you'll get notice in relation to that, so your legal representatives are aware and are available. I should say that you'll be given an opportunity, of course, to ask questions

at a later point in time, but I propose that that happen when the witness has finished his evidence.

MR PARARAJASINGHAM: Certainly. Commissioner, can I just make this inquiry. Obviously we haven't discussed evidence or the case with Mr Badalati since he went under questioning yesterday.

THE COMMISSIONER: I don't mind if you do.

10 MR PARARAJASINGHAM: Yes. I take it between - - -

THE COMMISSIONER: I have no problem with you having contact with your client at all. I just don't want them speaking to other people.---Sorry?

I don't want any more meetings and telephone calls with people such as Mr Uy or Mr Hindi. Do you understand that?---Well, I, I do. After yesterday I don't think anyone's going to want to talk to me.

I don't know about that, but it's not in your interests to do so.---No, no.
20 Yep.

It's certainly not.---Yep.

I just propose to make some comments for those here and those who might be online, the lawyers. I've received two applications to cross-examine or ask questions of Mr Badalati. One was on behalf of Mr Wensheng Liu, the other was on behalf of Mr Hindi. The representatives of Mr Liu have provided details of the topics they intend to cross-examine or question the witness on. Mr Hindi's representatives have not. And I'm not being critical
30 at all, I should say. In fact, it makes sense not to do so until Mr Badalati has finished his evidence. However, I do require all those seeking leave to question this witness, or indeed any other witnesses as we go along, to provide information consistent with clause 13 of the practice directions, and that is that I will be deciding whether a person has sufficient interest to cross-examine upon the basis that the cross-examiner identifies the purpose of the cross-examination, sets out the issues to be canvassed and states whether a contrary affirmative case is to be made, and if so, the details of that case. I appreciate in this case that there may be significant forensic disadvantages if that was to be flagged in public, so I will be content if those
40 who represent witnesses in this matter do what Mr Wensheng Liu's lawyers did and to flag the matters in paragraph 13 in writing. I expect that is

unlikely to be – there may be a difficulty in achieving that until the witness finishes his evidence but I wish to say that when the witness does finish his evidence, I will be requiring any further questioning of Mr Badalati to commence straight away. I have no difficulty if, at that time, that I receive material pursuant to clause 13 of the practice directions. If you can provide it earlier, that would be much appreciated, but I appreciate that that may not be possible until Mr Badalati, all his questioning has been completed by Counsel Assisting.

- 10 There's another point I wish to make to all of the legal representatives. They and their clients should keep this in mind, this investigation is being run by Counsel Assisting and part of her role is for Counsel Assisting to tender relevant documents. I will not be permitting cross-examination on material which Counsel Assisting has not seen and has not been given a reasonable opportunity to consider, so please keep that in mind. If any of you out there or in here have, for example, written material that you will be seeking to draw to the witness's attention, you won't be doing so unless Counsel Assisting has had fair notice of what it is and indeed has been provided copies of any such material. So we're going to adjourn the
- 20 proceedings until Wednesday next week and I notice somebody wants to say something.

MR PATTERSON: Commissioner, can I also indicate that I will seek leave to question Mr Badalati at the conclusion of his evidence.

- THE COMMISSIONER: Thank you very much. No, I understand that but have a good look at the paragraph I have referred to because I will be requiring – I don't, for example, want a paragraph that just says, "We will be examining Mr Badalati on credit," for example. I need to know the
- 30 matters that are set out in that paragraph in the directions. And there is no forensic disadvantage telling me, there may be expressing it in public, and that's why I'm inviting you to do it in writing.

MR PATTERSON: Thank you, Commissioner.

THE COMMISSIONER: Thank you. Anything else?

MS HEGER: No, Commissioner.

THE COMMISSIONER: All right. Then we'll adjourn until next Wednesday. Thank you very much for your assistance so far, Mr Badalati. ---Thank you, Commissioner.

THE WITNESS STOOD DOWN

[1.03pm]

AT 1.03PM THE MATTER WAS ADJOURNED ACCORDINGLY

10

[1.03pm]