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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 22 JUNE, 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: I apologise for the delay. Just a couple of matters before we proceed. I wish to advise that there's an additional allegation which will be investigated by the Commission and it is this, that between 16 November, 2011 and 9 July, 2012, Ching Wah Uy, also known as Philip Uy, corruptly gave \$10,000 cash to the Hurstville City Councillor Constantine Hindi as a reward or inducement for Hindi to partially and dishonestly exercise his official functions to favour the interests of Uy and Wensheng Liu in relation to land bounded by Gloucester Road, Carrington Avenue and Garthons Lane, Hurstville, which was known as the Gloucester Road car park. Thank you. And we received some applications to cross-examine the next witness, and we can deal with those when that time arises, but can I just ask the practitioners or representatives to do this, that when they put an application in, can they give some indication of the time that is anticipated it will take if leave to cross-examine is granted in the terms requested. That hasn't happened in relation to the applications made to date. I'm not being critical, but it would be of great assistance to me if that was done as we move forward. Yes, now the first witness is Mr Nigel Dickson.

MS HEGER: Yes, Commissioner. I call Nigel Dickson.

THE COMMISSIONER: Thank you. And will you take an oath or an affirmation, Mr Dickson?

MR DICKSON: An oath, Commissioner.

THE COMMISSIONER: An oath. Thank you.

THE COMMISSIONER: Thank you. Take a seat.

MS HEGER: Mr Dickson, could you please state your full name, for the record?

THE COMMISSIONER: I just should explain - - -

10

MS HEGER: Oh, sorry.

THE COMMISSIONER: No, that's okay. Don't worry at all. I should just explain something about your rights and obligations as a witness before this Commission because I note you're unrepresented. Excuse me. Mr Dickson, as a witness you must answer all questions truthfully.---Yes

20 And you must produce any item that I require you to produce during the course of your evidence. I have power under the Act to make what's called a section 38 declaration. The effect of that is that although you must still answer any question put to you or produce any item that I require you to produce, that answer or those answers and that item or those items can't be used against you in any civil or criminal proceedings. There is, however, one important exception and it's this, that the protection that a section 38 declaration gives to you does not prevent your evidence being used against you in a prosecution for an offence under the ICAC Act and most importantly the offence of giving false or misleading evidence. I'm not suggesting that you're going to but you should be aware that this section 38 declaration does not go that far. If you were to give false or misleading  
30 evidence, you commit a very serious criminal offence and the penalty can be imprisonment for up to five years. Do you want me to make such a declaration? I think I should.---Yes. Yes, I think so.

Yeah. 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  
40 respect of any particular answer given or document or thing produced.

**DIRECTION AS TO OBJECTIONS 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**  
10 **DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Yes, thank you.

MS HEGER: Mr Dickson, could you now please state your full name for the record.---My full name is Robert Nigel Dickson. I'm known professionally and socially as Nigel Dickson.

And you've previously given two statements in this investigation, the first is  
20 dated 21 February, 2022. Is that right?---That's correct.

And the second is dated 10 March, 2022. Is that right?---That's correct.

And are those statements still true and correct to the best of your knowledge and belief?---Yes, they are.

And you have copies of those two statements in front of you.---They've been given to me now.

30 You're qualified in architecture and city planning. Is that right?---Yes.

And you're currently the Managing Director of Dickson Rothschild.  
---That's correct.

And you've held that position since 2010.---Yes, in the current form of that company.

How long have you been working in planning, urban planning and design?  
---More than 30 years.

40

All right. And Dickson Rothschild provides architectural planning, urban design and interior design services. Is that right?---Architecture, planning, urban design services predominantly.

And over your time at Dickson Rothschild you've had extensive experience advising on development applications before councils.---Within New South Wales but also in other jurisdictions and overseas.

10 Right. And you've had extensive experience with modification applications.---Yes.

And planning proposals.---Yes.

You say in your statement you've worked on about five to 10 planning proposals over the course of your career.---That, that is correct.

20 And in October 2014 you were engaged by a company called The One Capital Group to prepare a planning proposal for the site known as Landmark Square. Is that right?---Yes.

Was that yes?---Yes.

Yes. And you were initially approached by Mr Kurt Vegners of Gencorp. Is that right?---Yes.

And you understood Gencorp to be the developer and builder for this project.---Yes.

30 And also to be managing the project for the client One Capital Group. Is that right?---Correct.

And Mr Wensheng Liu was the lead representative of One Capital Group on your understanding.---I personally was not sure the lead. I knew him as Mr Liu but I did not know his full responsibilities.

All right. You say in paragraph 8 of your statement you met him approximately once a month regarding this project. Is that right?---That's correct.

40 But your most frequent contact for the project was a person you knew as Philip Ly. Is that right?---Yes.

Yes. Could I just show you a photograph just to confirm who you understand Philip Ly to be. It's at volume 2.8, page 29.---Volume 2, correct?

Oh, I'm sorry. You don't have a copy of that. I'm bringing that up on the screen for you to look at.---Okay. Could you kindly.

10 All right. Is the person you refer to as Philip Ly in this photograph?---Yes. He's on the far right-hand side of the photograph standing.

All right. The far right-hand side?---Yes.

He's otherwise known as Philip Uy and I'm going to refer to him as Philip Uy in the course of my questioning.---Yes. I understand.

Could I just mark that for identification, that photograph? That will be MFI 8.

20 THE COMMISSIONER: Yes. The photograph shown to the witness of Mr Philip Ly and others will be marked MFI 8.

**#MFI-008 – PHOTOGRAPH AT VOLUME 2.8, PAGE 29**

MS HEGER: You also dealt with Elaine Tang from time to time on this project?---Yes.

30 And you understand Ms Tang to be Philip Uy's assistant, is that right? ---Yes.

When you were engaged in October 2014, you understood that One Capital had acquired the options for Landmark Square, is that right?---Yes.

And you set about preparing a planning proposal and a master plan for Landmark Square?---Yes.

40 And that planning proposal involved changing the zoning from industrial to mixed use, correct?---Correct.

And also increasing floor space ratio?---Yes.

And also increasing the permissible height of buildings?---Yes.

Can I take you to paragraph 17 of your statement, your first statement? Do you have that?---Yes.

So there you refer to a meeting at Hurstville City Council on 5 May, 2015. Do you see that?---Yes.

10

And in that paragraph you say that you had sought a meeting with the mayor at the time in order to put forward the planning proposal that you'd prepared and lodged at council. Do you see that?---Yes.

And the mayor at the time was Constantine Hindi, is that right?---Yes.

You didn't request that Philip Sansom, who was then a councillor, or Councillor Vince Badalati come to that meeting, did you?---No.

20 But they did attend that meeting in the end, didn't they?---They did.

Do you know who invited them?---No, I'm not sure. I'm not sure.

All right. And you recognised each of them because you'd had previous dealings with each of them, as you explained in your statement?---Yes.

All right. This was before the planning proposal was lodged in June 2015, correct?---Yes. It was, it was shortly before the planning proposal was lodged.

30

All right. But you explained the nature of the planning proposal to Mr Hindi, Mr Sansom and Mr Badalati at this meeting, correct?---Yes. And the council staff who were present.

Yes. And did you provide them any documentation at that point?---I, I believe documents were provided that showed the form of the development. I believe we showed architecture plans and, and use of the buildings, proposed.

40 All right. And in paragraph 21 you refer to the fact that Councillor Badalati was representing the Labor Party on your understanding, Councillor Hindi,

the Liberals, and Councillor Sansom, the Independents. Do you see that?  
---Yes.

And you say at paragraph 21 “As a professional I say it was unusual to see all sides of politics coming together on the matter.” What do you mean by “coming together” in that context?---In the sense that you very rarely see them come together to form a view about an application. In other words, be in the room at the same time and have what appeared to be, from their manner, a fairly consistent positive attitude to the development. So, what  
10 I’m trying to convey here in that sentence is that they were not coming from different vantages about the idea of the planning proposal, but they were consistent in, what appeared to be, a support at that time for the planning proposal.

All right. So you understood each of those three councillors to support the planning proposal at this time?---Yes. They were coming with the intent to be informed but it was quite clear that there were not, no negative  
20 dispersions or attitudes being placed on the idea of changing the zoning and changing the height limits for the site.

All right. But you say that you understood the staff to be less enthusiastic about the proposal. What views did the staff express at this meeting?---I say that often in my statements, that there seems to be some reluctance from various staff, there were particular staff who did not support the loss of employment lands within Hurstville at that time and they sought, the site was used for industrial purposes and they were trying to retain employment within those areas. And those groups were very reluctant to seek change, or they were in the process of undertaking planning studies that would take a passage of time, they wanted to collect the data about employment within  
30 Hurstville and its relationship to those sites. There were other staff, however, at the council were, as I say, fairly neutral about the matter and so it was not consistently negative, it was, there were, as one would expect with planners employed by council, a variety of views. There was certainly a range of attitudes, it seemed to me.

All right. Can you remember, and I appreciate it’s a long time ago, the words actually used by Mr Hindi in this meeting to convey his view on the proposal?---I can’t recall exact words but I recall words to the effect, “It’s, it’s a good idea. We want to see change in Hurstville.” In this application,  
40 what is pertinent is that the application was not just for residential buildings but included large-format retail and also a hotel. So I recall a very positive

attitude to the idea of bringing hotel in, because obviously Hurstville is close to the airport, international travellers, it's an Asian community, words to the effect that the hotel would be a venue for promoting business within Hurstville, that it would be well received.

All right. Then at paragraph 26 you refer to another meeting and this one, you say, occurred on 18 May, 2015 at a Japanese restaurant. Do you see that?---Yes.

10 And you say that Philip Uy was in attendance at this meeting.---Yeah. Philip asked me to attend this meeting at this Japanese restaurant in what I recall Lower George Street.

All right. And when you got there you saw Philip Uy and Councillor Hindi sitting together at a table, is that right?---Yes. I was asked to attend the meeting. I wasn't sure if Councillor Hindi was going to be there, but he was there.

20 You weren't told in advance that he was going to be there?---I was not told in that case that "You will meet a councillor" or words to that effect. I was unclear about the purpose of the meeting.

All right. But you recognised him at this meeting, of course, because you'd just met with him on 5 May at council, is that right?---And, and had seen him in other circumstances at what was then Hurstville Council.

30 Okay. And you say in paragraph 27 "It was either at this meeting or a later meeting at a Japanese restaurant that Councillor Hindi's wife, Mireille Hindi, was also in attendance." Do you see that?---Yes.

So you can't recall whether it was this meeting or a later meeting but you have a recollection of Mrs Hindi being present at a meeting?---Yes. I have a very clear recollection of meeting her. I found her name to be unusual. I was curious about the lady and I remember a conversation at either this meeting or another meeting where she talked about her involvement in local political issues in the Hurstville area.

40 All right. And when you say "another meeting", it was another meeting at a Japanese restaurant that happened?---Correct.

At the same Japanese restaurant?---Yes. It was the same Japanese restaurant.

All right. And you say in paragraph 27, you got the sense that Philip Uy and Councillor Hindi were familiar to each other. Why did you get that sense?---Initially the conversation was very, not formal, it was very informal and it was friendly.

10 All right. And in paragraph 28 you say that Mr Hindi talked about how council may deliberate on the planning proposal. Do you recall the words he actually used?---I can't recall with any exactitude. He was aware it was being lodged and he, he gave me an indication that it would be considered by council but I can't be anymore exact than that.

All right. And you left the meeting, you say, after about 40 to 50 minutes but Philip Uy and Councillor Hindi stayed, is that right?---Yes. The, the meeting was, we, we had food, it was ordered on a little touchscreen menu, I recall. It was a novelty for me to see that form of ordering. And I  
20 remember eating sushi or similar dishes and then leaving. There was no intensive conversation about architectural planning. It was a very general meeting.

All right. Is it usual in your experience to meet offsite with a client and a councillor to discuss a planning proposal or other application that is intended to be lodged before council or is before council?---It's, it's highly unusual. I can't think of any other time in New South Wales where I have attended a meeting with a councillor to discuss a planning proposal, a meeting, yeah.

30 You mean with a councillor offsite?---With a councillor offsite, yes.

And with the client there as well.---With the client, yeah.

You say in your statement that you have two numbers for Mr Hindi in your mobile phone, paragraph 29. Do you see that?---Yes.

And you believe Mrs Hindi gave them to you. Is that right?---I believe so and I suspect she, this probably arose from her being present at the first meeting but I can't be certain.  
40

And you can't think of any reason why you would have Councillor Hindi's numbers in your phone other than in connection with Landmark Square.  
---No. No, I had no need to speak with him. I have known him. I do do other projects in the Hurstville area but I, I very rarely would call a councillor to lobby them. I find that's not very fruitful.

And can you recall ever using those numbers for Councillor Hindi? Have you called him, texted him?---I believe I did, in part because I was asked to by Mireille Hindi, but I can't recall it specifically.

10

Sorry, you think you did actually call or text Councillor Hindi?---I believe I was invited to call him and I may have called him. I can't be sure.

And when you say invited, do you mean by Mireille Hindi?---Correct.

Okay. And can you recall when those calls were made to Councillor Hindi?---I can't recall any specific. Any call I was aware of I placed in my statement. I can't think of anything else other what I understand to be in my statement.

20

All right. And you also stay in your statement you have the number for Mr Sansom in your mobile phone. Is that right?---Yes.

And can you think of any reason why you would have his telephone number other than in connection with Landmark Square?---No, no. I, I have, believe I was given his phone number on a business card at that meeting in early May 2015.

And you also have Mr Badalati's number in your phone. Correct?---That's correct.

30

And can you think of any reason you would have that number other than in connection with Landmark Square?---No, no.

Is it usual in your experience to have councillors' direct phone numbers?  
---I, in my experience I do have certain councillors' phone numbers on my phone and I do contact them from time to time to understand things that may be occurring at council. For instance there's the current Mayor of Georges River Council has been known to me for some time. A man called Nick Katris. I have his phone number. I've called him several times. He's an architect by trade so we're somewhat colleagues so, but over the years I

40

have very few councillor phone numbers on my phone. We usually look them up from the council website if I need to contact them. It's very exceptional.

And is it usual for councillors to call you about particular proposals or DAs that are before council?---It happens very rarely but it has happened. I can't give you any instances but on this particular matter I had more interaction without any doubt by far than anything else I've ever had in my professional experience.

10

More interactions with councillors personally you mean?---Correct.

All right. You also have Mrs Hindi's number in your phone. Is that right?  
---Yes, yes.

And Mrs Hindi gave that phone number to you.---Yes.

And you think that's likely in connection with Landmark Square as well?

20 ---Yes. Specifically in relation to that meeting I attended at a Japanese restaurant. I think she invited me to have her number and to call her if required.

And you say at paragraph 34, "Mrs Hindi said it was difficult to speak to Councillor Hindi but she would be available to be contacted." Is that right?

---That's correct.

Does she have any particular planning expertise as far as you're aware?

30 ---No, I don't think she has any planning experience. She has political expertise in the Hurstville area but what order I can't give with any exactitude. When I met her I believe at that Japanese restaurant she told me about her lobbying for the upgrade of a bridge near Allawah Station and she said she'd actively pursued that. Now, I haven't gone to any detail in my statement on that but I recall that she made those comments to me that she was participating in lobbying for projects in the Hurstville area.

Did you have any idea as to how Mrs Hindi could help you with the Landmark Square planning proposal?---I didn't think she could help me very much, other than her connection with her husband, Mr Hindi.

40 And you say at paragraph 34 that you were suspicious as to why the wife of a councillor was getting involved in a planning proposal. Can you elaborate

on that? Did you have a particular suspicion as to why she might be getting involved?---No. I, I found it very odd and awkward. I, I very rarely meet councillors, as I said, and then I very rarely meet, I've never met their wives or partners. So it was, it was highly unusual and so I thought there was a great deal of enthusiasm from her towards the application and she was trying to express her willingness that the application be supported and her enthusiasm to do whatever she could in her capacity to assist the application in its journey through council's review.

10 All right. Did she actually convey that enthusiasm to you? Can you recall what words she used when you met her?---No. I can't recall any specific words. It was just a sense of, you know, she was behind it and supporting the application but not saying she could do anything to help specifically within her capacity.

All right. And so if you understood you needed to get in touch with Councillor Hindi, you understood that you should really be calling Mrs Hindi first, is that right?---Yes. The, the comment that I recall, a  
20 of, he's a busy man, and if you need to speak with him then you can call my number in order to make connection with him."

All right. Had you had previously dealing with Mireille Hindi in relation to a property on Hillcrest Avenue in South Hurstville?---Hillcrest Avenue. I can't think of it at all. It doesn't come to mind. In more recent times I have been aware of Councillor Hindi and Mireille Hindi having involvement on a waterfront property in, towards, what I understand, to be Tom Uglys Bridge. I recall several years later, this is probably 2018 or 2019, they attended my  
30 office to talk about their property and it was in relation to another client of mine who was seeking an amalgamation of two residential properties but, so, I think Councillor Hindi and Mireille Hindi attended my offices, but this was many years later and a completely different matter, but I - - -

What year was that?---I believe it was 2018/2019 and it was a site on, I can't recall the street number but it was, there's some fish and chip shops there, you know, just north of the Tom Uglys Bridge, and various owners there were seeking consolidation of sites.

All right. You took some time off between July and October 2015, is that  
40 right?---Yes. I came down with melanoma and had surgery and radiotherapy.

I'm sorry to hear that.---Well, I, I had further, further treatment and recovered very well.

I'm glad to hear that.---Yeah.

In that period, Dickson Rothschild engage Michael Gheorghiu as a consultant to work on the Landmark Square planning proposal, is that right?---That's correct.

10

Can I take you to paragraph 48 of your statement? There you refer to requesting a meeting with the Mayor of Hurstville City Council for 13 November. Do you see that?---At paragraph 48?

Yes.---At the top of page 25, yes.

Yes.---Yes.

20 And the mayor at the time was Vince Badalati, is that right?---That's correct.

And why were you requesting a meeting with the mayor in particular at this time?---As I noted in that paragraph, I was being asked by Philip Uy to request a chase-up with the mayor to present and find out where the planning proposal application was at in the review process at council.

30

All right. And did you request that Councillor Sansom or Councillor Hindi be at that meeting?---No, no. I, the conversation as noted in that paragraph was specifically Philip Ly seeking the mayor to attend the meeting.

All right. And could you just go through to page 136 of your statement? So that's a record of a meeting at Hurstville City Council on 12 November, 2015 and you've said in your statement that those notes accord with your recollection. Is that right?---I'm just looking for page 136. These pages are perhaps not paginated in the same manner.

I'm sorry.---I've got page 60 and then I have a series of exhibits behind that so if you could show me the - - -

40 I'm sorry. It's on the screen now.—Oh, thank you.

That might be easiest.---Oh, no. Thank you. Most helpful. Yes, I recall that meeting and I recall seeing those meeting notes.

Yes. And the meeting notes accord with your recollection as you said in your statement.---Yes. I think they were very complete and accurate.

All right. And you see there that Councillors Sansom and Hindi attended this meeting.---That's correct.

10 Do you know who invited them?---No, I don't.

All right. And this note indicates if you go to the next page that in the fourth-last dot point there Councillor Hindi commented that Hurstville needs a hotel. Do you see that?---That's correct.

That accords with your recollection?---Very much so.

20 And in the second-last dot point it says, "VB", which is a reference to Vince Badalati, "commented that a hotel would have a positive impact on the local economy and community benefits." That accords with your recollection. ---Yes.

All right. Could I take you back to paragraph 66 of your statement.---Yes.

And there you refer to an email that Michael, bear with me a moment. ---Gheorghiu.

30 Gheorghiu. That you sent to Michael Gheorghiu on 1 February, 2016. Do you see that?---Yes.

And attached minutes of the St George Design Review Panel regarding their meeting on 9 January, 2016.---Yes.

Is that right?---Yes.

And at that point the Design Review Panel had indicated that it did not support the Landmark Square planning proposal and required a revised submission to be prepared. Is that right?---Yes.

40 And you say in the email, "I met with Philip Ly, the client, on Saturday and he has been in touch with Councillor Hindi." Do you see that?---Yes.

So you obviously had a meeting with Philip Uy where he told you about his contact with Councillor Hindi. Is that right?---That's correct.

And can you recall the words that Philip Uy used on that occasion to describe how and why he was contacting Councillor Hindi?---It's as, as reported there. He'd been in touch with Councillor Hindi and it was specifically in relation to the feedback from the Design Review Panel and what, it was with the view that what would Councillor Hindi do having or  
10 being aware of the nature of the panel's comments about the application.

All right.---Did I make myself clear?

Yes. Did Mr Uy explain what action he hoped Councillor Hindi might take to address the fact that the panel had made some negative comments?---No, he wasn't forthcoming but I had a sense that, and this is my belief, there's a, Councillor Hindi would have voting power on the application and he could overturn or bring along the other councillors. Even despite having a  
20 negative report, he was sufficiently powerful in the Hurstville Council at that time to vote and garner support for the application despite having had a negative feedback comment from the Design Review Panel.

All right. What's the basis for your belief that Councillor Hindi had power amongst the councillors and was able to marshal support amongst other councillors?---Well, in my professional career I have worked in the Hurstville/St George area for many years and Councillor Hindi is known as a very vocal person on council. Has a strong support base and following from other councillors. So he's known as a powerbroker in the area, but also I knew that he was particularly strong on this particular application.  
30 This was a large site, about 1.4 hectares of land between Hurstville Station and Allawah, so it's not usual to get such large industrial sites in town centres, so I believe that Councillor Hindi was following the application with great interest and intending great support for it. So the fact we had a knock-back from a Design Review Panel is in New South Wales and in Sydney not particularly unusual, but it does occur. You try and get the support of a Design Review Panel but sometimes professionals don't always agree with each other, and political support may be necessary to still have an application succeed under council's review.

40 All right. So Mr Uy didn't give you specifics as to how or when he had contacted Councillor Hindi, is that right?---No, no. I did not get any

specifics from Philip Uy. I have to say, Philip Uy's English is not always easy to understand, and I have no idea of the nature of his discussions with Councillor Hindi in terms of gathering his support or what may have been transpiring. Whether it was purely to speak with him or other transactions, I have no idea.

10 All right. And you say in paragraph 66 that Philip Uy would speak about his conversations with Councillor Hindi not by reference to his name – that is Councillor Hindi's name, I take it – but he called him “the Fat Man”, is that right?---It was, it was highly unusual and it was, the nature of the conversation was quite – Philip was quite a friendly man and he would imply that his communication with Councillor Hindi was quite regular and that they were on some sort of almost jocular terms with each other. I would never use that term regarding a councillor or any other person, but they seemed to know each other in a friendly sort of way. I don't know anything of the banter between them but, as a matter of fact he would tell me that he had nicknamed Councillor Hindi that name. It stuck in my mind. It was highly unusual.

20 All right. And so on this occasion, when Philip Uy told you that he'd been in touch with Councillor Hindi following the Design Review Panel meeting, did he say, “I've been in touch with Councillor Hindi,” or did he say, “I've been in touch with the Fat Man”?---No, he said Councillor Hindi.

Oh, he did on that occasion?---Yes. And I think there were a couple of sentences and it would have been “Councillor Hindi” and “I call him the Fat Man,” that sort of follow-on sentence to the first sentence, if you take my meaning.

30 All right. Did Mr Uy have nicknames for other councillors?---No, not that I'm aware of.

No.---No.

40 And but you say he had a practice of referring to Councillor Hindi as the Fat Man, is that right? He used it on other occasions?---He, he only used it once or twice with me I can recall in all that period of time, but it gave me the, a very distinct impression that the communication was between Philip Uy and Councillor Hindi more than it might have been with other councillors. So he, he may have talked to the other councillors was the impression I had. I don't know the facts on that. But I got the sense that Philip Uy and

Councillor Hindi were closer than the relationship between Philip Uy and Councillor Badalati or Councillor Sansom. Very rarely would I hear the names of Councillor Badalati or Councillor Sansom.

All right. So you have no doubt from the context in which the words Fat Man were used that it was a reference to Councillor Hindi, is that right?  
---No doubt at all.

10 Okay. Did you get a sense of how often Philip Uy was talking to Councillor Hindi about Landmark Square?---I can't be exact as to the frequency, but I understood it to be weekly and possibly almost daily.

THE COMMISSIONER: Can I just ask you what that understanding is based upon?---I can't be exact, Commissioner. I have to say that it's, it's just the sense of the friendliness of the dialogue in which Philip Uy would mention his name and infer that they were in touch. But I can't go to any specific fact that is without factual basis.

20 Thank you.

MS HEGER: All right. Could I show you a document which is at volume 2.30, page 13.---Is it, it's coming on the screen, I take it?

It is coming on the screen.---Okay, thank you.

And I want you to look at message number 112 and this is a message from yourself to Philip Uy on 11 February, 2016 at 6.06pm. Do you see that?  
---Yes. I, I see it.

30 And it says, "Philip, please call me ASAP re meeting with Fat Guy".---Yes. I haven't seen this before but I do recall that. I think it's a WeChat message and I don't use that account anymore. So it was unusual. I primarily had that account in order to reach Philip Uy and I used the, the term "Fat Guy" there to make it clear to him who I was speaking about.

And who are you speaking about?---Councillor Hindi.

40 All right. Sorry, you mentioned that you had the WeChat account primarily to get in touch with Philip Uy. How did that come about? Did Philip Uy ask you to set up a WeChat account?---I can't be sure about that. There was a time I had a WeChat account because I was in contact with a number of

Chinese people. I was doing some work in China over the years so it was convenient to have a WeChat account. I closed the account down because I, I saw in the media that there was some concerns about WeChat. So I haven't used it for many years. So to answer your question, I may have had it because of Philip but I may not have, I can't be exact about that.

All right. And when you say - - -?---But he did travel to Hong Kong quite a bit, or, and to mainland China. So it was a way to reach him when he was not in Australia.

10

Okay. And you say "Philip, please call me ASAP re meeting with Fat Guy." Can you remember what that meeting is that you're referring to there?---The date was 11 February, so at this point the planning proposal was getting closer to the consideration and council meeting. So I, I can't give you any more advice other than it was probably in relation to understanding what Councillor Hindi and the other councillors may be doing to support the application.

20 All right. Did Philip Uy at any point give you an indication of which way he expected Councillor Hindi to vote?---Philip Uy and I never had a conversation along those lines because it was generally, in my view, understood that Councillor Hindi supported the application wholeheartedly.

And so you had an expectation that when it came before council on 20 April, 2016 Councillor Hindi would be voting in favour of the proposal?---I knew we'd have a lot of support from Councillor Hindi. I didn't know what other councillors may think about it.

30 What about Philip Sansom, did you have an expectation that he would vote in favour of the planning proposal?---No. I didn't have a lot of contact during this period with Philip Sansom. There were contacts, as stated in my statement, but I, I have known Philip Sansom over the years and he is, he votes quite independently I observe on other matters. And so I could not be at all certain what Philip Sansom would say. I, I know he attended meetings with me in May 2015 and seemed to support the application holistically but over the passage of time I couldn't be sure which way he would vote. I probably had a sense, and I still have a sense today that Councillor Badalati was in support, but there were other councillors there and there were a large group of them, so I wouldn't know which way they would all collectively  
40 support, think of the application.

Did you expect that Vince Badalati would vote in favour of the proposal on 20 April?---I expected so, yes. Having seen him at meetings and heard his support for a hotel in Hurstville.

All right. At paragraph 75 of your statement you refer to a meeting in February 2016 at the Novotel at Brighton-Le-Sands. Do you see that?---I'm just turning there. I recall the meeting, yes.

10 Sorry, I should mark for identification that message I just went to. It will be MFI 9.

THE COMMISSIONER: Thank you. That will be marked MFI 9.

**#MFI-009 – VOLUME 2.30, PAGE 13, MESSAGE NUMBER 112**

20 And at paragraph 75 you say, “The meeting was exceptional and that it was held in a courtyard atrium of the hotel and I had not been there before and did not see the purpose of my attendance.” Do you see that?---Yes.

You say that Philip Uy, Wensheng Liu and Councillors Hindi and Badalati attended this meeting. Is that still your recollection?---Yes.

30 And this one seems to be a little different from the previous meetings you describe in that Wensheng Liu was there. Do you know why he attended this meeting in particular? What was your understanding?---No, I have, I can't be in any way informative about that. He very rarely attended any conversations on this project. I would see him from time to time but I was always introduced to Mr Liu as Mr Liu. Kurt Vegners and others called him Mr Liu and there was a weird formality about the relationship. He did not attend any discussions about the project in any detail. I only ever really met him in his office so I never really met him outside the office, so I was very surprised to see him at the meeting because usually it had been Philip Uy who was asking me to go to meetings and I was never sure who would turn up.

40 And again was it unusual to meet councillors and a client offsite in this way as in outside of council offices?---It's extremely unusual. It was also in the nature of the setting. It was an atrium space and there were, we were sitting in individual lounge chairs. It was kind of an atrium space with plants and

so forth and it was informal but they appeared to be there to discuss something and I came to be, as I was requested to do. I didn't stay very long. The meeting was inconvenient to me because it was on a Saturday and I wanted to spend time with my family and so I, how do I say it, clearly I tried to leave as quickly as I could.

All right. And you recall Landmark Square being discussed at this meeting.---The whole conversation was focused on the planning proposal as it was being brought up to consideration by council.

10

All right. And can you recall the words that Councillor Hindi used at this meeting in relation to the planning proposal?---I can't with any exactitude. I don't think I've got anything in my statement but I just want to be accurate about what I said. It was just a very friendly, positive gathering at that time.

You say at paragraph 75, "The councillors talked about when the planning proposal could be put to council and I understood they were talking to council staff about this."---Yes.

20 Do you see that?---Yes.

Do you recall Councillor Hindi saying anything specific on that topic?---No. There was, there was nothing more specific than what I have in that sentence. To put it into a context, it was all about finding the meeting time that the paper on the planning proposal would be put up to council for their vote. They had to consider the planning reports, the traffic reports, the heritage report and the economic impact assessment and then the comments coming from the Design Review Panel but I think council had also undertaken separate urban design studies. So we were seeking a time to say

30 when is it going to go up for a vote and I recall there was an atmosphere that Philip Ly in particular, Philip Uy was wanting to get it onto the agenda as quickly as possible. So if I came away with a comment on this meeting it was about trying to get the application brought up to a council meeting so they could vote on it sooner but I can't be any more specific about the matter.

All right. And in that statement that I read out, "The councillors talked about when the planning proposal could be put to council," is it your recollection that both Councillor Hindi and Councillor Badalati spoke to

40 that topic?---Yes, they were both speaking at the meeting.

Did one do more talking than the other?---Yes. When I've seen the two councillors together, it hasn't been too many times but, just the one stated, it's usually Councillor Hindi who talks more. Badalati is still quite talkative but not perhaps to the same degree. I'm sorry, that's a very vague comment but I'm just trying to be helpful to the Commission.

I understand. At paragraph 83 you talk about another meeting that occurred on 14 March, 2016.---Yes.

10 You say that Philip Uy asked you to attend and said the Fat Man was going to be there. Is that your recollection?---Yes, it was a highly unusual meeting because it was in a coffee shop in Surry Hills, which is not generally a commercial area in which one has meetings. And I remember walking up from Central Station to the meeting, and I believe Councillor Hindi and Philip Uy were already present, and I sat there for a short period of time and I asked Councillor Hindi why were we meeting there, and he said, "Look, I don't have much time. I'm doing some work for Ausgrid on a substation tunnelling project nearby, so this is the only time I had." I believe it was dreadfully early in the morning.

20

All right. And you say in the last sentence, "Councillor Hindi was at the meeting to report to Philip Ly about the progress of Landmark Square at council." That's still your recollection?---Yes.

And can you recall the words that Councillor Hindi used?---Best recollection I give and it's, I can't be exact about it, but the application is "tracking well at council" or words to that effect, implying that it was trying to get on an agenda, a report may have been drafted. It was comments of that nature.

30

All right. Did Councillor Hindi refer to any particular discussions he'd had with council staff on the topic?---No, no.

Can I show you another document, which will come up onscreen, and it's volume 2.12, page 5.---It's on my screen. I can - - -

Yes. You see message number 2 there?---Yes.

40 It indicates it's from Malcolm Hindi to yourself. You recognise your telephone number there?---Yes, that's my phone number.

That's your phone number. The date is 23 March, 2016, at 11.17am, and the body of the message is an email address. Do you see that?---Yes, malcolm\_hindi@[REDACTED].

Just stop there a moment. I don't need you to read out that email address. But the body of the text message in the last column is a Sydney Realty address. Do you see that?---Yes, I do.

10 Do you associate that address with any particular person?---No, I have no recollection of that email address.

All right. You're aware that Mrs Hindi has a real estate agency called Sydney Realty?---No, I, it doesn't come to mind.

All right. Well, if I tell you that she does in fact have a real estate agency called Sydney Realty, does that jog your memory as to why you might have been receiving this message at this time?---It does jog my memory but I can't put any more substance to it than that.

20 All right. Back in your statement at paragraph 88. Sorry, I'll mark that for identification number 10.

THE COMMISSIONER: Thank you.

**#MFI-010 – VOLUME 2.12, PAGE 5, MESSAGE NUMBER 2**

30 MS HEGER: At paragraph 88 you refer to an email from Michael Gheorghiu to Elaine Tang on 15 April, 2016. You see that?---Yes.

And the email referred to the fact that council had issued their agenda and assessment report for the planning proposal. Do you see that?---Yes.

And it set out what staff were recommending, which included that the height for site A be reduced from 65 metres to 40 metres. Do you see that?---Yes.

40 And also that the site B would be reduced from 25 metres to 18 metres. Do you see that?---Yes.

And also that the FSR across the whole site be capped to 2.5:1. Do you see that?---Yes.

And of course the planning proposal had proposed something higher, 3.5:1, is that right?---That's correct.

And when you saw the council's report, presumably you read it around this time?---Yes, I did.

10 And what did you think your prospects were of the planning proposal and in particular the heights and FSR that you'd sought being approved at the upcoming council meeting? What did you consider the prospects of your proposal being approved to be?---Well, I, I considered the outcome of, having seen the council report suggest the planning proposal would get up, that the land use would be changed from industrial to mixed-use residential and that R2 uses would prevail and, and that council was willing to give certain heights for buildings. So lesser outcome but I still viewed that as a reasonably successful outcome because planning proposals are a, a matter of seeking a variety of scenarios and then I respect the council staff make the  
20 interpretation of what they see to be acceptable. So looking at this, I see it to be in some ways a favourable outcome from council but I know that we were seeking more height and we were particularly interested in the ability to get a hotel in the building. And from a planning point of view, architectural point of view, having a hotel, it's not the most likely strongest return in an economic sense so it had to be, in some ways, subsidised by more residential. So my sense, as soon as those sort of yields come out, professionally I would say, well, the, the hotel would not be able to be provided on the site with those sort of yields.

30 All right. But certainly, I take it, you thought the prospects of getting the height that you sought, 65 metres, were low?---Definitely on the lower side. I have had, in my experience, decisions of council staff overturned but in this case I thought we didn't have a lot of good prospect.

All right. And I take it the same applies in terms of the prospects of getting a full 25 metres on site B? You thought the prospects were low?---No. Site B was more difficult to get the height, so yeah.

40 So you thought the prospects were low?---Similar, yeah.

All right. And in terms of getting the FSR that you had sought, 3.5:1, I take it you thought the prospects of getting that were low as well?---I, I, I would say they were low and to inform the Commission, we provided, we prepared a number of scenarios over time with much higher FSRs, even to 5.3. So keeping around 3.5 was seen by us to be already a fairly big compromise from the earlier design proposals. Then to come down to these lower levels was on the disappointing end of things but it was still, had some merit.

10 And Mr Gheorghiu says in his email, having set out the council staff's recommendation, he says "Discussions need to occur at the relevant political levels to make them aware of the recommendation." I appreciate this isn't your email but what did you understand Mr Gheorghiu to mean by that statement?---I believe he was meaning to speak with the councillors. He could also mean speak with other senior members of council such as the general manager or directors of planning.

20 All right. And to the extent you understood it to be a reference to councillors, did you understand it to be a reference to be a reference to particular councillors or just the councillors generally?---Yes. There was no question that dialogue had been had with Councillor Hindi as the principal lobbyist, if I use that term, amongst the councillors. So I would say it would be likely, a strong suggestion from Mr Gheorghiu, as I read this email, to say that the, the client group should speak with Councillor Hindi.

All right. You attended the council meeting on 20 April, 2016, where the planning proposal was due to be considered, is that right?---Yes.

30 And you spoke in favour of the proposal?---I spoke about the proposal for a period of time. Michael (not transcribable) spoke, I believe, at that meeting.

All right. And then ultimately council voted in favour of a 60-metre height on site A, didn't it?---Yes.

And also a 25-metre height on site B, is that right?---That's correct.

And I'm just pulling up my note of it. Someone will correct me if I'm wrong in this statement, but they voted in favour of a 3.5:1 FSR as well on site A, is that right?---I believe so.

40 Yes. So what was your reaction when council passed a resolution to that effect?---I recall the meeting very clearly. I think I was momentarily

stunned because of the, it was a complete overturn of the council staff recommendation. I was surprised that the councillors all voted consistent with the planning proposal. And I say that because sometimes there is a mediation between the council staff position and the applicant's position, and so as things will be that there's a midway point. But what eventuated here is that I believe we attained, in that council vote that evening, the full extent that we were asking for.

10 All right. I think you said earlier that all councillors voted in favour. That might have just been a slip. The minutes of course record that one councillor was not in favour, but otherwise they were in support, that's your recollection, isn't it?---Yes, now that I recall the meeting, it was almost unanimous.

Yes.---But I can't recall who voted against it. I can't - - -

Yes.---There was one now that I, now that you mention it to me.

20 Now, at paragraph 95 of your statement, sorry, 96, if we just scroll down to 96 and over onto the next page. You refer to the Councillor Hindi and Badalati being powerbrokers of the Labor and Liberal factions within the councillors at Hurstville City Council. Can you just elaborate on that? What do you mean when you say they were powerbrokers?---I saw them as being very important representatives of their respective parties. I'm not an expert on the political landscape of Hurstville City Council, so I understand they were representing those parties but I may not be correct. But over a period of time when I have brought forward applications at Hurstville City Council, it had been necessary to meet Councillor Badalati, and at other times I've met Councillor Hindi, and both were known to be very vocal  
30 about the future of Hurstville. Councillor Sansom also had very strong opinions, and I recall attending meetings back in 2008 where Councillor Sansom had very strong sentiments about Hurstville, and I believe he actually lived in Hurstville, so he was quite connected, I believe, to the Asian community there.

All right. And you say in paragraph 96 you believe the favourable outcome for your client was based on the favourable vote of Councillors Hindi and Badalati as powerbrokers. What's the basis for that opinion?---Other than  
40 that I believe they were strong and they were able to coalesce the other councillors to follow along on that line and speak positively about the benefits of the hotel and the development that was proposed. I believe they

had strong support for the economic benefit of a hotel. That was really the linchpin of the application.

All right. And you say this was achieved from the involvement of Philip Ly. What do you mean by that?---I believe Philip, his main role was to speak regularly with the councillors to engender their support and ensure the application had their support. So his main role, I understood was as a communicator between the applicant and the councillors.

- 10 And was that based on things that Philip had told you about the extent of his communication with councillors and the purpose of it?---Yes. Only that he was readily in touch with him.

All right. And presumably it was also based on your observation of interactions between Philip and the councillors when you all met together. Is that right?---Yes. And to be clear it was based on the informality of their knowing each other. They were clearly on close terms with each other.

- 20 At paragraph 100 of your statement you say, “I knew that he”, that is Philip Uy, “was wining and dining, holding events and was actively courting favour with the councillors.” Can you be a bit more specific? Are you referring to particular councillors there?---I can’t be any more specific other than I got a distinct impression that Philip Uy was meeting regularly with councillors, and when I take it to be councillors I mean Councillor Hindi and Councillor Badalati. I don’t know about Philip Uy’s communication with Councillor Sansom or any other councillor but I got the distinct impression, and it’s now looking at it with many years’ perspective, that they were regularly in touch with each other.

- 30 All right. Can you give any specific examples of when, you used the words “wining and dining”, can you give specific examples of Philip Uy taking Mr Badalati or Mr Hindi out to lunch or dinner?---Philip, I met Philip Ly at restaurants generally and we’d meet at a Zilver Restaurant or, and Table Eight I think it was in Haymarket but I knew that Philip was very actively coming almost daily to Hurstville and he was actively in a, involved in a Chinese restaurant at what was then called the Catholic Club, so I believe he was at that restaurant nearly daily. So, now, this is not a factual observation. I got a sense he was regularly coming to Hurstville to meet at lunch with people and I got the sense he was, sometimes they would be  
40 councillors or other business people he was dealing with in the Hurstville area, but I can’t be any more specific about the passage of time.

When you went out to coffee or lunch with Philip Uy and Mr Badalati was present, did you ever witness Philip Uy pay for Mr Badalati?---No. I'm trying to think of when I just had an event with Philip Uy and Councillor Badalati but I can't think of the two of them by themselves. Maybe you can correct me if there was something I'm missing in my statement but - - -

10 Well, even if somebody else was present there, can you remember any occasions where Philip Uy paid for Mr Badalati?---No. My, the meetings I attended I usually left before the account was settled so I cannot be exact about who might have paid for some of these meals.

All right. And did you ever witness Philip Uy pay for Mr Hindi?---No, no.

Okay. So the meetings at the Japanese restaurant that you referred to, you said there were two of them.---Yes.

20 And at the first one Philip Uy and Councillor Hindi were present.---And possibly Mireille Hindi.

And possibly Mireille Hindi at that one. You left before the account was settled. Is that right?---Correct.

So you certainly didn't pay for your own - - -?---No.

- - - lunch on that occasion?---No.

All right. Do you have any idea who did pay?---I can't be sure.

30 Right.---I'd have to be, I suspect it might have been Philip Uy but I can't, I have no fact to underline that.

All right. And as for the second meeting that occurred at the Japanese restaurant is it the case for that one that you left before the account was paid again?---Yes.

Right. So you didn't pay for your meal on that occasion?---I didn't pay for my accommodation - - -

40 For your meal.---Meal and I suspect Philip Uy might have paid but I can't be sure. That's without substance.

At paragraph 102 of this statement you refer to an invoice number 1624 which as you can see from the quoted text in italics above refer to a meeting on 9 May, 2016. Do you see that?---Yes.

And at the time you couldn't remember what that meeting concerned but subsequently you did form a recollection of that meeting, is that right, and that was the subject of your second statement?---Yes.

10 All right. Can I take you to the second statement then of 10 March, 2022. At paragraph 12 you say you recall the meeting was in a private function room with a very large round table with a lazy Susan. You'd earlier said at paragraph 8 that it was a restaurant now called Eight. Can you see that?---Yes. Which paragraph are you on, please?

I was at paragraph, well starting with 10.---Yes. Yes. Yes, I've read - - -

So you attended a dinner at a Chinese restaurant which is now called Eight on 9 May, 2016. Is that right?---That's correct.

20

And at paragraph 12, you say that Mr Liu was there, that is Wensheng Liu, is that right?---That's correct.

And Elaine Tang was there?---Yes.

Mr Badalati was there?---Yes.

Mr Hindi was there?---Yes.

30 And Philip Uy was there?---Yes.

And you say Mrs Hindi might have been there but you can't be sure, is that right?---Yes.

And there were also some other people who you understand to be business associates of Mr Liu, is that right?---That's correct.

40 In paragraph 13 you say, "I understood there was a connection between the outcome at the most recent council meeting and the dinner which was celebratory in nature." What was the basis for that understanding?---I recall

the date of this meeting was shortly after the planning proposal was voted on by council.

Yes. That vote took place on 20 April, 2016?---Yes. And this dinner occurred around 9 May and I believe at that same meeting there was a possible investor who I have referred to in paragraph 10 attend the meeting and so it was, I understood the context of the meeting, I, I hadn't expected to go to this dinner but I was meeting in Hurstville and then I was asked to come to the meeting and Elaine Tang drove me to the meeting. I entered a  
10 large room with Elaine and I sat next to her at the meeting and, and witnessed the meeting with, I believe Councillor Badalati was on one side and Councillor Hindi on the other and then Mr Liu was sitting, as you might call it, at the head of the table across from me. So it was, yeah, with my back to the door. I remember clearly, I remember it was a banquet style meal with several courses.

All right. So nobody said to you "This is to celebrate the recent council vote," did they?---No. There, there was a very happy atmosphere and I believe there were some toasts and things of that nature. So when I say  
20 celebratory I meant that there was congratulations on your hard work and comments of that broad nature.

Congratulations extended to you personally?---No. I think the whole team, the, the people around the table. It wasn't celebrating my work per se, they were pleased the deal, deal had finished but it was really – I, I also understood, and I have no facts on this, but I understood this, this investor had come, was interested in the site and there had been a lot of overtures about the potential of the site to that investor. So I never saw the investor again, I don't have their information, but I understood there was some  
30 possible transfer of the site to that investor but I can't give you any detail on that.

You understood that an investor, someone who had invested in Landmark Square in some way, was present at this dinner, is that right?---Yes. If you look at my statement, there was a recollection at some time there was an investor in Hong Kong and I, I was asked to write a letter to an investor. So I knew that they were seeking investors for the site. I, I really was only helping where I could to write a letter which set up the background of the project, but I could see the site was being courted. On all of my, our files,  
40 we have visual representations of what the hotel, what the building might look like, that could appeal to investors.

All right. And so you say congratulations were being issued. Was specific reference made to Landmark Square in the context of those congratulations?---Yes. I think I could say that the whole event really was to celebrate the planning proposal coming to fruition and the site being recommended for rezoning in the manner it had been by, at that council meeting.

10 All right. At that council meeting on 20 April, the voluntary planning agreement offer for Treacy Street was also voted on, wasn't it?---I believe it might have been, yes. I know it was about the same time and we were – I just can't recall exactly it being voted on at the same meeting. Landmark Square was so overwhelmingly the focus of my concentration at the time.

I understand. Well, I can tell you that it was voted on on that occasion and council voted to support, to accept the VPA offer at that time. You had also been doing some work on 1-5 Treacy Street, is that right?---Correct. We were the architects in 2014 for a new design for that site, and as part of that work there was a voluntary planning agreement which brought forward  
20 public domain upgrades around the site and transferred a section of land, I recall it, about a metre of land to effect a road widening to allow access below the railway bridge on the, what would be the south-western side of the site.

Did you understand the congratulations to be in respect of your work on Treacy Street as well?---It, it could have been, but I must say the focus was really on Landmark Square. I think we all expected the VPA to be successful on Treacy Street because it was very pragmatic and well founded in terms of the public domain upgrades and land transfers to effect a road  
30 widening.

All right. I only have - - -?---It wasn't, shall I say, as risky or speculative.

Okay. And you know who paid for the dinner on this occasion?---No, I don't.

You didn't pay for your own dinner?---No. It would be not something I was asked to pay for. And there was certainly not split bills occurring. That'd be to my, best of my knowledge.  
40

Did you witness anybody paying for anything?---No, no.

No. I only have a couple more questions. One Capital ultimately sold the options for Landmark Square in late 2017. Do you recall that?---I'm aware of it but at that time I was not following the project closely, but I was aware that it had been transferred about that time.

All right. And you recall the Gateway Determination was issued in October 2017, do you remember that?---Yes.

- 10 Were you still doing work for One Capital on the planning proposal at this point?---Most of the work at that time was being attended to by Michael Gheorghiu. Because of my illness and surgery, I generally stepped away from the Landmark Square project prior to surgery, but when I was requested to, I attended certain functions such as I spoke at the planning proposal presentation. I kept track then, but the responsibility for the delivery of Landmark Square largely was borne by Michael Gheorghiu.

All right, so - - -?---And I reduced my work hours to let myself recover.

- 20 All right. So Michael Gheorghiu had the day-to-day responsibility, is that right?---Yes.

But you were still involved at a high level.---I was still available to attend meetings if required.

All right. Can I just show you a document at volume 2.12, page 29. If you look at message number 92. Sorry, starting with 91. It's a message from yourself to that email address for Malcolm Hindi. Do you see that?---Yes, I do.

- 30 That's dated 18 January, 2018 at 11.59am. You now know that Malcolm Hindi is of course Mr and Mrs Hindi's son, is that right?---I suspected so. I was never sure.

All right. But you didn't have any need to communicate with Malcolm Hindi at this time, did you?---No. No, I don't know who that person is.

All right. The body of the text says, "Do you still wish to catch up today? Please let me know. Regards, Nigel."---Yes.

- 40

And then you'll see in the next message, on the same day, message number 92 at 12.08pm, you have a response that says, "Sorry, Nigel. Con is stuck at work and can't make it. We're going away tomorrow and back on 28 Jan. I will call you then to arrange a meeting. Thanks, Mireille." You see that?  
---Yes.

Can you recall why you were attempting to arrange a meeting with Mrs Hindi at this time?---Earlier in my evidence today I've referred to the matter on the Princes Highway near Tom Uglys Bridge and looking at this email, I  
10 haven't considered this for a while, but looking at the time, 2018, it may have been related to those sites that my client, a lady called Effie, and I was reaching out to them to see if they wanted to discuss their landholding. This, I believe, was a completely different matter to Landmark Square but I could be incorrect in what I'm saying. I'm just trying to be as truthful as I can but I believe it was, I was contacting them to say "Did you want to come and have a talk about these other sites?"

I understand. Mrs Hindi says, "Con is stuck at work." Is it your  
recollection that it was intended that Mr Hindi would attend this meeting?  
20 ---I, I wasn't sure who would come to the meeting. I (not transcribable) recall that we did, I did have both Mrs Hindi and Councillor Hindi at my office some period of time later, and I did meet with them about the subject site and, and the meeting was not that fruitful, they weren't interested in amalgamating the site with my client's site. So - - -

All right.---But I, I think these, these emails are in relation to that contact and I think I told my client at that time that, yes, I had those contact details and I would see if they were responsive for a meeting but - - -

30 You mentioned you also did some work on the development at 1-5 Treacy Street, Hurstville?---That's correct.

And that was for a different company, GR Capital Group, is that right?  
---Yes.

But that was also, as you understood it, Mr Liu's company as well?---I believe so, yes.

40 And GR Capital Group lodged a modification application for an extra five storeys at some point. Do you recall that?---Yes. I recall it very well.

Yes. That was in about late 2015 that was lodged?---Yes.

And that was rejected by council and then went on appeal to the Land and Environment Court, is that right?---That's correct.

Sorry, I'll mark that message I went to as MFI 11, I'm sorry. That was volume 2.12, page 29.

10 **#MFI-011 – VOLUME 2.12, PAGE 29, MESSAGE NUMBER 92**

MS HEGER: It went on appeal to the Land and Environment Court, that's right?---Correct.

And it was ultimately, so you were involved in those Land and Environment Court proceedings?---Very close. I was an expert witness in the proceedings. I recall Cassandra Duggan was our barrister, she is now a judge at the court, and I believe we finally got a consent for not five storeys but two and a half storeys. Yeah.

Yes, it was resolved by consent between the parties to approve 2.5 or two and a half storeys, is that right?---Yes, yes.

And in that context, why do you say in paragraph 104 that the project was unusually granted a consent to put another two and a half floors? Why do you use that word "unusual"?---It's, it's professional talk because the application as consented was already over the height limit at the amount that had been granted to send earlier. So it was getting two and a half floors over already consent above the permitted height level.

All right.---It's, it's only, to put it in context for the Commission, that section of Hurstville has, shall we say, very split levels. Some buildings are taller and we were seeking to align with the other buildings. So even though we had building that was over the consent, we thought there were good grounds to go to five storeys. We ended up compromising at two and a half floors by that decision of the court.

Commissioner, I have no further questions for Mr Dickson at the moment. I know there's been an application to cross-examine Mr Dickson. Should we deal with that after the break or deal with that now?

THE COMMISSIONER: Yes. I assume those who want to ask questions will be here or are they - - -

MS HEGER: It doesn't look as though those who wish to ask questions are in the room, Commissioner. We might just confirm where exactly they are and if they intend to appear.

10 THE COMMISSIONER: All right. Well, why don't we adjourn for 15 minutes and we'll deal with it then.

MS HEGER: Thank you.

THE COMMISSIONER: Thank you.

#### **SHORT ADJOURNMENT**

**[11.49am]**

20 THE COMMISSIONER: Yes.

MS HEGER: Commissioner, you've received two applications to cross-examine Mr Dickson, one from Mr Hindi's representatives and one from Mrs Hindi's representatives. I understand that both are intending to cross-examine remotely, although the applications overlap so it may be once Mr Hindi's representative has conducted the cross-examination, it may be unnecessary for Mrs Hindi to cross-examine.

30 THE COMMISSIONER: Is Mr Corsaro online, is he?

MS HEGER: I believe yes. But you won't be able to see a visual, as I understand it, just an audio.

THE COMMISSIONER: All right.

MS HEGER: Those applications aren't opposed but I wish to make just some brief submissions about them.

THE COMMISSIONER: Sure.

MS HEGER: And I should confirm Mr Dickson is not in the room and, as I understand it, can't hear anything outside.

THE COMMISSIONER: Yep.

MS HEGER: There were a couple of issues which were in accordance with your direction, Commissioner, identified for cross-examination. One was to challenge Mr Dickson's evidence that Philip Uy had spoken to Councillor Hindi. Now, if the intention is to challenge Mr Dickson's evidence as to the words used by Philip Uy, that's one thing, but if the purpose is really to dispute whether Mr Uy had any discussions at all with Councillor Hindi, that's obviously something for Mr Uy and Mr Hindi to speak to, so I'd expect any cross-examination on that topic to be fairly narrow in scope.

Another issue identified was to challenge Mr Dickson's evidence as to the reasons why he believed a successful outcome was obtained on 20 April, 2016. Of course, Mr Dickson's belief in that respect will be given appropriate weight in due course. There's of course scope for the individual councillors to give evidence on that topic and for submissions to be made about it, so I'd expect cross-examination on that issue to be narrow in scope.

And, thirdly, there is an intention to challenge Mr Dickson's understanding and belief that councillors were being wined and dined. Mr Dickson made clear that that was a belief but he did not have specific examples to offer, and so of course the weight to be given to his evidence will reflect that, and so I'd expect cross-examination on that topic to be relatively narrow in scope. Those are my submissions. I now propose to ask Mr Dickson to return to the room.

30

THE COMMISSIONER: Can I just raise a couple of things. Mr Corsaro, can you hear me?

MR CORSARO: I can, Commissioner. Can you hear me?

THE COMMISSIONER: Yeah, I can, thank you. And thanks for providing me with an application with this sort of detail, I thank you for that. Just a couple of matters that occurred to me. If you look at what was intended in respect of paragraphs 34 to 37, aren't they really matters for Mrs Hindi's representative rather than for your client?

40

MR CORSARO: I've got two issues. The first issue is of course Counsel Assisting has appropriately indicated that matters of subjective belief and impression and so on which came out of the evidence of the witness are matters of weight but still are being offered by Counsel Assisting as being relevant evidence relevant to the inquiry. So one needs to test that to the extent that one can. Secondly, the view is being given sub silentio, alternatively impressionistically, that Mrs Hindi is in some way either an amanuensis or alternatively an agent or in some way a secretary or representative of Mr Hindi. So the interests cover both areas, and that's  
10 why presumably Counsel Assisting had indicated that there's an overlap.

THE COMMISSIONER: Yeah.

MR CORSARO: That's the difficulty. And obviously the obligation of Counsel Assisting is to put before you, Commissioner, the evidence that she believes is relevant and germane to the inquiry irrespective of weight.

THE COMMISSIONER: Sure.

20 MR CORSARO: I can't at the moment foreshadow what weight there is to be attached to any of this material simply because I haven't seen everything. I don't know what's to come.

THE COMMISSIONER: All right. Can you give me some estimate as to time?

MR CORSARO: I'm sorry. I tried to think about that because during the course of today the impressionistic evidence amplified, even to the extent of Counsel Assisting asking the witness to speculate. Ordinarily, if I were  
30 able, I would have started this application by saying some of this evidence should not be permitted because it is of no weight and would not be of any assistance to you. It's just prolonging the inquiry. But that's not my duty, that's Counsel Assisting, and my obligation here is to do the best I can in order to put the material before you. I would think an hour, probably.

THE COMMISSIONER: Right.

MR CORSARO: But you know as well as I do that sometimes cross-examination is affected by how a witness answers.  
40

THE COMMISSIONER: Well, if it's of any benefit to you, you can take it from me that the Commission wouldn't rely on impressions that, where there's no factual substratum established. So where he might say, look, I found something suspicious but can't explain why, well, then you can take it from me you wouldn't give it much weight.

MR CORSARO: I accept unreservedly what you have said. I think you know me personally. I know I would not, you know I would not take a view as to what I should cross-examine about in relation to a matter like this. But  
10 at the same time Counsel Assisting has put it forward. What can I do? And I'd rather have preferred to object to it and say at the start this evidence shouldn't be given (not transcribable)

THE COMMISSIONER: No, well, in fairness to Counsel Assisting I think when she went through she made it quite clear that she was after details of, you know, why he believed certain things or, you know, suspicions and understandings and what have you and the evidence is there. But, I mean, in fact I thought it was important for her to do so, so that we can work out  
20 what's just mere speculation and what's not.

MR CORSARO: I'm not critical but the evidence, the statement was as I saw it. You saw the statement as well. It was full of that impressionistic subjective view without foundation. It is what it is.

THE COMMISSIONER: Yeah. All right. Well, just bear in mind that I won't hold you to the hour of course but I'll shut you down if you wander off.

MR CORSARO: (not transcribable) I've just noticed. I've known you long  
30 enough to know that.

THE COMMISSIONER: Yeah. Okay. All right. Well, then we'll get the witness back in and you can proceed, and I take it, I think we've received an application from Mrs Hindi's legal representative but have indicated to the extent that you cover something they might not. So - - -

MR CORSARO: And can I indicate to you, Commissioner – I'm sorry to cut across you. Can I indicate to you as well that to the extent that there's  
40 impressionistic material remaining which has not been amplified or explained, I intend to just bring up for you, Commissioner, the substratum of fact, namely, that it doesn't exist but rather some sort of view gained on

unestablished factors and that will be the matter of submissions in due course if anything is made of it.

THE COMMISSIONER: Well, I accept that and I was going to say to you isn't that really a matter of submissions at the end of the day.

MR CORSARO: I understand it is and I can put the submission I'm going to make ultimately, but I need to tease out one or two factors in order to make that submission. So you can assume, Commissioner, I know what I'm  
10 doing and you can assume that I'll do it as quickly as I can.

THE COMMISSIONER: All right.

MR CORSARO: I see you smile.

THE COMMISSIONER: Well, let's proceed and see how we go. So we'll get the witness back in if we can.

MR CORSARO: I understand the witness will not be able to see me. Is that  
20 right, Commissioner?

THE COMMISSIONER: I can't see you. I can hear you.

MR CORSARO: Oh. Apparently I'm above your head.

THE COMMISSIONER: No, thank God.

MR CORSARO: No. Okay. I'm in the ether, then.

30 THE COMMISSIONER: All right. Okay. Take a seat. That's the way. And can I just remind you that the oath that you took this morning continues to bind you. Mr Corsaro, who appears for Mr Hindi, wants to ask you some questions, and as well that I'd like you to answer if you would before we proceed, How many employees do you know are employed by Dickson Rothschild?---At this point in time 22.

Thank you. Has that remained reasonably steady during the years?  
---Reasonably steady for the last eight to 10 years.

40 Okay. Yeah. Okay. Thank you. Yes, Mr Corsaro. You'll only be able to hear him, not see him.---I see.

MR CORSARO: Mr Dickson, can you hear me?---Yes, I can.

And some would say be grateful not to be able to see me. Can I just touch on one or two matters that you gave evidence about both in your statement today and I want to just clarify one or two matters firstly. You spoke about meeting Mrs Hindi at a meeting in a Japanese restaurant once or twice. You can't remember how many times. Correct?---I believe I met her once but I can't remember which of the two meetings at that Japanese restaurant it was  
10 but it was the - - -

Thank you. But you had earlier dealings with Mrs Hindi in that you knew who she was before then, correct?---No. My recollection, and it's a fairly firm recollection, is that I'm more than likely to have met her on the first one because of the exchange of email details or phone numbers, I should say, rather than the second one but I had not met her before. She was unknown to me and I say that because her name, Mireille, was unusual and I found it, for a long time to understand how to pronounce her name, so I have a distinct memory of only meeting her at that Japanese restaurant, the  
20 first time.

Can I seek to tease that out a little, Mr Dickson? Your firm, Dickson Rothschild, had had, in 2015, an urban planner and urban designer by the name of Kathleen McDowell, correct?---Yes. She is still on our staff. Yes.

Thank you. And in 2015, your firm was engaged in relation to preparing a draft LEP for Kogarah for 3 Hillcrest Avenue, South Hurstville, correct?---I, I must say, the matter was raised this morning and I can't – oh. Forgive me. I, I now recall that site. I recall being asked, I believe it was a Hindi family  
30 holding. It's a house not far from the Hurstville Railway Station, to the south of the railway station and we were asked to, there was an LEP on exhibition and we were asked to put a submission in on behalf of the Hindi family on that matter.

Quite. It was the street, wasn't it, rather than the house?---It may have been the, the house or a portion of the street in the northerly end of that street, towards the Hurstville Railway Station and the work was done by Kathleen McDowell in our office.

40 And you were copied into email communication from time to time and supervised that work, didn't you?---That's correct.

So as a result of that, in 2015, may I suggest again, you were dealing with Mrs Hindi on that issue?---It may have been in a sense it was a Hindi family matter but I don't recall meeting or talking to her, her in relation to that matter. I may be mistaken but that's my recollection.

Memory being what it is, Mr Dickson, I assume that you would say to the Commissioner it's possible that you met Mrs Hindi before you saw her in the Japanese restaurant, correct?---It is possible, yes.

10

Thank you. You told the Commissioner by virtue of the statement that you put on, I think the first statement and then again today as you amplified it, that Mrs Hindi had no technical expertise so far as you were concerned which provided any assistance in connection with any planning matter which you were engaged in. Is that correct?---I was trying to be clear to the Commission that it was in, technical expertise in planning. I have been informed today that she has some background in real estate, so I stand corrected on that matter.

20 You weren't aware of that before today?---No, no. It did not come to my attention.

And you spoke about a bridge in Allawah today, didn't you?---Yes, I did.

Now, that was a bridge in Kogarah, wasn't it?---I, I don't know the exact geographic description of the location but I understand it's a bridge that's close to the Allawah Station vicinity. It may be the Kogarah side or the Hurstville side but, or, or as they defined at that time.

30 Mr Dickson, I'm sorry, the vice was in my question and what I put to you. It is in Allawah, but Allawah is part of the Kogarah Council, not Hurstville Council, correct?---At that time, you may be correct, Mr Corsaro.

And you had, I think you confirmed today to the Commissioner, that you had work to do in the Kogarah Local Council area, correct?---I have worked in Kogarah Local Council area on a number of matters for many years.

40 And at one stage Mrs Hindi was a councillor on that council, wasn't she? ---Not to the best of my knowledge. I don't think I had any dealings with her at that time.

All right. Can I ask you whether you recall that the work associated with the Allawah bridge, if I can put it loosely that way, was in 2011? Does that ring a bell?---No, I really have little information on that work, and I've driven the bridge but I have no background of when it occurred or how it happened. I just remember Ms Hindi talking about it at that particular restaurant meeting.

Thank you. As at 29 May, 2015 – withdraw that. Do you recall giving evidence in your statement, and again today, in respect of the meeting that  
10 you had on 29 May, 2015? Have I got that date right or was it 5 May?  
---Through my statement, I, I'm referring to 5 May, I recall.

5 May. Thank you. Would you go to paragraph 32 of your statement for me?

THE COMMISSIONER: We might put that up on the screen if we can.

MR CORSARO: Yep.

20 THE COMMISSIONER: It's on the screen in front of you.---Thank you, Commissioner. I'm at page 18. Paragraph 32, did you say? Or paragraph 31?

MR CORSARO: Thank you. Just 32, it starts at page 18, as you can see. What I want to ask you about appears at the top of page 19. It's something that I think Counsel Assisting touched on today. I just want to clarify one or two things if I may, please. You see at the top you express an opinion there that it appeared to you "Councillor Hindi and his wife Mireille seemed to be well versed in the application and very supportive to do what they could to  
30 assist the application." Do you see that?---Yes.

Now, I want to talk about Mr Hindi first. The planning proposal in respect of Landmark from its inception involved a hotel, correct?---Yes, that was a key part of the planning proposal.

And you were, at the start of this project, intimately involved in the architectural and planning issues relating to this development, correct?  
---That's correct.

40 And a hotel for Hurstville was a theme that had been banged up by councillors for this community for a very significant period of time before

Landmark, correct?---I don't know, with due respect. It was only a matter that came to my attention when we were preparing this planning proposal.

Did the introduction of the hotel in Hurstville, did it come out of the blue?  
---When you say "come out of the blue", I think it was certainly a proposal from our company. I don't know if we were prompted by anyone else to speculate on a hotel, but it was very broadly supported. But to be accurate in relation to your question, I can't be sure where it came from because I have no evidence on it.

10

Yep. Now, would you do me the courtesy, please, and I'm sure you will, Mr Dickson, if I ask you a question, I don't want you to speculate or to give an impressionistic view, but rather evidence directly which you may have heard or seen or read. Do you understand? I'm asking for direct evidence rather than your impression. Will you do that for me?---Yes.

Right. Now, when the planning proposal first had its embryonic conception within your firm, a hotel was front and foremost as a selling point to the council, wasn't it?---It was a – yes.

20

And that's because there'd been published in various papers, for example the Leader, that a hotel was needed in Hurstville CBD, correct?---I don't know about those articles.

Obviously whoever it was that came with the suggestion that a hotel would be something that might be sold to the council had given it proper consideration having regard to the political flavour best known to Dickson Rothschild at the time. Correct?---I can't comment on that.

30 Was it your view that a hotel would be a good idea for putting the project forward and successfully forward?---Absolutely.

And that's because you saw as a planner that there were prime planning considerations as to why a hotel in the Hurstville CBD might win favour with the council. Correct?---I, I want to answer your question as directly as you've requested that I do. The work we did on the planning proposal was not just creating the idea of land uses but we had an economic impact assessment prepared by Hill PDA and that study accompanied the planning proposal and that study was directed at one of the land uses being a hotel  
40 apart from large format retail on the site. So the information of that was that which is presented in the planning proposal was based on research from not

just the ideas of our company but the ideas of economic researchers as to the appropriate land uses to put into the application.

Thank you. And your experience, and now I'm dealing with your own experience, your experience in relation to planning proposals or development applications is that, and I think you touched on this today, there are occasions when the council staff may have one view and council itself, which are the elected representatives of the community, may have another. Correct?---That's quite correct.

10

And a reason you've said that to the Commissioner, may I suggest to you, Mr Dickson, is that you are well aware as a result of your own experience as a planner and an architect that a councillor is an elected representative of the community. Correct?---That's correct.

And that councillor or councillors have a duty to represent the interests of the residents and ratepayers. Correct?---That's correct.

And to provide leadership and guidance to the community. Correct?---Yes.

20

And it is necessary for councillors to have interactions with communities and members of their communities in order to properly fulfil their functions. Correct?---Yes.

And it is part and parcel – I'm sorry, I withdraw that. In giving your subjective views about some of the dealings that you saw involving Mr Hindi or Mr Badalati and Mr Uy or your client, do I take it that there's a flavour in that that you see lobbying as inappropriate?---No. It's not for me to judge the lobbying. I am aware of lobbying. It's not for me to say it was appropriate or not, but I take your point that there is a difference of opinion that can exist in the political environment from that of the council staff which I think is what you're taking me to.

30

But what I understood from what you have said to the Commission today is that you don't see lobbying as something that you would do. Have I got that right?---No. I have lobbied on other matters in certain ways given my experience and it's not something I say that I don't do. It's, it is part of the activity but it's done in a certain, certain way. I'm not judging it in any way than it does occur.

40

But let's talk about lobbying in that sense. Lobbying in that sense would involve you speaking to the mayor for example.---That does happen from time to time. Not that regularly but it does happen from time to time.

And a mayor will often invite other councillors to a meeting. Correct?  
---That's correct.

10 So when you were asked today by Counsel Assisting in relation to some of the meetings where you wanted the mayor and other councillors were there and you couldn't offer an explanation, one possible explanation would have been that the mayor invited the councillors, correct?---It's quite possible.

And as I understood your evidence, going back – I'm sorry. Could I go back to what was on screen a moment ago, Commissioner? It's been taken off the - - -

THE COMMISSIONER: Yeah.

20 MR CORSARO: The screen. I'll just pause, Mr Dickson. I just want to go back now to the top of that page. "It appeared to me that Council Hindi was well versed in the application." Now, this was an application that had not been made at this stage, correct?---That's right, it was a foreshadowed application.

So what do you mean by it appeared to you it was well versed, what did he say or do? Did he say "I'm well versed"?---I'll just go to the, look at the first part of paragraph 32, just to put a context to it. And this is discussing a - - -

30 I'll come to those emails in a moment, SMSs, I'm sorry, but just read it to get context and then I'll come back to the question.---Yeah. So we, this is an application, Mr Corsaro, that we were intending to lodge on or about early May 2015.

So it was a draft application?---It was, so was your - - -

I'm asking you about the top of page 19, Mr Dickson. Can we go back to it, please? "It appeared to me that Council Hindi to be well versed in the application." Could the Commissioner read that as "draft application"?  
40 ---Yes. It was a draft at that time because it had not been lodged at that time.

All right. So, that could have been as a result of various discussions and meetings in the lead-up to lodging the application, correct?---Absolutely.

And you're not going to say to the Commissioner that that's unusual, is it, that a councillor or a mayor might know something about an application before it's lodged?---No. I'm, I'm not in any way saying it was unusual for people to be aware of draft applications that were foreshadowed to be lodged.

10

Thank you. What do you mean by "well versed" then?---Well versed in, as in knowledgeable about the intent of the application in terms of height, floor space ratio, land uses proposed.

20

So if I just pause there. You would agree with me, wouldn't you, that Mr Hindi, to the extent you dealt with him, was a very good expert planner person, correct? He knew what he was talking about?---I respect Councillor Hindi's experience on planning matters, I have heard him talk from time to time and he is well versed and very knowledgeable at planning, particularly in the Hurstville area. He understands the instruments and the permissibilities and he's certainly well versed in planning generally.

And if you wanted to understand what planning issues might be relevant in relation to a plan, Mr Hindi would be an expert person to speak to, wouldn't he?---I'm, I'm just questioning on the word "expert". He's a very experienced and knowledgeable person.

I'm sorry, experienced.---Yes, very experienced person. I, I, I - - -

30

He knew his stuff, right?---I, I would agree with that colloquial term.

Thank you. Now, I want to talk about, may I ask you about Mrs Hindi. Now (not transcribable) - - -

40

THE COMMISSIONER: Just before you do, can I just have one matter clarified? Do you know whether or not you or anyone else in your business provided a copy of the draft application to Mr Hindi before this meeting? ---Commissioner, we provided documents that were in draft format to the council staff. I, I don't have any factual advice or knowledge to say that it was provided direct to the councillors. We would not normally provide it to the councillors.

But it's possible that the council staff did?---It's possible that the council staff did. We, we met with the council staff several times, and that's in my statement, leading up to the application and we requested meetings with the mayor but I don't recall providing them documents. It could be that at the meeting of 5 May that I referred to there were copies on the table and one was provided to at that meeting, but I don't have any knowledge of anything being handed over prior to that meeting to a councillor directly for their information on the application.

10

Thank you.

MR CORSARO: Mr Dickson, could I just follow on from what the Commissioner's asked you. You referred to the meeting of 5 May, 2015 with council staff.---Yes.

Correct? That was for the purposes – and I think earlier you might have indicated that Mr Hindi was present at that meeting. We might have even seen the minutes, I think.---That's correct.

20

So that was where the councillors were present and the council staff were present, and you were talking about the draft proposal, weren't you?  
---That's correct.

And you did that, didn't you, as a good planner for the purposes of getting feedback from the staff and from the councillors, who were ultimately going to decide what to do with the planning proposal, correct?---That's correct.

30 There was nothing unusual about that, was there?---No. I, there was nothing unusual. We requested a meeting with the mayor, I recall, and it's in the statement. The councillors turned up to the meeting. That's in the statement. The meeting was, I think, very productive to inform everyone what we intended to lodge in the draft application.

And it's likely, isn't it, that in that context in a very productive meeting you would have handed over the documents, right?---There's a distinct possibility, but I can't, I haven't got any facts on that.

40 I'm going to suggest likelihood. Do you agree? Likelihood?---Likelihood, yes.

Thank you. Now, going back, I'm always coming back to this particular statement by you at the top of page 19. I've asked you about Mr Hindi. Now I want to ask you about Mireille being well versed. Now, what objective facts and circumstances should the Commissioner look at to indicate that she seemed well versed? Did she talk about the FSR? Did she talk about the height? What are you talking about there?---What I was referring to is she seemed well informed about what we intended to lodge, the land uses and the general nature of the development proposed.

- 10 I want to just test you a bit on that. What you're doing is giving your subjective view as to what the appearance was. I'm rather concerned that the Commissioner has in front of him what facts, what did she say, what did she do. And if you don't recall and don't know, please do not give your impression. I want objective facts, Mr Dickson. Could you do that?---Yes. The facts, I would say back to you is that she did not give me the impression she knew the facts of the application other than, say, general knowledge of the information. We did not discuss FSR, we did not discuss height, we did not discuss vehicle entry points to the site, we didn't discuss overshadowing. Those facts were not discussed. But there was an
- 20 understanding that the application was for a large site and involved a substantive increase in the FSR and a change of the land use.

Are you suggesting that, doing the best you can, you can't tell the Commissioner what Mrs Hindi might have said or done to give the appearance of being "well versed in the application"? Is that a fair summary?---It's a fair summary. She certainly knew the intent of the application, the general form of the application. She may not have known the technical detail.

- 30 What do you mean? What did she say or do to indicate to you that she knew about the form of the application? Just tell us what she said or what she did.---I can't say anything more than I've said already. I can't recall the words in detail.

- So you can't assist the Commission with what she said or did to give the appearance of being well versed in the application, either its form or its substance, is that correct?---I would say the form and nature of the development was spoken about in that meeting at that time such that she knew that we were proposing to change the site from industrial to residential
- 40 zoning with retail, large-format retail, and a hotel.

I'll be fair to you, because I'm going to make some submissions about this in due course, one more time, Mr Dickson, can you tell the Commissioner what Mrs Hindi said or what she did to give the appearance that she was well versed in the application? And that's a direct question to you.---The answer to that is that she seemed knowledgeable about the application but she did not say, "I support an FSR of 3.5 or 5 for the site." She did not say – I think she said at the meeting she supported changing the use of the site, that she supported the view that the site was an underutilised industrial area. And I believe she supported, indicated that she supported the general idea of  
10 a hotel on the site as being a great opportunity for Hurstville.

Is that because she was making comments, as you were explaining, what the planning proposal involved? Is that what you're saying?---No, no. At the meeting, Mr Corsaro, to be clear, from my recollection is that I did not explain the application to her at the meeting. She actually seemed to know what the application was for. And I, I did not start the meeting by briefing Councillor Hindi or Mireille Hindi on what was intended to be lodged. They already seemed to know. The meeting did not conduct a long dialogue about what was intended to be lodged. There were no technical details  
20 expressed. They, as I said before, seemed to be, fully understand the general nature of the application by the time I met with them.

Would you go to paragraph 36 of your statement on page 20, please.

THE COMMISSIONER: We'll put it on the screen for you if you like.---I have it.

MR CORSARO: Thank you, Commissioner. You see that, Mr Dickson?  
---Yes.

30 "I recall receiving at least two telephone calls from Mireille Hindi regarding Landmark Square, asking for an update as to how the matter was proceeding at council." This was, what, after you'd lodged the application or before?  
---I believe it was after the application was lodged but, again, there are no dates in relation to paragraph 36. But I'm of the opinion it was after the application was lodged. So it's talking about how the matter was proceeding at council.

40 Well, paragraph 35 says this, "I understood that rather than me contacting Con Hindi directly, I would contact her and she would get Con Hindi to do

what needed to be done. She was acting as his receptionist or assistant.”  
Do you see that?---Yes.

“I was suspicious as to why the wife of a councillor was getting involved.”  
Do you see that?---Yes.

Yet being the secretary or receptionist or the assistant, in your view, she had to ask you what was happening in council, right?---Yes.

10 Not a very good secretary or assistant not knowing that, true?---Look, I can only say that I purport that she was facilitating dialogue and that’s why I use the term receptionist or assistant. That was only - - -

No, but your impression was that she knew what was happening but at the same time she had to ask you what was happening. Isn’t that a problem for you?---No.

No? How do you reconcile those two things in your mind?---Look, I think the opinion I stated in 35 is very clear. I didn’t know what she was doing.  
20 I wasn’t introduced to her specifically as being a receptionist or assistant. I was introduced to her as being the wife of the councillor, and she said she was available to speak if she, if I couldn’t get hold of Mr Hindi.

Now, you told the Commission, please correct me if I’m wrong, Mr Dickson, if I’ve misunderstood the evidence today and in the statement, that the only matters which you ever dealt with with Mrs Hindi concerned Landmark. Is that what your evidence is?---Yes.

Can I ask, please - - -?---With the correction, Mr Corsaro, that I had a  
30 dealing with her in 2018 on another site in the Georges River area generally. I can’t recall the address.

Is that 432 Princes Highway?---That sounds correct, Mr Corsaro.

I’ll come back to that because the Counsel Assisting asked you about that a little while ago and I want to return to it, but in a moment if I may. Can I please ask for MFI 9, I think, Commissioner? I’m sorry, I might have that -  
--

40 THE COMMISSIONER: Yep.

MR CORSARO: I apologise. My note's a little unclear as to this. No, that's not it. It's on the screen at the moment. Can you see that, where you write to Mr Uy, "Philip, please call me ASAP re meeting with Fat Guy"? Do you recall that?---Yes. I recall.

You were asked about this today. And that followed very shortly after you were adamant to the Commissioner you would never have used the word "Fat Guy" to refer to anyone, remember?---No. But if I've been misunderstood on that, it's a term that Philip used to Councillor Hindi.

10

Oh, I know that you say that but I want to go back to your evidence because you told the Commission earlier that the term "Fat Guy" would not be a term that you would ever use in connection with the description of anyone, let alone Mr Hindi, correct?---It was a term that I wouldn't use in my general conversation with anyone in particular but I knew that Philip Ly used it as a code to refer to Councillor Hindi.

20

Yes. We'll come to that. So why didn't you, in that email, say "Philip, please call me ASAP re meeting with Mr Hindi"? Mr Hindi is shorter than "Fat Guy", there is one letter less, isn't there?---The, the reason I said that is that we were talking on WeChat and I wanted to get Philip's attention and I didn't, I just wanted to use a term that he would recognise immediately.

So "Mr Hindi" wouldn't be a term he recognised having described him to you when he said "Oh, I spoke to Mr Hindi"? Is that seriously your evidence, really?---I don't have anything more to add.

30

I'm sorry, say it again?---I don't have anything more to add that what I have said.

Now, you've seen Mr Hindi in person, correct?---I have met him in person, yes.

Do you describe him in physique as fat?---I, I personally don't.

No. You've seen Mr Badalati in person, haven't you?---Some time ago.

40

And with the greatest of respect to Mr Badalati, we've all seen him, he's rather larger than Mr Hindi, isn't he?---I, I don't recall, I can make that comment.

So let's go back to the code, so to speak. Now we know, don't we, because you've told us, Mr Uy is not too good at English, correct?---Are you saying Mr Uy?

Yes.---Yes. He has some English but it's not very good, particularly in technical areas.

10 Yep. And as I understand it, when he introduced this code to you, he said "I refer to" – well, how did he introduce the code? How did he link the two names for you? What did he say?---He says "I refer to Councillor Hindi as the Fat Guy."

So words to this effect, in his unbroken English, "I use the code Fat Man to refer to Councillor Hindi," is that what he said?---No, he didn't, he wouldn't say it in that manner, he would say - - -

What did he say?---He would say, "Hindi, I call him Fat Man" or "Fat Man", something like that.

20 When do you say that happened?---I would occasionally meeting with Philip Uy at Chinese restaurants and I've gone through my statement and I recall him introducing that term to me at a Chinese restaurant. I thought it was characterful and, and interesting that he was on such a term with the councillor.

When?---When?

Yes.---I go to my statement and the dates of my meetings with Philip Ly are in the statement.

30

Well, help us. Is that paragraph 66? Is that where we should look at?---(NO AUDIBLE REPLY)

You'll see the reference to Fat Man on page 38. Might that be shown, Commissioner, on screen.

THE COMMISSIONER: Sure.

40 MR CORSARO: Do you - - -?---The, the introduction of the term was well before 1 February, 2016.

And I've asked you when.---And in my statement I go to the number of occasional lunches I had with Philip Ly at different restaurants, generally at Zilver Restaurant with my wife or son being present and I would say it would be in early 2015 that I was introduced that name by Mr Uy.

In early '15 Dickson Rothschild had been engaged for a couple of months in respect of Landmark. Is that right?---We were engaged at the end of 2014 and we - - -

10 That's right. So February, a couple of months. Correct?---More than a couple of months. Take a couple (not transcribable) it would be two but it was more in the order of April/May 2015.

So you want to say that that term was introduced in April or May 2015?  
---Yes. As, as I became more familiar with Philip Ly he used more conversational English with me as best he could and introduced that term then.

20 In what context did you and he speak about to result in him saying "I refer to Councillor Hindi as Fat Man"? What was the discussion about?---The discussion was that he had been talking to Councillor Hindi from time to time about the intended application and he, and the words were effect "I call him Fat Man."

THE COMMISSIONER: Mr Corsaro, is it your client's position that Fat Man referred to somebody else, and by that I mean somebody that he's going to identify?

30 MR CORSARO: Can you hear me, Commissioner?

THE COMMISSIONER: Yes.

MR CORSARO: Oh, I'm sorry. I thought the thing was off. No. At the end of the day we don't know what Mr Uy may or may not have said, we weren't there, but - - -

40 THE COMMISSIONER: Well, how can you question this witness on this then, that he may have been mistaken, may have been referring to somebody else when you can't tell us who that somebody else was?

MR CORSARO: I'm entitled to test the evidence in relation to what Mr Uy might have said to him. I obviously can't give evidence and Mr Hindi can't give evidence about the discussion that he wasn't party to.

THE COMMISSIONER: Correct.

MR CORSARO: But the context is this, that there are meetings that are said to have occurred here in the context of Mr Uy and Mr Hindi which, if the discussion was by reference to the Fat Man, could not have involved  
10 Mr Hindi. That's an inference. That's the only thing I can say.

THE COMMISSIONER: I don't quite follow that but anyway we won't waste time but - - -

MR CORSARO: No, we will not, we will not be making any positive assertion as to who Mr Uy, what Mr Uy might have said in discussions with Mr Dickson and the use of the term Fat Man. We don't know.

THE COMMISSIONER: Well, that's my point.  
20

MR CORSARO: It's a good point, Mr Commissioner, but what I'm, I'm not putting an assertive case. I'm just testing Mr Dickson's memory of the conversation and the context in which it occurred.

THE COMMISSIONER: Well, I think you've done that, haven't you, to - -  
-

MR CORSARO: I have. I was going to move on.

30 THE COMMISSIONER: Thank you.

MS HEGER: Commissioner, I do note the time. I understand there's a technical issue that we need to fix in any event.

THE COMMISSIONER: Oh, okay.

MS HEGER: Is now an appropriate time for a break?

MR CORSARO: I'm sorry. I didn't notice the time. I'm sorry.  
40

THE COMMISSIONER: That's okay.

MR CORSARO: I won't, I don't think I'll be very much more than the hour I've suggested earlier. I've got probably 20 minutes to go, Commissioner, if that helps.

THE COMMISSIONER: All right. Okay. Well, why don't we, we might have a shorter lunch I think. We'll adjourn till 2.00. Yeah.

MS HEGER: Yes.

10

THE COMMISSIONER: Thank you.

**LUNCHEON ADJOURNMENT**

**[1.10pm]**