

CAVILLPUB00001
15/07/2013

CAVILL
pp 00001-00055

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION CAVILL

Reference: Operation E12/1191

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 15 JULY 2013

AT 10.05AM

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.

ASSISTANT COMMISSIONER: Thank you. Please be seated. This is a public inquiry being conducted by the Independent Commission Against Corruption. The general scope and purpose of the inquiry will shortly be outlined in an address by Counsel Assisting. After that address we will have a short adjournment and I will then take appearances and make any other orders which are necessary at that time. Mr Jason Downing has been Counsel Assisting and I would now ask him to deliver his opening address.

MR DOWNING: Thank you, Commissioner.

10

Commissioner, this public inquiry is being conducted for the purpose of an investigation into certain allegations concerning the Mayor of the City of Ryde, Councillor Ivan Petch and to a more limited degree other Councillors and associates of Councillor Petch. More specifically it's alleged that in the period 2012/2013, first Councillor Petch arranged for an indirect approach to be made to the then General Manager John Neish in April 2012 by local real estate agent Mr Tony Abboud for the purpose of conveying an offer to Mr Neish to the effect that his employment as General Manager would be secure beyond the upcoming September 2012 Council elections if Mr Neish would delay taking steps to enter into a contract between the City of Ryde Council and Lend Lease for the redevelopment of the Ryde Civic Precinct. It will be further alleged that Mr Abboud made the approach to Mr Neish at the behest of John Goubran, an associate of Councillor Petch.

20

Secondly, that after Mr Neish rejected the offer described above, Councillor Petch took steps to have his employment terminated or to pressure him to resign. Those steps included introducing a motion to Council in July 2012 seeking that Mr Neish's contract be terminated and they further included disclosing certain confidential Council information concerning alleged misconduct by Mr Neish to certain persons outside Council in January and February 2013 in an attempt to force Mr Neish to resign.

30

Third, Councillor Petch released or caused to be released other confidential Council documents and information including in an attempt to undermine the position of Mr Dominic Johnson, the Group Manager, Planning and Environment at the City of Ryde Council.

Fourthly, that Councillor Petch attempted to influence a decision required to be made by the current acting General Manager of the City of Ryde Council, Ms Danielle Dickson, in May 2013 in relation to the payment of legal fees in Supreme Court proceedings in which the Council was involved. It's specifically alleged that Councillor Petch attempted to persuade Ms Dickson to instruct the Council solicitors to pay the defendant's legal costs in the Supreme Court proceedings in circumstances where Mr Petch himself was one of the defendants. It is further alleged that Councillor Petch suggested to Ms Dickson that he and others who were involved in the process of recruiting a permanent General Manager, that is to replace Mr Neish, would look favourably on her application if she so acted.

40

Fifth, that Councillor Petch failed to disclose a number of personal and financial relationships with local businesses and property developers when considering matters before Council, leading to potential and actual conflicts of interest. It will further be alleged that Councillor Petch improperly interfered with the conduct of a Planning and Environment Committee meeting in June, 2013 and in so doing failed to disclose his relationship with the owner of a residential property in respect of which the Committee was considering a building certificate application.

10

And sixthly, that an employee of The Weekly Times newspaper, Mr Richard Henricus, made an attempt, made a – sorry, made a corrupt offer to a City of Ryde Councillor, Mr Bill Pickering in an attempt to persuade Councillor Pickering to assist the passage of certain Development Applications currently before the Council which had been lodged by the owner of The Weekly Times newspaper, Mr John Booth.

20

In addition to the above, the Commission will also investigate an issue in relation to the placement of certain political advertisements in The Weekly Times newspaper under the name saveryde.com, for Councillors Petch, Tagg, Salvestro-Martin, Li, Perram and Butterworth in the lead up to the September 2012 Council elections and shortly after them. There were also some advertisements for individual Councillors that appeared in The Weekly Times in the lead up to the elections.

30

More specifically the Commission will investigate who placed the advertisements, who if anyone paid for those advertisements and whether any of the Councillors mentioned in the advertisements received a benefit in breach of the Election Funding Expenditure and Disclosure Act 1981 or otherwise failed to comply with the Council's Code of Conduct provisions regarding conflicts of interest and political donations.

To properly understand the nature of the allegations as I have outlined them above, which are being investigated by the Commission, it's useful to provide some background to the City of Ryde, Councillor Petch and the other persons who will be giving evidence before the Commission.

40

In terms of factual background the first matter I want to deal with is the legal framework and some general matters. As a Council created pursuant to the Local Government Act 1993, the City of Ryde Council, the Councillors and the Council staff are all subject to the provisions of the Act. Relevant to this inquiry, chapter 14 of the Act sets out certain requirements in terms of honesty and disclosure of interests with part 1 of chapter 14 covering conduct, including the conduct of Councillors and Council staff and part 2 of chapter 14 covering duties of disclosure on the part of Councillors and Council staff.

Pursuant to section 440 of the Local Government Act and clause 193 of the Local Government General Regulation 2005, a model Code of Conduct applicable to all New South Wales Councils was created. At all relevant times in 2012 and 2013 the City of Ryde Council adopted a Code of Conduct which incorporated the provisions of the model code as well as some additional provisions.

10 In view of the conduct which will be examined during this inquiry it's helpful to have regard to certain of the provisions of the Local Government Act and the Local Government General Regulation as well as the City of Ryde Council Code of Conduct. Pursuant to section 440(f) of the Local Government Act, a Councillor may engage in misconduct where he or she fails to comply with an applicable requirement of a Code of Conduct under section 440.

20 Pursuant to sections 442, 444 and 449 of the Local Government Act, Councillors must disclose pecuniary interests and the Local Government General Regulation 2005 provides guidance as to the type of pecuniary interests that need to be disclosed and the form of disclosure which is required.

Section 451 of the Local Government Act requires that a Councillor who has a pecuniary interest in any matter with the Council which is concerned – I'm sorry, in any matter with which the Council is concerned and is present at a meeting of the Council or a committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practical and must not take part in any consideration, discussion or vote on the matter.

30 The City of Ryde Council Code of Conduct sets out in some detail the conduct required of Councillors and Council staff. Relevant to this inquiry the Code of Conduct specifies that failure by a Councillor to comply with the standards of conduct set out in the Code constitutes misbehaviour and may constitute a substantial breach of the purposes of section 9 of the Independent Commission Against Corruption Act.

40 The Code of Conduct also covers the following subject matters. First, conflict of interest, second, personal benefits, third, relationships between Councillors and Council staff, fourth, access to information and Council resources including duties of confidentiality and fifth, complaint handling procedures and sanctions.

In September 2011 Council elections were held in the City of Ryde which resulted in 12 Councillors being elected. They were Councillor Etmekdjian who was the Mayor, Councillor Campbell, Councillor Maggio, Councillor O'Donnell, Councillor Pickering, Councillor Yedelian, Councillor Petch, Councillor Salvestro-Martin, Councillor Li, Councillor Tagg and Councillor Butterworth.

For some time prior to the elections in September 2011 the City of Ryde Council had considered and investigated a possible redevelopment of the Ryde Civic Precinct area. The Ryde Civic Precinct area is located on the corner of Devlin and Parkes Street, Ryde.

10 As a result of the September 2011 elections the City of Ryde Council was effectively split six/six over a particular proposal for the Ryde City Precinct redevelopment. In general terms those favour of the redevelopment were the Mayor Councillor Etmekdjian and Councillors Campbell, Maggio, O'Donnell, Pickering and Yedelian. Those against the particular proposal for the Ryde Civic Precinct redevelopment were Councillors Petch, Salvestro-Martin, Li, Tagg, Butterworth and Perram.

20 At an extraordinary meeting held on 18 October 2011 the City of Ryde Council resolved in relation to the proposed Ryde Civic Precinct redevelopment to progress to the stage of undertaking an Expression Of Interest and tendering selection process and to delegate to the then General Manager, John Neish, its powers in respect of that process.

The Council had looked at a variety of options in respect to the Civic Precinct including to reactive maintenance work only, undertaking refurbishment and undertaking a larger scale redevelopment. The effect of the resolution passed on 18 October 2011 was to take steps towards the larger scale redevelopment via an Expression Of Interest and a tendering process.

30 In November 2011 the City of Ryde Council called for Expression Of Interest to redevelopment of the Ryde Civic Precinct. The intention was to identify a development partner that could construct buildings and develop Council facilities on Council land in return to be given the right to construct residential units which it could then sell.

40 After the City of Ryde Council advertised for Expressions Of Interest in November 2011, nine companies lodged submissions by the required closing date of 23 December, 2011. The submissions were then subject to review by an appointed request for tender evaluation panel and the panel recommended a shortlist of four tenderers which was approved by the General Manager.

On 10 February 2011 Bilbergia Pty Limited, Leighton Properties Pty Limited, Lend Lease Development Pty Limited and Mirvac Projects Pty Limited were sent an invitation to participate in a request for tender process. All of those four companies accepted the invitation. Request for tender evaluation panel then determined the evaluation criteria for the purposes of assessing tenders.

10 April, 2012 was the closing date for the submission of tenders. By that date the Council had received letters from Mirvac and Leighton Properties indicating that they no longer wished to tender, consequently two tenders were lodged one by Lend Lease and one by Bilbergia in joint venture with Frasers Property Australia Pty Limited.

On 20 April, 2012 Lend Lease and the Bilbergia/Frasers Property joint bid presented their proposals to the request for tender evaluation panel as overseen by the Council's probity advisors.

10

On 3 May, 2012 the request for tender evaluation panel met and received advice from Clayton Utz lawyers.

On 7 and 8 May, 2012 Lend Lease and Frasers Property/Bilbergia attended meetings with the request for tender evaluation panel at which each tenderer was made aware of key issues Council wished to have resolved. The tenders were given, the tenderers, sorry, were then given until 16 May, 2012 to prepare their responses on those keys issues.

20

On 9 May, 2012 the request for tender evaluation panel met and scored the tenders resolving to reject the bid made by Bilbergia/Frasers Property.

On 20 May 2012, sorry, 21 May, 2012 the request for tender evaluation panel met again and finalised the marking of the Lend Lease tender. Lend Lease had in fact put in two alternative proposals. The request for tender evaluation panel resolved that neither alternative should be accepted as they were non-compliant. Following on from that decision by the evaluation panel at a meeting on 12 June, 2012 the City of Ryde Council resolved to enter into negotiations with Lend Lease with a view to entering into a project delivery agreement and the Council delegated to the then General Manager, John Neish, the function of negotiating with Lend Lease with a view to concluding a project delivery agreement preferably by August 2012.

30

After being delegated the above powers Mr Neish undertook negotiations with Lend Lease with a view to ultimately entering into a contract pursuant to which the Ryde Civic Precinct redevelopment would occur.

It's worth pausing to note at this juncture that the proposed Ryde Civic Precinct redevelopment was the subject of some significant controversy amongst Ryde residents and City of Ryde Councillors. Perhaps unsurprisingly given that the proposed redevelopment involved substantial works being undertaken and a private developer being given the right to develop Council land, the proposal was the subject of strong feelings and some considerable emotion.

40

As noted above, on a number of occasions when matters came before Council in relation to the proposed Ryde Civic Precinct redevelopment, there was a deadlocked vote with six in favour and six against. On those

occasions the then Mayor, Councillor Etmekdjian, used his casting vote in order to pass resolutions aimed at progressing the Ryde Civic Precinct redevelopment. There were also a number of occasions upon which the Council was unable to make a decision due to Councillors who were opposed to the Ryde Civic Precinct redevelopment not attending meetings or leaving meetings, thus preventing a quorum from being achieved.

10 To this point none of the factual matters identified in respect of the Ryde Civic Precinct redevelopment is particularly surprising and none would of itself warrant the attention of the Independent Commission Against Corruption. It's emphasised that the Councillors were perfectly entitled to take positions, even strong positions, for or against the proposed Ryde Civic Precinct redevelopment and the citizens of Ryde were just as entitled to judge them at the ballot box according to those positions. The Commission is not concerned with those issues which quintessentially involve local politics. This public inquiry will not be a forum for re-agitating arguments for or against the Ryde Civic Precinct redevelopment.

20 However, evidence will be presented to the Commission to suggest that Councillor Petch and others in the block opposed to the proposed Ryde Civic Precinct redevelopment took a dim view of Mr Neish's involvement and seemingly concluded that he was in some way acting improperly. It appears that Councillor Petch and others in his block had similar concerns in respect of other Council staff including Dominic Johnson, the Group Manager, Environment and Planning. The Commission will hear considerable evidence in respect of Mr Petch's conduct as regards Mr Neish and to some degree Mr Johnson which will raise issues as to the nature of Mr Petch's motivation and the propriety of his conduct.

30 In relation to the Ryde Civic Precinct redevelopment, no contract was entered into between the City of Ryde Council and Lend Lease prior to 8 September, 2012 which was the date of the Council election. At those elections a new Council was elected consisting of Councillor Pendleton, Councillor Pickering, Councillor Salvestro-Martin, Councillor Yedelian, Councillor Chung, Councillor Maggio, Councillor Petch, who was elected Mayor, Councillor Simon, Councillor Etmekdjian, Councillor Laxale and Councillor Li who was elected Deputy Mayor, and Councillor Perram. In view of the complexion of the new Council a resolution was passed on 25 September, 2012 effectively terminating the Ryde Civic Precinct
40 redevelopment project.

Again, I emphasise that the Commission is not concerned with the decision by the City of Ryde Council not to proceed with the Ryde Civic Precinct redevelopment. That was a matter proper for the Councillors to consider and there's no suggestion of any impropriety or corruption in the resolution to in effect cut off any further negotiations with Lend Lease and proceed no further.

What will be considered in more detail, however, is the conduct of Councillor Petch in particular, the conduct of certain other Councillors and the conduct of certain of Councillor Petch's associates in relation to the Ryde Civic Precinct redevelopment and more generally. The salient aspects of that conduct will be outlined below.

The first topic I wish to deal with specifically is the approach to Mr Neish. Evidence will be given before the Commission that on 13 April, 2012 Mr Tony Abboud, a real estate agent from the Ryde area, met with
10 Mr Neish and amongst other things conveyed to him that his employment as General Manager would be secure beyond the September 2012 Council elections if Mr Neish took certain steps to delay the Ryde Civic Precinct redevelopment. In particular, Mr Abboud suggested that a, that a form of community advisory committee could be created which would then review the Ryde Civic Precinct redevelopment project and report back to Council after the September 2012 elections. It will be remembered that by 13 April, 2012 the closing date for submissions for tenders had passed and Council had received tenders on behalf of Lend Lease and Bilbergia, Frasers
20 Property. I anticipate there will be some dispute as to precisely what Mr Abboud said to Mr Neish and who it was that approached Mr Abboud and asked him to speak to Mr Neish. I anticipate that Mr Neish's evidence will be that he was told by Mr Abboud that he was making the approach on the request of Mr John Goubran, a local property developer. I further expect that Mr Neish will say that the impression he gained based on what Mr Abboud said to him about his communications with Mr Goubran was that the proposals ultimately being conveyed on behalf of Councillor Petch, Councillor Salvestro-Martin and Councillor Li.

30 Mr Neish's evidence I anticipate will be that he conveyed to Mr Abboud that the offer that was being put was improper and may amount to a form of corruption.

I expect that Mr Goubran will give some evidence to the effect that the idea of creating a type of community consultative committee in respect of the rise of increasing redevelopment was his idea and that he came up with the idea with a view of providing some public consultation and reducing the public backlash against the Councillors who were in favour of the redevelopment. I further expect Mr Goubran to give evidence that he
40 discussed the proposal with the then Mayor, Councillor Etmekdjian, who indicated his support for the proposal and encouraged Mr Goubran to put it to the block of Councillors who were against the Ryde Civic Precinct redevelopment led by Councillor Petch, possibly through Mr Tony Abboud as an intermediary.

I expect that Councillor Etmekdjian will dispute that version of events and deny that in early to mid 2012 he supported the proposed creation of a Community Consultative Committee for conveying that proposal that Councillor Petch or indeed any of the Councillors or Council staff.

A significant issue before the Commission will be who was ultimately behind the proposal or offer which was put to Mr Neish by Mr Abboud. I expect that Councillor Petch will deny that he had anything to do with the creation of the offer or it being conveyed to Mr Neish. Issues will arise as to what motivations Mr Goubran would have had to involve himself in relation to the proposed Ryde Civic Precinct redevelopment through coming up with the offer and having it conveyed to Mr Neish.

10 Perhaps coincidentally on 8 May, 2012 Councillor Petch and Councillor Salvestro-Martin moved a motion before Council seeking to establish a Ryde Civic Precinct redevelopment committee, sorry, Community Advisory Committee which would reconsider the merits of the Ryde Civic Precinct redevelopment. This proposal – sorry, the proposal that was, was that whilst the Community Advisory Committee was carrying out its functions the tender process and the process of engagement with developers would be placed on hold.

20 I anticipate that the similarity between the offer conveyed by Mr Abboud to Mr Neish on 13 April, 2012 and the terms of the motion put up by Councillors Petch and Salvestro-Martin on 8 May, 2012 raise some issues as to whether in fact Councillor Petch and/or Councillor Salvestro-Martin may have been behind the 13 April, 2012 approach to Mr Neish.

30 Commissioner, the next issue I wish to deal with is the attempted removal of Mr Neish and the release of confidential information in respect of Mr Neish. As I indicated earlier in the opening evidence will be called from Mr Neish to the effect that he rejected Mr Abboud's approach on 13 April, 2012 in no uncertain terms. Further, I expect that there will be evidence that Mr Neish also informed the then Mayor, Councillor Etmekdjian of the approach by Mr Abboud and of his rejection of it and that he subsequently told Mr Abboud of the report he had made to the Mayor and of his intention to report the matter to the Independent Commission Against Corruption.

40 An issue will then arise as to whether the rebuff of the approach of Mr Abboud was conveyed to any other persons including Councillor Petch. As I've indicated above Councillor Petch and Councillor Salvestro-Martin put a motion before Council on 8 May, 2012 seeking to establish a type of Community Consultative Committee in terms which bore more than a passing resemblance to the proposal put to Mr Neish on 13 April, 2012 by Mr Abboud. That motion did not ultimately pass though it took a rather convoluted course after a series of amended motions and notices of rescission were lodged with the City of Ryde Councillors voting according to their established blocks.

On 9 July, 2012 Councillor Petch handed to Mr Neish's personal assistant a Notice of Resolution requesting an extraordinary Council meeting for the purpose of terminating Mr Neish's contract. The extraordinary Council

meeting was held on 23 July, 2012 and in a closed session the Council passed the motion that Mr Neish's contract, which was dated 14 October, 2009 be terminated with immediate effect, six votes to five, with Councillor Yedelian being absent at that time.

10 Immediately after the motion was passed the notice of rescission was signed by Councillors, Campbell, O'Donnell and Maggio and it was lodged and due to be considered at a meeting on 14 August, 2012. There'll be an issue as to whether was the appropriate manner in which to consider the termination of Mr Neish's contract, having regard to the provisions of the July 2011 guidelines for the appointment and oversight of general managers issued by the Director General of the Division of Local Government, Department of Premier of Cabinet pursuant to section 23(a) of the Local Government Act.

On 10 August, 2012 the Council commenced proceedings in the New South Wales Supreme Court to restrain Councillor Petch and others from seeking to terminate Mr Neish's contract.

20 The Independent Commission Against Corruption commenced similar proceedings and on 28 September, 2012 consent orders were made on the basis of an undertaking by the Council that it would not take any steps to terminate Mr Neish's employment until ICAC gave notice of having completed its investigations – and the particular reference to the judgement is Ryde City Council v Petch, ICAC v Ryde City Council 2012 NSW Supreme Court 1246.

30 In view of the history set out above in relation to Mr Abboud's approach to Mr Neish on 13 April, 2012 and the subsequent unsuccessful motion brought by Councillor Petch and Councillor Salvestro-Martin seeking to establish a community consultative committee and to defer to the Ryde Civic Precinct re-development issues will arise as to Councillor Petch's motivations and seeking that Mr Neish's employment be terminated and their propriety.

40 Subsequently in late January 2013 and IT employee of the City of Ryde Council received electronic notification that a Council laptop issued to Mr Neish had been infected with a virus. On calling in the laptop and inspecting it the employee determined that the laptop had been infected with a virus as a result of pornographic sites having been accessed. As accessing pornographic sites was contrary to the Council's internet code of practice policy at least where access occurred via the Council network the employee lodged an official complaint against Mr Neish of accessing, downloading and saving pornographic material on a Council issued laptop. That complaint was lodged with the Council's human resources unit on 5 February, 2013 and copied to Councillor Petch.

As by that time Councillor Petch was the Mayor it was appropriate that any complaint in respect of Mr Neish came to him under the Council's Code of Conduct and in particular its complaint handling procedure.

Consistent with the Council's Code of Conduct and quite appropriately Councillor Petch informed relevant Council staff that the matter was to remain confidential.

10 I pause to emphasise that this public inquiry will not be a vehicle for examining the precise nature of the pornographic material found on the Council laptop issued to Mr Neish. There's no suggestion that what Mr Neish did was illegal or amounted to corrupt conduct. There will be some brief evidence to the effect that Council had an internet code of practice policy though it's not clear that it actually applied to the circumstances leading the IT employee's official complaint against Mr Neish in early 2013, that is where a Council issued laptop was being used at home and it would seem, was not connected to the Council network.

20 What will be the subject of the attention of the public inquiry is what action was taken by Councillor Petch and others he communicated with in respect to the subject matter of the complaint made by the IT employee.

A significant issue will arise as to whether in fact Councillor Petch himself acted appropriately in respect of what was clearly confidential information.

30 I expect that there will be some evidence to suggest that Councillor Petch in fact deliberately leaked or caused to be leaked information in respect of the complaint which had been made against Mr Neish and did so because of personal animosity towards him.

Under the Council's Code of Conduct there was an established complaints handling procedure which it will be suggested the Mayor should have followed but did not. That is despite one of the senior staff members of the Council, Mr Roy Newsome, the Group Manager Corporate Services, specifically informing Councillor Petch of the complaints handling procedure to be followed.

40 The Council had adopted a policy for the interface and day to day oversight of the General Manager by the Mayor which contained guidelines for managing complaints in respect of the General Manager and it will be suggested that Councillor Petch should have followed them but did not. In addition the leaking of information in respect of the subject matter of the complaint made against Mr Neish may amount to a breach of section 664 of the Local Government Act as his handling of - and his handling of the issue of Mr Neish's performance as General Manager and whether there was a basis to terminate his contract would seem to be contrary to the July 2011 guidelines for the appointment and oversight of General Managers issued by

the Director General of the Division of Local Government Department of Premier and Cabinet.

What Councillor Petch in fact did was engage a solicitor, Mr Bryan Belling of K & L Gates, to have a disc containing the images captured from Mr Neish's laptop computer forensically examined.

10 Mr Neish subsequently conveyed to Councillor Petch his preparedness to resign and I expect he will give evidence that this was because of a significant concern that the information in relation to the complaint against him lodged by the employee would be leaked in order to damage to Mr Neish's reputation. I expect evidence will be given to the Commission to suggest that Mr Neish's concern in that regard was well founded.

Mr Neish subsequently resigned from Council on 8 February 2013 and Mr, after Mr Belling, the solicitor engaged by Councillor Petch, negotiated a deed of separation and release on the Council's behalf.

20 Evidence before the Commission will indicate that despite Mr Neish resigning at that time Councillor Petch nonetheless had Mr Belling continue to pursue the forensic analysis of the disc of images through until April 2013. I expect that an issue will arise as to why that forensic analysis continued beyond the date of Mr Neish's resignation and Councillor Petch's motivations in instructing Mr Belling in that regard.

30 Commissioner, the next issue I wish to deal with is the attempted removal of Dominic Johnson and the release of confidential information in respect of him. On 20 June, 2013 a senior planner with the New South Wales Department - sorry, 20 June, 2012 a senior planner with the New South Wales Department of Planning and Infrastructure, Ms Danijela Karac-Cooke, sent an email to a planner at City of Ryde Council, Ms Sue Wotton in respect of a request for information about zoning and use of land within the Ryde Local Government area. The land concerned was the subject of a Development Application by Mr John Goubran, an associate of Councillor Petch.

40 The information and opinion expressed by Ms Karac-Cooke in relation to the zoning and use of land was subsequently incorporated in a report to Council by Mr Dominic Johnson, Group Manager, Environment and Planning. In short, Mr Johnson recommended the rejection of the Development Application brought by Mr Goubran.

On an unknown date but prior to 26 November, 2012 Councillor Petch approached his executive assistant, Ms Linda Smith, and asked her to locate the email from the Department of Planning used as the basis for Mr Johnson's report. Ms Smith subsequently retrieved the email and forwarded it to Councillor Petch. Evidence before the Commission will show that on 26 November, 2012 Councillor Petch forwarded the email to a

publicist and PR consultant, Mr Anthony Stavrinis. It's not clear precisely what happened with the email after Mr Stavrinis received it but I expect evidence before the Commission will indicate that it found its way to Mr Goubran or lawyers acting on his behalf and on behalf of other local landowners. There will be a significant issue before the Commission as to why Councillor Petch asked Ms Smith to locate what was plainly a confidential internal Council communication and why he then forwarded it on to Mr Stavrinis. I expect there will be evidence to suggest that Councillor Petch acted in this way with a view to assisting his associate Mr Goubran and damaging the reputation of Mr Johnson.

Beyond the above examples there will I expect be evidence to suggest that on a number of other occasions Councillor Petch has released what was plainly confidential Council information to friends and associates, some of whom were local property developers.

Commissioner, the next issue I wish to deal with is Councillor Petch's attempt to influence a decision by the Acting General Manager as to the payment of legal fees. As I've indicated above, Danielle Dickson was appointed Acting General Manager of the City of Ryde Council in February 2013 following the resignation of Mr Neish. As part of a review of the organisational structure of the Council, the Council began a recruitment process with a view to appointing a new permanent General Manager. That process began in mid April 2013 with a workshop and the draft timeframe prepared indicating an intention to actually have a new permanent General Manager commence work in mid to late September 2013.

As at May 2013 the Supreme Court proceedings that I referred to earlier remained before the court. As at May 2013 some negotiations were entered into between the parties as to a possible resolution of those proceedings. The Council delegated to Ms Danielle Dickson the function of managing the Supreme Court proceedings at an extraordinary Council meeting held on 9 April, 2013. I anticipate that evidence will be given by Ms Dickson to the effect on 2 May, 2013, after she sent a memorandum to Councillors in respect of the progress of the proceedings, Councillor Petch spoke to her privately and suggested to her that she should agree to a position on behalf of the Council that the Council meet the costs of the defendants, which included Mr Petch himself. I further anticipate that Ms Dickson will say that Councillor Petch suggested to her that it would be in her interests to do so because, in her interests to do so as he asked that - sorry, I withdraw that. That it would be in her interests to do as he asked because when it came to the Council's decision whether to appoint her as permanent General Manager he would be relying on a number of other Councillors who were also defendants in the proceedings. I expect that on the part of the Mayor, Councillor Petch, there is likely to be some dispute as to the words that were spoken and their intent. Nonetheless, a real issue will arise as to whether the communications initiated by Councillor Petch were appropriate given his status both as the Mayor of the City of Ryde Council and a defendant in

the proceedings and his personal financial interest in the terms on which the proceedings were resolved, including as to costs.

If Ms Dickson's evidence is accepted it may lead to a finding that what Councillor Petch was in fact doing was offering a none too subtle inducement that if Ms Dickson acted as he suggested in relation to the costs of the Supreme Court proceedings he and other Councillors with whom he was aligned would ensure that she was ultimately appointed the Council's permanent General Manager.

10

Viewed another way, Councillor Petch's communication could be interpreted as a thinly veiled threat that if Ms Dickson did not act as Councillor Petch was suggesting, he and the Councillors with whom he was aligned would involve themselves in the recruitment process so as to prevent her appointment as permanent General Manager.

Commissioner, the next issue I wish to deal with is Councillor Petch's failure to disclose personal and financial relationships.

20

Both documents and oral evidence will be put before the Commission to establish that in October 2012 Councillor Petch agreed to make a loan in the sum of \$250,000 to Mr John Booth, the owner, editor and publisher of the local Ryde Gladesville newspaper The Weekly Times. It would appear that by that time Mr Booth and The Weekly Times were experiencing some cashflow difficulties.

30

Ultimately Mr Petch had his solicitor, Mr Stefano Laface, draw up loan and mortgage documents and the loan proceeds were paid out to Mr Booth and The Weekly Times in two tranches in mid to late October 2012. Mr Booth provided security for the loan in the form of a property in Kirribilli that he owned and a property in Mosman that his sister a Ms Gilkes owned. The term of the loan was six months with interest to be charged at 10 per cent per annum.

40

As indicated above the Council's Code of Conduct requires Councillors to disclose all potential conflicts of interest and pecuniary and non pecuniary interests. Further, section 451 of the Local Government Act prohibits a Councillor who has a pecuniary interest in any matter with which the Councillor is concerned, from being present at or even in the sight of any meeting at which the matter is being considered or discussed by the Council.

On 26 March, 2013 at a City of Ryde Council meeting, the Council had to decide on a motion to split the Council's advertising evenly between the current contract holder, the Northern Times, and Mr Booth's newspaper, The Weekly Times. I expect there will be evidence to show that Councillor Petch spoke in favour of the motion which would have had the effect of providing financial benefit to Mr Booth without giving any indication of his financial arrangements. That is Councillor Petch made no mention at all of

the loan and the mortgage entered into and the fact that Mr Booth owed him \$250,000.

In addition to the above event I expect evidence will be given from a number of Councillors who were present at a planning and environment committee meeting held on 4 June, 2013. One of the items to be considered by the committee on that occasion was a building certificate application for unauthorised building works to an existing dwelling at 29 Vimiera Road, Eastwood. That property is a private residence owned by a company which Mr Norm Cerreto was a director, of which Mr Norm Cerreto was a director and further Mr Cerreto lives at that address.

I anticipate evidence will be presented to the Commission to indicate that whilst Councillor Petch was not a member of the planning and environment committee, he attended the meeting, sat on the committee table, spoke privately to the acting committee chairperson, Councillor Denise Pendleton and then attended a private discussion that the committee held in respect of the building certificate application.

I expect that the evidence presented to the Commission will indicate that whereas the report provided the Council staff recommended that the unapproved structure should be demolished, the decision reached by the committee after the private session was not to pursue demolition of the unapproved structure. I expect that the evidence put before the Commission will indicate that there was an existing and close personal relationship between Councillor Petch and Mr Cerreto as at 2012 and 2013.

In the circumstances I expect there will be a very real issue as to what if any disclosure Councillor Petch made of his relationship with Mr Cerreto and what motivated his decision to involve himself in the planning and environment committee meeting on 4 June 2013. There will further be an issue as to what influence Councillor Petch had on the committee's decision.

I expect there may be other instances of Mr Petch failing to disclose pecuniary and non pecuniary interests in the course of the, his activities as a Councillor.

Commissioner, the next issue I wish to deal with is the offer to Councillor Pickering.

I expect there will be evidence given by Councillor Pickering about an approached he received by Mr Richard Henricus on 2 May, 2013. The evidence will be to the effect that Mr Henricus contacted Mr, Councillor Pickering on 1 May, 2013 and requested a meeting the following day.

I expect Councillor Pickering will say that when they met on 2 May, 2013 Mr Henricus indicated that he had commenced working for The Weekly Times. As at May 2013, Mr John Booth, the owner of The Weekly Times,

had a Development Application lodged at Council for a significant redevelopment of premises located at 826 Victoria Road, Ryde.

I expect Councillor Pickering's evidence to be to the effect that at the meeting on 2 May, 2013 Mr Henricus indicated that Mr Booth was getting ready to step away from The Weekly Times with the intention that Mr Enriquez would become General Manager.

10 Mr Henricus further indicated that he was aware of the bad coverage Councillor Pickering had received from The Weekly Times in the past and he suggested that this could change after he became General Manager. Mr Henricus further suggested that if the DA currently before Council could be sorted out it would allow Mr Booth to basically hand the keys of the office to Mr Henricus. I expect Councillor Pickering's evidence will be that Mr Henricus asked his assistance to get the DA to go through. There was another person present at this meeting, Mr Nathaniel Smith, who I expect will give similar evidence to that of Councillor Pickering.

20 Commissioner, there will be an issue as to whether the approach Mr Henricus made was on his own behalf, on behalf of someone else or on behalf of Mr Booth. In either case it would appear, it would appear provided that Councillor Pickering's evidence is accepted that the approach by Mr Henricus would amount to a bribe to the effect that if Councillor Pickering could assist in getting the DA approved, Mr Henricus would ensure that he received more favourable coverage in The Weekly Times in the future.

30 Commissioner, there are certain matters I wish to deal with in conclusion. The Commission will ultimately have to make factual findings on all of the issues raised above. As I have suggested earlier in the opening, there are likely to be fairly significant conflicts between the evidence presented to the Commission, particularly between the evidence of Councillor Petch and the evidence of certain Council employees and other Councillors.

40 Ultimately, the Commission will need to consider whether Commissioner – whether Councillor Petch acted in contravention of the Council's Code of Conduct, the policy for the interface and day to day oversight of the General Manager by the Mayor, the guidelines for the appointment and oversight of General Managers and indeed the Local Government Act and/or the Election Funding Expenditure and Disclosure Act through the behaviour described above.

The Commission will also need to make findings in relation to the conduct of certain other Councillors from the City of Ryde Council, particularly those who were aligned with Councillor Petch prior to the September 2012 elections in their opposition to the Ryde Civic Precinct redevelopment. Further findings will need to be made in respect of the conduct of certain associates of Mr – of Councillor Petch, including Norm Cerreto and Mr

John Goubran and Mr John Booth. Finally, the Commission will need to make factual findings in relation to the conduct of Mr Richard Henricus.

10 Subject of course to the factual findings the Commission ultimately makes, the Commission will have to consider whether Councillor Petch engaged in corrupt conduct on multiple occasions and in multiple respects, noting the effect of sections 7 to 9 of the Independent Commission Against Corruption Act and in particular the statement as to the general nature of corrupt conduct contained in sections 8(i) and 8(ii) and the further requirements of section 9 of the Act.

20 At this stage it's less clear as to whether other Councillors may have also engaged in corrupt conduct, but I anticipate the Commission will need to consider the conduct of Mr John Goubran, Mr Anthony Stavrinos and Mr Richard Henricus. It's possible that the Commission may also need to consider corrupt conduct findings against Mr Norm Cerreto, although this will depend to a significant degree on the evidence that the Commission hears in relation to his dealings with Mr Petch and his awareness of the motivations for Mr Petch's conduct.

Finally, at the conclusion of the public inquiry, the Commission will be required to prepare a report pursuant to section 74 of the Independent Commission Against Corruption Act which will include statements as to any of its findings, opinions and recommendations.

Thank you, Commissioner.

30 ASSISTANT COMMISSIONER: Thank you for that, Mr Downing. We will now have a short adjournment.

SHORT ADJOURNMENT

[10:49am]

ASSISTANT COMMISSIONER: Thank you, please be seated. Yes, I will now take - yes, I will now take applications for leave to appear.

40 MR HYDE: May it please the Commissioner, Jonathan Hyde, and I seek leave to appear for Councillor Ivan Petch on instructions from Moray and Agnew Solicitors, in particular Shayne Thompson and Victoria Chambers.

ASSISTANT COMMISSIONER: Yes, thank you, you are given leave to appear for Councillor Petch.

MR HYDE: Thank you, Commissioner.

MR BENDER: May it please the Commission, my name is Bender, I seek leave to appear for Councillor Salvestro-Martin.

ASSISTANT COMMISSIONER: Yes, Mr Bender you are given leave to appear for Councillor Salvestro-Martin.

MR HARRIS: Deputy Commissioner, my name is Harris, I seek your authorisation to represent Mr Neish.

ASSISTANT COMMISSIONER: Yes, Mr Harris, you are given leave to appear for Mr Neish.

10

MR HARRIS: Thank you.

MR SEETON: Good morning, Commissioner, my name is Adam Seeton and I represent the City of Ryde Council in its capacity as a body politic of the State, I don't represent any individual Councillor or staff member and I seek that the Council be authorised to appear for the proceedings.

ASSISTANT COMMISSIONER: Yes, I'm not sure how much of a role the Council needs to take in the proceedings but I will give you leave.

20

MR SEETON: Yes, it's only if there are matters relating to their policies, procedures, systems that come up during the course of these proceedings, Commissioner.

ASSISTANT COMMISSIONER: Yes, thank you.

MR OATES: May it please the Commissioner, my name is Oates, I seek the Commission's authority to represent Mr Nathaniel Smith.

30 ASSISTANT COMMISSIONER: Yes, you're given leave to appear for Mr Smith.

MR OATES: If the Commission pleases.

ASSISTANT COMMISSIONER: He's a witness I take it, is he, Mr Downing? Yes.

MR DOWNING: Yes, Commissioner.

40 ASSISTANT COMMISSIONER: Are there any other applications?

MR NEIL QC: Commissioner, my name is Maurice Neil, I seek leave - - -

MR SIMPSON: Commissioner - oh, Maurie, you go first.

MR NEIL QC: I seek leave to appear with my learned friend Mr Avni Djemal instructed by Mr Craig Murray for Mr Norman Cerreto.

ASSISTANT COMMISSIONER: Yes, Mr Neil, you and your junior are given leave to appear.

MR NEIL QC: Thank you, Commissioner.

MR SIMPSON: Commissioner, I seek leave to appear for Mr John Booth who's a witness, my name is Simpson.

10 ASSISTANT COMMISSIONER: Yes, you are given leave to appear for Mr Booth.

MR ANDRONOS: Commissioner, my name is Andronos. I seek leave to appear for Mr Terry Perram.

ASSISTANT COMMISSIONER: For Mr Perram?

MR ANDRONOS: Mr Perram.

20 ASSISTANT COMMISSIONER: Yes, you're given leave to appear.

MR DAWSON: Commissioner, my name is Dawson, D-a-w-s-o-n. I appear with your leave for Mr Pickering who is a witness. Can I indicate while I'm on my feet that I've mentioned this to Mr Downing, Mr Pickering is presently overseas according to the information we have but is expected back in time to give evidence on Thursday or Friday which I understand meets the Commission's timetable.

ASSISTANT COMMISSIONER: Thank you for that.

30 MR DAWSON: Thank you.

MR MAHONY: John Mahony. I'm a witness someway down the list, I seek leave to be excused until later in the week.

ASSISTANT COMMISSIONER: Yes, yes, Mr Mahony, that's fine. You'll be notified when you're actually required to appear.

MR MAHONY: Thank you, Commissioner.

40 MR McLURE: Commissioner, my name is McLure. I seek leave to appear for Mr Victor Tagg.

ASSISTANT COMMISSIONER: Yes, Mr McLure, you're given leave.

MR LLOYD: Commissioner, my name is Lloyd. I seek leave to appear for Councillors Pendleton and Etmekdjian and also Bruce McCann and Roy Newsome and while I'm on my feet could I indicate that Councillor Etmekdjian is overseas and that fact has been raised with the Commission

and as I understand it there's no difficulty with Councillor Etmekdjian giving his evidence when he returns from overseas.

ASSISTANT COMMISSIONER: Yes. Thank you, thanks for that.

MR STEWART: Yes, good morning, Commissioner. Stewart, solicitor. I seek leave to appear for Mr Henricus.

10 ASSISTANT COMMISSIONER: Yes, Mr Stewart, you're given leave to appear for Mr Henricus.

MR CHALMERS: Yes, good morning, Commissioner, my name is Chalmers. I seek leave to appear for Mr Tony Abboud.

ASSISTANT COMMISSIONER: Yes. Mr Chalmers, you are given leave.

MR CHALMERS: Thank you, Commissioner.

20 MR TAYLOR: Commissioner, Taylor, solicitor. I seek your leave to appear on behalf of Mr Michael Butterworth.

ASSISTANT COMMISSIONER: Yes. Mr Taylor, you're given leave.

MR TAYLOR: Thank you.

MR STANTON: Yes. Commissioner, my name is Stanton, initials SJ. I seek leave to appear for Mr Goubran instructed by Barraket Stanton, Commissioner.

30 ASSISTANT COMMISSIONER: Yes. Mr Stanton, you are given leave to appear for Mr Goubran.

MR HOLMES: Commissioner, my name is Holmes, H-o-l-m-e-s. I seek leave appear for Mr Stefano Laface. I also ask if he could be excused from attending until later in the week.

ASSISTANT COMMISSIONER: Yes. Witnesses will be notified of the day upon which they're actually required to attend.

40 MR HOLMES: Thank you, Commissioner.

MR GRIFFIN: Commissioner, my name is Patrick Griffin, I appear with my learned friend Ms Case. I seek leave to appear for the Acting Mayor, Justin Li.

ASSISTANT COMMISSIONER: Yes, Mr Griffin, you're given leave to appear.

MR SMITH: Commissioner, Smith is my name, initial M. I seek leave to appear for Mr Charles Parisi.

ASSISTANT COMMISSIONER: Yes. Mr Smith, you are given leave to appear for Mr Parisi.

MR SMITH: Thank you, Commissioner.

ASSISTANT COMMISSIONER: If there are no other - oh, yes.

10

MR KRITHARAS: Commissioner, my name is Bill Kritharas, K-r-i-t-h-a-r-a-s and I seek leave to appear for Mr Anthony Stavrinis.

ASSISTANT COMMISSIONER: Yes, you're given leave to appear, Mr Kritharas. Yes, if there are no other applications for leave and there are no other matters that need to be raised at this time could you call the first witness, Mr Downing.

20

MR DOWNING: Commissioner, just before I do, there's been a volume of documents which I understand have been circulated to all of the interested parties comprising mainly Council policy documents and Council minutes, could I tender those at this point.

ASSISTANT COMMISSIONER: Yes. That, that volume of documents will be Exhibit 1.

#EXHIBIT 1 - VOLUME 1 – BUNDLE OF DOCUMENTS

30

MR DOWNING: And, Commissioner, for the benefit of the parties each of the documents that will be tendered should have a numbering on them, a numbering system which will be consistent through the copies provided to everyone so when I refer to page numbers there will be page numbers in the top right corner of each of the documents.

ASSISTANT COMMISSIONER: Thank you for that.

40

MR DOWNING: Thank you, Commissioner. The first witness is Mr John Neish.

ASSISTANT COMMISSIONER: Mr Neish, if you just want to go - - -

MR HARRIS: Commissioner, if I may could I just indicate Mr Neish will make an oath and could I foreshadow he seeks the section 38 declaration.

ASSISTANT COMMISSIONER: And have you explained the effect of the section 38 declaration to him?

MR HARRIS: I have, I have, yes.

ASSISTANT COMMISSIONER: 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 compulsory examination are to be regarded as having been given or produced on
10 objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

**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 COMPULSORY
EXAMINATION ARE TO BE REGARDED AS HAVING BEEN
20 GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO
NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT
OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR
THING PRODUCED.**

ASSISTANT COMMISSIONER: Could Mr Neish be sworn, please.

MR HARRIS: He'll take an oath.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Downing.

MR DOWNING: Thank you.

10 Mr Neish, if you could state your full name for the Commission?---Yes, my full name is Edward John Neish.

And your date of birth?---7 March, 1953.

And your address?---.....

And are you currently employed?---Yes.

20 And in what capacity and for whom?---I work as consultant both in for my own company and for another company called

Commissioner, if it's convenient at this time there are a series of documents that I expect I'll be referring to in the course of Mr Neish's evidence rather than doing it one at a time. I seek to tender now those documents, some of which are contained already in Exhibit 1 but these are additional documents that I expect I'll be referring to.

ASSISTANT COMMISSIONER: Yes.

30 MR DOWNING: And again copies can be made available to the parties who are interested in Mr Neish's evidence.

Mr Neish, in the course of your evidence hopefully when I refer to documents they will appear on the screen in front of you, so if you just have a look out for those?---Sure.

ASSISTANT COMMISSIONER: Well this bundle of documents will be marked Exhibit 2.

40 **#EXHIBIT 2 - BUNDLE OF DOCUMENTS**

MR DOWNING: Thank you, Commissioner.

In your evidence just before you indicated that you work as a consultant for your own company and for, is it?---Yes, that's correct.

And what's the nature of the work that you're doing?---I'm consulting with Local Government and advising on change management and performance management et cetera.

And you were the General Manager at Ryde Council for a period from January 2010 until February 2013?---That's correct.

10 And could I ask you to have a look at a contact document and this appears at page 25 or at the beginning at page 25 of Exhibit 2. If you scan down that. Do you recognise that as your contract of employment?---Yes, I do.

Now will you go ahead to page 20, sorry 46, 46 of the document. And do you recognise that as signed by you and then Mayor Michael Butterworth? ---That's correct, yes.

On 14 October 2009. Up until - I withdraw that. Prior to your work at Ryde Council had you worked in Local Government for some years beforehand? ---Yes, I'd worked both in Australia and overseas beforehand.

20 And how many years did you work to Local Government?---For about, it would have been 18 to 20 years.

And was this your first appointment as a General Manager?---No, I was previously the General Manager at Parramatta City Council.

And for how long was that?---That was for almost five years.

30 Up until you ceased your employment at Ryde Council that is between January 2010 and February 2013 had you undergone some performance reviews?---Yes. I'd undergone two performance reviews.

Could I ask you again looking at the documents on the screen in front of you to have a look at page 57 and 58. Do you recognise that as a document from November 2011 in respect of one of the performance reviews?---Yes.

And it indicates that you received a pay rise as a result of the performance review?---That's correct.

40 Do you recall when the other performance review, you referred to there being two, when did the other one occur?---It would have been approximately a year before that, 2011.

So in late 2010?---Sorry, this was, sorry, can I see the full document? If I could just go to the top?

You commenced work in January 2010?---Yes.

This document in respect of the performance review is dated 21 November,

2011?---Oh sorry, '11, yeah, sorry. There was one subsequent one approximately a year later. I think it was about November 2012.

So in terms of the Mayor's, the Mayors of Ryde at various times, in 2009 I've already (not transcribable) the contract of Mayor Butterworth - - -?
---Yes.

10 - - - who was the Mayor at that time. Do you recall when in 2010 and 2011 after the relevant Council elections Councillor Etmekdjian was the Mayor?
---That's correct.

And in September 2012 Councillor Petch became the Mayor?---Yes.

And was your last performance review after the Council elections in 2012?
---No it was prior to, I'm sorry.

20 And was the result of that that you received a pay rise, your pay stayed the same?---I didn't receive a pay rise, I received an excellent grading for performance.

In the contract it sets out various aspects of your duties as the General Manager of Ryde Council. Could I ask you to have a look at page 31? And if we go down the page under Duties and Functions it sets out at 6.1.2 (not transcribable) of your duties?--- Yes.

And two of the duties spelt out were implementing without undue delay the decisions of Council?---Yes.

30 And exercising such of the functions of Council as delegated by the Council to you?---That's correct.

And were they parts of your job that you had to abide by on a day to day basis?---Most definitely. It is also enconced in the Local Government Act that that's my role.

Could I ask you in – in the period when Councillor Butterworth was the Mayor what was your relationship like with him?---Councillor Butterworth and I had a positive working relationship. That later changed after, I think it was after he left the Mayoralty.

40 After he left - - -?---Left the Mayoralty, yes.

Well Councillor Etmekdjian was elected Mayor in September 2010?---Yes.

And was re-elected in September 2011. What was your working relationship like with him?---It was very constructive from my perspective and it was a very professional relationship as one would expect.

Can I ask you what your working relationship with Councillor Petch was like after he was elected Mayor in September 2012?---The working relationship was really difficult. I think I once described it as dysfunctional. Councillor Petch refused to meet with me one on one and it was very difficult to, to do those things that a General Manager and a Mayor needs to do by working in close, in close partnership. I think these partnerships are very important to how Councils operate and I found whilst Councillor Petch was cordial, we didn't have a constructive working relationship.

10 Can I ask you just for a moment about the, to turn your mind to the Ryde Civic Precinct redevelopment project?---Yes.

And can I ask you what was the status of that as at January 2010 when you began your employment?---The – in January 2010 it was made clear to me that one of the projects I needed to focus on was the delivery of the Ryde Civic Precinct redevelopment. I think it was in March 2010, Council resolved to look at bringing on a development director and that was - - -

20 If I can just stop you there?---Yes.

In terms of history what was the Ryde Civic Precinct redevelopment?---Yes. It consists of land that Council owned in Top Ryde. It was part of a master plan for the, for the Top Ryde precinct.

30 Did that land include where the Council premises, that is the Council office is situated?---Yes, yes. The Council office is on a quantum of land and it was always planned, and there have previously been plans to redevelop that precinct. It was in the planning instruments to do so and it was Council's clear wish at the time that's what they wanted me to do.

And what was the status as at early 2010?---Early 2010 in March when that report first went to Council, I think from memory it was a vote of 11 to one to proceed with the next stage of the project.

The next stage being what?---The appointment of a Development Director to – and a team of consultants to pool together the project into a, into a meaningful product that we could then take to the marketplace.

40 And was, was in fact a Development Director then appointed?---Yes, that was in December 2010.

Was that Mitch Corn?---That's correct.

And what was his – he was an outside consultant?---He was an outside consultant. We went through an Expression of Interest, it was a tendering process. That tender went to the Council and the Council agreed with the recommendation to appoint Mr Corn. Mr Corn then went about putting on

a, a number of consultants needed to deliver a project of the complexity required.

Were lawyers involved in the process?---Yes, Clayton Utz was involved as was Patrick (not transcribable) from, sorry, the name of the company escapes me.

10 What role was that? Was that a probity advisor or assessor or - - -?---No, Patrick (not transcribable) was giving advice on getting the land tenure sorted out and Clayton Utz was on the commercial legality of the, of the documents. The probity advice was being given by Marsden O'Connor, who was set up as a probity auditor early in the project to - - -

So is this the case that from the time the project was initiated, that is when Mitch Corn was appointed as project, is it Project - - -?---Director.

- - - Director, he had an involvement on behalf of his organisation, lawyers were appointed and probity assessors, auditors were appointed as well?
20 ---Yes. As well as urban designers, people that could give advice on sustainability and we also had a land economist working on that team as well.

30 Can you tell me then through the period from January 2010 through until about October 2011 what was the progress of the Ryde Civic Precinct redevelopment?---The progress was that we had done a lot of due diligence on the site, tried to work out the ownership of the site. The site had parcels that were owned by crown land and we were negotiating with them to acquire some of that to consolidate the site. We did an analysis of all of the risks on the site as far as was there ground conditions and those things so we could de-risk the project as much as possible. And we also looked at the master design and the master planning for the site and the planning requirements and instruments for the site.

Up until the Council elections in September 2011 when Councillor Etmekdjian was re-elected as Mayor, what was the position within Council in terms of support for or against the project?---The support was generally still running at between ten votes and 11 votes for the project, depending on what was going up. And one or two against.

40 Now do you recall in October 2011 that you put before Council a particular recommendation?---Yes, on 18 October.

Can I ask you to have a look at a document, if we could go to in Exhibit 1 page 421. Now you'll see that document are some minutes of a meeting held on 6 June, 2012 and the minutes indicate that there was a problem with a quorum not being present?---That's correct.

Now, I'll come to that issue a bit later but if you then go ahead to page, sorry, 423. Do you see that document is a report prepared by the development director for the Civic Precinct project?---Yes.

And at page 427, which is the end of that report, it indicates the report's prepared by Mitch Corn and approved by you?---That's correct.

10 The next page 428 provides some history and it refers to an extraordinary Council meeting on 18 October, 2011 where a certain resolution was passed?---Yes.

Can I ask you to explain - oh, first of all, read through that document from page 428 through until, through to 437 briefly or skim over it please and I'd ask you to then indicate to the Commission what it was the resolution involved at the time?---(No Audible Reply)

20 If you're able to answer it without reference to the document by all means do so?---Yes, at this time it was to delegate to me authority for taking the Civic Precinct project to the next phase.

The next phase being what?---It was the phase of calling for tenders. If I could just go up please.

30 Back up the page?---Yes. Yes, it outlined the procurement process for tendering and selecting of an appropriate development partner for a public/private partnership with the City of Ryde. It later turned out it wouldn't be a public, a private/public partnership, that it would be a joint development and it was to, to put into place the criteria for the selection of that, that appropriate partner and, and the procurement process outlined how that would be achieved.

So pursuant to this resolution was the intention, was the process that you were then under your delegated power to put in train the expression of interest phase?---Yes.

And request a tender phase?---Yes.

40 With a view that by August 2012 you would be recommending a preferred development partner?---That's correct.

Can I ask you then, and you may want to skim through the document further in terms of the timeframe, what then happened in terms of starting the expression of - sorry, I withdraw that. Can you recall what the vote was on this particular motion and bearing in mind we're now at 18 October, 2011 after the 2011 Council elections?---I can't recall specifically but I think if it was after the Mayoral election then it would have been six all with the Mayor using his casting vote.

And did that occur on a number of occasions where votes involved the Ryde Civic Precinct redevelopment?---It occurred continuously.

What, from after the September 2011 elections - - -?---Yes.

- - - through until the September 2012 elections?---Yes.

10 Now, in terms of timeframe then can you tell us what then happened in terms of starting the expression of interest and the request for tender process?---The request for tender process, the expression of interest was initially called, I know it closed in December 2011. I think it was called about six weeks prior to that from memory.

Have a look at page 430 towards the bottom?---Yes.

So do those dates appear correct, that it was - - -?---Yes.

20 - - - the expressions of interest called on 22 November?---Yes, that's correct.

And the closing date is 23 December?---23 December. The next stage, those expressions of interest were evaluated by an independently created evaluation panel of industry experts and they came back and recommended, I think it was in February 2012, that four shortlisted proponents go to the next stage which was the formal request for tender.

30 And if you go to the next page 431. Just before I ask you about those particular events, when you put up your recommendation to Council back on 18 October, 2011 did you put forward a number of different options - - -? ---Yes.

- - - in terms of what might happen?---Yes, there was three options.

What were the three?---The first option was to proceed with the project and have it completed prior to September 2013, sorry, September 2012.

40 When you say have it completed that is not the actual building is or was it? ---No, the, the procurement process and the appointment of a suitable contractor.

Right. And that's option 1?---That was option 1. Option 2 was to delay the project progressing until after September and option 3 was to not proceed any further with the project.

So those three options having been put up - - -?---Yes.

- - - the one that Council voted in favour of was the one to progress it - - -? ---That's correct.

- - - with a view to having in effect a developer in place by - - -?---I think it was August.

- - - August 2012?---'12.

10 Sorry. If you could then look at page 431. You've told us that the initial expressions of interest were called for, a number of companies put in expressions of interest. Is it correct then that on 10 February, 2012 four parties were invited and accepted an invitation to participate in the request for tender process?---That's correct.

Of those four did two subsequently withdraw?---Yes, at the, at the close of tender only two progressed. One was Bilbergia who had partnered with Frasers and the other was Lend Lease Development Pty Limited.

20 What then happened in terms of the request for tender process?---The negotiation panel then went in to detailed negotiations with both parties to - - -

Is that tender panel that had been appointed?---Yes. So that they could evaluate both of the, of the tender bids.

Who was on the panel?---There was a number of people. There was a Mike Collins from MCA, there was - - -

30 Who, who was he and what was his role?---He was giving advice on property project returns, doing the financial analysis. Obviously the development director Mitch Corn who had oversight of the project, Malcolm (not transcribable) who was a project manager for the project who was looking after a lot of the, the process issues. There was a QS on the tender panel.

Quantity surveyor?---Quantity surveyor.

So were all of these persons external appointments, they weren't Councillors who were on the - - -?---No, they were all external appointments and, and there was an urban designer as well.

40 Okay. All right. If you could then sorry, continue, page 433 if you have a look at that indicates that it was 10 April, 2012 that Mirvac and Leighton indicated that they didn't want to proceed further with the tender?---That's correct.

And then further down the page it indicates that a number of technical advisors were appointed to interrogate specialist areas of tenders?---Yes.

Was that part of assessing the tenders?---Yes.

At page 434 the document, the report indicates that on 20 April of 2012 both tenderers presented their proposals to the panel?---That's correct.

As overseen by the Council's probity advisor and other observers on behalf of Council?---Yes.

10 Can you tell me then what happened after that, after the presentation?---I, I think the, the series of events was that by about May the tender panel had come to the opinion after doing all the analysis, the tender evaluation panel had come to the opinion that Lend Lease was the best offer to the Council and they determined to proceed, I think they determined at that stage there was a report to Council to declare all tenders invalid and non-complying tenders and then to proceed in detailed negotiation with Lend Lease. Now Lend Lease had put up two options for the Council to consider and the negotiations took place with them to then finalise that offer.

20 Have a look at pages 435 and 436 and tell me if the summary there of the key dates and events is accurate to your recollection?---(No audible reply)

You'll see there's reference to meetings on 7 and 8 May - - -?---Yes.

- - - 2012?---Yes.

With the tenderers then been given until 16 May to prepare responses on key outstanding issues?---That's right.

Now evaluation panel meeting on 21 May and scoring of the tenders?---Yes.

30 And there was then an opinion provided by the evaluation panel after obtaining input from Clayton Utz?---Correct. And then that all came to me for a review and I think it was reported to then, reported to Council that time.

40 Having received the opinion from the panel and Clayton Utz, what was your view in terms of what was the appropriate step to take?---My view on the appropriate step to take was to proceed into the final discussions with Lend Lease. It offered a better urban design outcome for the site and a better financial return to the Council.

Have a look at page 437 and you'll see in the top few paragraphs it refers to the evaluation panel's conclusion. Does that accord with the recommendation that you got from the panel in terms of the best of means of proceeding?---Yes.

If I could ask you then to have a look at pages 502 through to 506 of Exhibit 1 which hopefully will be the minutes of a meeting on 12 June 2012?---Yes.

I'm sorry, it starts at 498. If we go back to 498. Do you see they're minutes of a meeting on the 12 June?---Yes.

If you go ahead to page 502 towards the bottom of the page there's a record there of a resolution in respect of a report that you provided and a report from the tender panel?---Yes.

10 Do you recall if that was the date on which you made a recommendation about what should then happen?---Yes, that was the subsequent meeting I referred to earlier, yeah.

And what, that happened at that point, was there a further delegation to you or did something else happen?---I'm not sure of it exactly. Sorry, could I scroll down. Yeah. It was, it was asking Council to note that the tender evaluation panel has subject to the confirmation of Lend Lease board approval enter into negotiations with Lend Lease with a view to including a contract on the basis set out in the confidential report.

20 And if you go to page 503.2, I think you're there now?---Yes.

Sorry, and then over 504 and 505 it has the balance of the resolution. Was it at this point that you had a delegation then to try and negotiate further with Lend Lease to bring the agreement in line with what the Council expected?--Yes. But I'd just like to, to add that I didn't need those negotiations the tender evaluation panel did those negotiations, reported to me. I had final oversight.

30 Now having regard to the resolutions Council has passed in this period from October 2011 through to this period in June 2012 did you see it as part of your job to progress the rights of a precinct project?---Yes, that was very clearly both the resolution of Council and it was also an objective in my performance objectives. And as I said earlier the objective or my performance objectives was to have that concluded by August 2012.

Commissioner, I'm not sure if you wanted to take a morning tea adjournment this morning or whether we continue given that we had a short adjournment before, it's convenient to me either way but - - -

40 ASSISTANT COMMISSIONER: I think we will have the adjournment.

MR DOWNING: Thank you.

MR HARRIS: Commissioner, before we rise on Mr Neish's behalf I seek a non publication in relation to his home address and the name of the business with whom he's employed as a consultant

ASSISTANT COMMISSIONER: I'm happy to suppress the home address. Is there any particular reason to suppress the name?

MR HARRIS: No. Other than to ensure that he is not subjected to any un, un, inappropriate attention by way of his current employment.

ASSISTANT COMMISSIONER: Yes. Well it is largely irrelevant to us where he's working so I will suppress his, the name of the current employer and home address.

MR HARRIS: Thank you, Commissioner.

10

ASSISTANT COMMISSIONER: And we'll adjourn for 15 minutes, thank you.

SHORT ADJOURNMENT

[11.35am]

ASSISTANT COMMISSIONER: Please be seated. Yes, Mr Downing.

20

MR DOWNING: Thank you, Commissioner.

Now, Mr Neish, just before the break I asked you some questions about the period up until about May/June 2012. Is it the case that negotiations were continuing between, was it the panel and Lend Lease at that time with a view to trying to finalise an agreement?---Yes, that's correct.

30

And can I ask you just to turn your mind to a slightly different issue. Can you recall what Councillor Petch's view about the Ryde Civic Precinct redevelopment was in 2010 through to 2012 and whether it changed over that time?---Initially Councillor Petch was very pro the development. The Council prior to - - -

Did he speak to you about that?---Yes.

40

What did he indicate to you about that?---The, that the - the Council prior to my arrival had done some master planning for the site, putting in 100,000 square metres of development on the site. Councillor Petch on a couple of occasions had said how much money Council was going to, was going to receive from the development which I thought was actually over, overblown.

What, overestimating what the return might be?---Overestimating what the return might be. And on another occasion Councillor Petch was of the view that Crown Developments who were developing across the road would be a good solution.

When you say across the road is that the Top Ryde Shopping Centre?---Yes, they were building apartments on top of that.

Right?---Would be a good option for that site but he didn't go into any further detail about that.

Did, did his position as it was conveyed to you change at any time?---It did change after the Mayoral election.

In what, what year, about when?---In, in September 2011.

- 10 And what was his position after that as conveyed to you?---Well, Councillor Petch had met with me on a, on a couple of occasions and had told me that the right thing to do would be to delay the process till after the election.

That is the following elections in 2012?---Yes.

Did he say why?---He didn't go into any detail but I just assumed it was to take some of the, it was to come to a political solution for the site rather than a fiduciary solution for the site if you like.

- 20 At that time you had Council resolutions requiring that certain things were to happen with the project?---Correct.

And you also had Councillor Petch suggesting that it should be delayed until the September 2012 elections?---Yes.

Or after those elections?---Yes.

- 30 What was your approach as to what you would actually do in that situation? ---Well, I just simply said to him that whilst I understand his, his concerns and his wishes you'd need to have a Council resolution to that effect. I mentioned that on a number of occasions. Councillor Petch later had sent me correspondence warning me that if I was to keep going ahead with the proposal I would, I would be in breach of the Local Government Act and be personally liable for any breaches or wrongdoing emanating from, from my actions.

- 40 You've told us about an occasion or occasions where Councillor Petch told you that he wanted the project delayed until after the September 2012 elections?---Yes.

You've said that your response was to indicate to him that for you to take that action you would need to have a Council resolution to that effect? ---Correct.

Did Councillor Petch say anything to you when you told him that you couldn't do what he was asking unless you had a Council resolution instructing you to so act?---Not really. I think the first time it was mentioned was prior to the, the Mayoral election and then it was mentioned

several times afterwards. Councillor Petch came to see me and suggested that I slow things down a bit, take my foot off the accelerator and that would be the, the right thing to do and it wasn't long after that that the, the extraordinary meeting with Council was called by Councillor Petch to dismiss me as the General Manager.

But just coming a little bit, that, that's in, later in 2012?---Yes.

10 Just dealing with the period from about the Mayoral election in September 2011 through till about June 2012, did you - I take it you generally attended Council meetings?---Correct.

And Council committee meetings that involved the Ryde Civic Precinct redevelopment?---Correct.

20 Did you notice any pattern of voting in terms of votes that related to the Ryde Civic Precinct redevelopment?---There certainly was an absence of quorums on a large number of occasions, I think between up to 13 in the end and, and - - -

And on the occasions when there was no quorum what, what occurred? Did people leave during the meeting, not attend at all and who generally wasn't there?---It was a mixture of both. It was the group that was opposing the development.

30 Can I ask you, are you able to identify which Councillors it was that to your recollection was opposed to the development, that the Ryde Civic Precinct redevelopment?---Yes. Councillors, obviously Councillor Petch, Councillor Perram, Councillor Salvestro-Martin. Back before the elections it was also Councillor Butterworth at the time and Councillor Tagg and Councillor Li.

And those who were for the Civic Precinct redevelopment?---Yes, it was Councillor Etmekdjian, Councillor Yedelian, Councillor Pickering, Councillor Maggio, Councillor Campbell and Councillor O'Donnell.

And you've told us there were quite a number of occasions when there was no quorum so the Council couldn't transact its business?---That's correct.

40 Was that always in relation to matters pertaining to the Civic Precinct redevelopment?---Yes, it was.

And who was it that wasn't present on those occasions?---The quorum, well, it varied but the quorum was withdrawn normally by those who were opposed to the project either not attending or leaving the Chambers when the matter came up.

During the process by which the Ryde Civic Precinct project was moving forward were there information sessions or training sessions provided or

offered to Councillors?---Yes, there was, there were several. We had a number of workshops and we had a number of, we had a number of special committee meetings as well as Council meetings.

10 And who was holding those?---Generally it was put on by the Mayor on, on my request to inform Councillors of the details of what was, what was taking place. For example there were some very sensitive financial arrangements that needed to be discussed, there was some sensitive issues to do with zoning and planning that needed to be discussed and these were best done in workshop environments. We also had legal matters where the lawyers would attend to discuss how the commercial contract was constructed, et cetera.

And did the Councillors generally attend those meetings and sessions?---Not all Councillors attended these.

20 Were there, was there any pattern in terms of the Councillors for or against the project who were not attending?---That varied. Sometime Councillors who opposed did come but not all. The last meeting that we had was to brief the new Council. Now, we wanted to brief them and we gave I think it was about eight or nine days' notice, it was just - - -

When you say the new Council you mean after the - - -?---This is after the September.

- - - September 2012 Mayoral election?---Yes. And, and at that, at that meeting only five Councillors attended and they were the Councillors that were supporting the project.

30 Now, as at early 2012 did you know Mr Tony Abboud?---Yes.

Who was he and what was your knowledge of him?---Tony was an active member of the local community, he was active in, in a number of ways. He was involved in the, the Macquarie Park and the Top Ryde Chamber of Commerce. He was a local real estate agent but he was also giving him time voluntarily on the City of Ryde strategic planning reference group or community reference group and I met him at a number of functions as well.

40 So you were well familiar with him by that time?---Yes.

And had you met him on a number of occasions through the different committees that you've described?---Yes.

As at early 2012 did you know a Mr John Goubran?---Yes, I had met Mr Goubran I think on two occasions prior to - - -

Who was he and what knowledge did you have of him?---Mr Goubran was a local developer. Mr Goubran had several planning matters before the

Council. One related to the rezoning of some land and a building that he had acquired in Waterloo Road in Macquarie Park where he wanted additional height for the site. One related to a development he had at Eastwood where he had landholdings and wanted to redevelop it as residential apartments and another landholding he had in Gladesville, in a light industrial zone, he wanted the land uses changed there to bulky goods.

10 So as at early 2012 was he someone that you were familiar with as someone that owned land and was in the process of having Development Applications before Council for consideration?---Yes.

Do you recall in about April 2012 receiving a call from Mr Abboud?---Yes. I think it was about 9 or so of April and we arranged to meet on 13 April.

20 When you say we arranged to meet, what did Mr Abboud say to you when he phoned you?---Mr Abboud said at the time that he had a, a - he, he had a proposition to put to me on behalf of, of others and he would tell me more when we meet and it was like that and it was at that time quite unspecific about what the discussion would be.

So you agreed to meet with him?---Yes.

And when and where did you meet with him?---We met at the Top Ryde Shopping Centre in a, in a coffee shop.

And can you recall on what date that was?---Yes, that was on 13 April, 2012.

30 Are you able to say what time of day?---I think it was 11 o'clock.

Can you recall now what Mr Abboud said to you when he met with you on that day?---Yes.

40 And as best as you're able please try and put it in words that he used or words to the effect of what he used and the same way what you said back to him?---Yes. Look we spoke for about an hour or so. Mr Abboud started off being quite apologetic and said that what he had to say might sound a bit ludicrous and that he hadn't really - he didn't think it should be taken in the vein - I should say Mr Abboud was an avid supporter of the Civic, Ryde Civic redevelopment site.

How were you aware of that?---He had come to speak to several Council meetings in support of the project.

So he'd actually addressed meetings?---Yes.

Indicated his view?---Indicated his support for the project proceeding and he had taken an active role in working the Chamber of Commerce and local community groups to garner their support.

If you go back then - - -?---Yes.

- - - doing your best to recall what it was he said. So he said that he said - - -?---Yes.

10 - - - something to the effect that, “what I’m going to put to you might sound ludicrous” - - -?---Yes.

- - - words to that effect?---Yes. And I’m sorry to have to do this but I had a, a meeting and a phone call – several phone calls with Mr Goubran.

These are the words, just so that we’re clear, this is not you, this is what you’re saying Mr - - -?---Yes.

20 - - - Mr Abboud said to you?---Yes. He had, he had notes with him which demonstrated, which he was referring to. And - - -

So - - -?---Yes.

- - - go on, so he told you what? So he said that - - -?---He said that Mr Goubran was talking on behalf of Councillor Petch and a number of other Councillors at the City of Ryde.

30 Die he, did he identify any of those Councillors?---Subsequently he did. He mentioned - - -

Do you mean subsequently that day or - - -?---Yeah, subsequently that day he, he mentioned Councillor Li, Councillor Salvestro-Martin, Councillor Petch. He also mentioned that Mr Goubran had, had spoken to him and said that people in Macquarie Street were – had asked him to approach me. He didn’t specify who they were. He also mentioned that the proposition that was coming from Mr Goubran was that I was to prepare a report to Council seeking to create a committee of review. That I was to draft the terms of reference for that committee of review and the committee was to review the operations of the Civic precinct project.

40

Did he say anything about who might comprise the committee?---Yes. He mentioned Councillor Petch, Li, Salvestro-Martin. And he said that the Liberals would, according to Mr Goubran, that the Liberals would agree to the proposal and that Councillors Yedelian and Maggio may also be on this committee. That there would be the four or five community representatives and he named some individuals. I can recall some of those people. And that - - -

Can you identify them now?---Yeah, Mr Phil Peak, Mr George Papallo - - -

Could you spell that for us, please if you're able to?---No, I couldn't. Again he was, he was a local identity in the local community, Mr Abboud himself and I think there was one other who I'd need to refer to my notes to answer that.

10 Okay?---The – he also suggested that on this committee would be two of my group Directors, Ms Danielle Dickson and Mr Dominic Johnson, the Planner. The committee of review was to until such time as the committee of review have findings, everything on the Civic precinct would stop and be delayed. That this report that I was to put to Council would go to Council and be supported by the Council and that if – he also wanted development assessments of the City of Ryde to be speeded up. He wasn't specific about which ones and he also suggested - - -

20 Sorry, Mr Abboud said he wanted or that Mr Goubran wanted?--- No, he was speaking on behalf of Mr Goubran. And he kept referring to his notes to make sure he got this right. And he also suggested that if I was to do these things my employment would be secure after the elections. When Mr Abboud said that Mr Goubran had told him that after the election Councillor Petch would be the Mayor, Mr Goubran was going to deliver some support for him to ensure he was the Mayor and then after the elections the project would proceed.

30 Did Mr Abboud say anything about when this committee that he wanted you to suggest be created through your report would come back with its views or its opinion?---Yes. I think the intention was it would be after the September – the Mayor, sorry, the Council elections in September.

Was that something that Mr Abboud said to you?---Yes. I then, sorry, I then informed Mr Abboud that it was improper for me to write such a report. That from my concern that the matter may be an offence under the ICAC Act and the Local Government Act. But really I was at the time a little bemused that I was being asked to do such things.

Well you say - - -?---And - - -

40 Sorry, you say that one of the things he indicated to you, that is Mr Abboud that according to Mr Goubran if you did these things then your job would be secure beyond the next Mayoral elections?---Yes.

Did you say anything or ask anything of Mr Abboud?---Yes. I asked Mr Abboud if that was a direct or an implied threat. So in other words would it be that if I didn't do these things I would be sacked. He said no, it wasn't direct it was more implied. I told Mr Abboud that – to go back to Mr Goubran and let him know that I, I wasn't prepared to implement any of

these suggestions and that if that was going to be a resolution of Council then I would, but unless it was a resolution of Council I wasn't going to precipitate a Council report to suggest that the project be delayed.

Well what was being proposed to you was contrary to what the most recent Council resolutions had been in terms of how you were supposed to manage the Ryde Civic Precinct redevelopment?---That's correct. It was also, sorry if I, may I add another comment? It was also suggesting that I lay off the development team and whilst no further action be taken during this period and that we'd put the bids that at that stage had just closed, the, the two
10 proposals we had before us sort of on ice.

So they were being evaluated by the request for tender panel at this point?
---Yes. They had just come in. I think they closed on about 6 April or 8 April. This was on the 13th.

So from what you've told us you didn't go along with Mr Abboud's proposal?---No.

20 Well what did you do following on from that meeting with Mr Abboud?
---Yes. I asked Tony if I could, sorry no, following that I met with the Mayor. I think it was, that meeting was on a Friday, I met with the Mayor in my one on one meetings on the Wednesday.

That's Mayor Etmekdjian?---Etmekdjian. And I'd spoken to him saying I had grave concerns about what was being proposed to me. I thought it was improper and I was going to report the matter to ICAC. The Mayor said that was the proper thing to do and we both discussed asking Mr Abboud at that stage for a, a statement so I had something in writing to report.
30

Is that something you wanted to do, get some notation or record from Mr Abboud of - - -?---Yes, yes.

- - - the dealings with Mr Goubran?---Yes. And I think I phoned Tony, the Thursday was the first time after that Wednesday meeting with the Mayor, asking him to do that. He said he would. And he was always very cooperative along the way. He was overseas and he was also sick for a period of time, so it was a couple of months before I actually got the statement from him. I also, sorry, I also raised the matter with my executive
40 team and took their counsel when we, when we met, I think it was that week or the following week.

Are you able to say who amongst the executive team you informed of the approach by Mr Abboud?---Ah, yes, it was Mr Newsome, Mr Johnson, Ms Dickson, Terry Dodds and I think it was at the time Beki Boulet.

So Terry Dodds' position was?---He was the, the Director of Engineering, basically infrastructure.

And sorry, Beki, was it Boulet?---Boulet, who was the head of my office, yeah.

Now, on – were you present at a Council meeting on 8 May, 2012 when a particular proposal was put up in respect of the creation of a community consultative committee or something to that effect?---Yes, I was.

10 Could I ask you to have a look at pages 383 and following in Exhibit 1. Do you see the minutes there for the meeting 8 May, 2012?---Yes.

Could I ask you to go in particular to page 385. Do you see under Notices of Motion there's a motion there in respect of the Civic Centre Redevelopment Community Advisory Committee?---Yes.

And I think I said in opening that this was moved by Councillors Petch and Salvestro-Martin – the document does indicate that it was moved by Councillors Petch and Tagg. Do you see that?---Yes.

20 Can I ask you to have a look at the seven points that constitute the motion as it was put up. Read those through to yourself for a moment?---Yes.

On hearing that motion being put before Council, did it strike you as being in some way similar to what had been proposed to you, that is the report that you were to write and to recommend certain things to happen?---Ah, yes, it mirrored the intent of what was put to me, with the exception that I was to write the terms of reference and, and it was also slightly different in how the community members would be, would be sought. When I had the proposal put to me earlier it named the people to be on that, on that committee.

30 Now, by the time of this meeting where this motion was put up in respect to the creation of the committee, what was your relationship with Councillor Petch like?---Again it had begun to deteriorate to a degree – it was still cordial and we would still speak with each other but it was quite obvious that Councillor Petch was starting to take a more aggressive stance towards me to try to delay this project.

40 What about the other Councillors who you've indicated at that point were generally voting against the Ryde City Precinct redevelopment, that is Councillors – well, deal with them one at a time, Salvestro-Martin?---Yes.

What was your relationship with him like by that point?---Ah, well, to give some background, the Councillors were starting to take out advertisements against the project. I'm not sure whether it was around May or soon after May, but they were certainly attacking me in some of those adverts and there was media stories coming through at the same time which were saying what a disgrace it was that this project was proceeding.

Are these stores in the print media, on radio, on television?---Yes, it was mainly in The Weekly Times.

Okay. Well, just coming back then, thank you for that background, but in terms of your relationship with Councillor Salvestro-Martin by that point? ---Well, these things started making it difficult to have, you know, a healthy relationship, so I used to meet with Councillors on a one on one basis and it wasn't long after this time that that stopped happening.

10 Councillor Li, is there anything you can tell us about your relationship with him by that point?---Ah, always they were cordial face-to-face, the ah, with Councillor Li. Councillor Salvestro-Martin, if I could just, just remember, had been quite aggressive in the Council Chamber on a number of fronts towards me and staff generally in the way that tenders were being managed within the organisation.

Right?---Sorry, so Councillor Perram, do you want to go through each one?

20 Well, I was going to do Councillor- - -?---All right.

Councillor Perram next is fine?---Well, again, Councillor Perram withdrew any contact, I think it was not long after this period that I lodged a complaint against Councillor Perram as a Code of Conduct complaint.

30 In relation to what?---The way that front page of the TWT saying it's an absolute disgrace the way the tendering process was, was held, which I, not the tendering process, the planning process for the planning proposal, which I, which I took umbrage to. So the, the, the relationship with these Councillors was starting to deteriorate a lot by then and I didn't like working in that environment, to tell you the truth.

40 Right. What about Councillor Tagg?---Councillor Tagg it had been reported to me previously that had been spreading unfounded rumours and I only heard it second or third hand about that I had stitched up a deal already with Crown Developments. This was before the EOI was being called. I'd heard it from several other Councillors that they'd heard it from him that I had stitched up a deal ah, with Crown Development and that we'd already agreed to a price. So I'd been hearing that about some of the Councillors and I reported these matters to ICAC in November 2011 from memory.

So by May 2012 was there some strain in your relationship?---Yes.

What about Councillor Butterworth?---When Councillor Butterworth was the Mayor I had quite a cordial working relationship with him. This deteriorated after time when I, I spoke to him about a number of matters relating to his treatment of staff and in the end he refused to communicate with me.

Now, you told us earlier that after you meeting with Mr Abboud and indeed after your further – the later meeting you had with the Mayor, Councillor Etmekdjian, you asked Mr Abboud for some record of his communications with Mr Goubran?---Yes.

And they are the communications leading up to your meeting with Mr Abboud on 13 April, 2012?---Yes. And, yes, it was to, it was to document what he had more or less told me at the meeting in, on April 13.

- 10 Do you recall receiving an email from Mr Abboud on 6 July, 2012? And this appears, it should be at page 134 of Exhibit 2? Just bear with us for a moment. Do you recognise that?---Yes, if, can you just scroll down to the actual email itself? Or sorry, the content of that email, yes.

If you go to page 136 and it's 136 through to 138?---Yes.

It contains a document setting out what appears to be a summary of certain events?---Yes, that's correct.

- 20 Was, had you contacted Mr Abboud on more than one occasion in order to ask him for this up until 6 July?---Yes.

And you've indicated that there was a period where he was overseas- -?
---Yes.

- - - and a period he was unwell?---That's correct. And he apologised to me several times for the delay and, and said he would get it to me as soon as he was able.

- 30 And what did you do with this document?---Ah, I think I received this document on, on a Friday and I started to prepare – and I can't remember exactly the date of the Friday but it was the day he sent it to me so that was on the 26th, was it, of July?

Sorry, it was 6 July?---Oh, 6 July. Once I had the document I started to prepare my section 11 notification to ICAC. I worked on it over the weekend and the following, the following Monday and Tuesday to get it all ready and- - -

- 40 Had you wanted to receive this before you prepared that notification?---Yes.

And can I ask you then, do you recall on 9 July receiving a letter from your PA that had been signed by Councillors Tagg and Petch?---Yes.

Can I ask you to have a look at Exhibit 2, pages 72 and 73?---It wasn't actually a letter, it was a, it was a request for a special, it was Notice of Motion from memory.

Right. Could you have a look at this document?---Yes.

Is this the request you're referring to?---Yes.

In the form of a document dated 9 July 2012?---Yes.

So addressed to the Mayor and copied to you?---Correct.

Signed by Councillor Tagg and Councillor Petch?---Yes.

10

So this was seeking an extraordinary general meeting for the purpose of terminating your contract?---Yes.

In the lead up to receiving this document had either Councillor Tagg or Councillor Petch spoken to you about concerned about your performance and the continuation of your work with the Council?---No. I, I did have, I did have a meeting with Councillor Petch as I said earlier to suggest that I ease, ease back on driving the project so hard to have it completed by the timeframe that Council had asked for it to be done.

20

How - doing your best with timing - - -?---But I had no, no knowledge of this coming, yeah.

Doing your best with timing how soon before this date 9 July had you had such a discussion with Councillor Petch?---I think it was about three to four weeks prior.

30

Now I previously asked you to look at some of the Council minutes in respect of the meeting on 8 May, that is the motion that was put up to Council in respect of the creation of the committee - - -?---Yes.

- - - that would look at the - - -?---Yes.

- - - Ryde Civic Precinct re-development and your recollection is, or tell me what your recollection is in terms of whether that motion succeeded or didn't?---That motion didn't succeed and it just reaffirmed my view that if I was to implement such a motion it would have been improper because the majority view of Council on the Mayor's casting vote which is still a vote was of the view that it wanted to proceed with the Civic Precinct project.

40

You've told me that in the lead up to receiving this document on 9 July neither Councillor Petch nor Councillor Tagg came and specifically spoke to you to indicate that they were going to move that - - -?---No, it was a complete.

Seek an extraordinary meeting for this motion?---It was complete shock to me.

And then do you recall that a meeting was held to consider this notice of motion on 23 July 2012?---Yes, I wasn't present at that meeting I was overseas.

I understand you weren't present but have you subsequently seen the minutes or of the meeting that was held on that occasion?---Yes, I have.

Could I ask you to have a look at pages 5 to 6 to 530. And you recognise those as the minutes of a meeting on 23 July?---Yes.

10

And they indicate that at that time there was an apology from Councillor Yedelian who was absent?---Correct.

And is it your recollection based on seeing these that at the time the motion that was put up seeking the termination of your contract was passed but then immediately a rescission motion was, was put before the Council?---Yes, that's correct.

20

When did you become aware of these events?---Well I was in regular contact with my staff from China. So they, they let me know of the outcome of the meeting straight away.

After this meeting had occurred do you recall that you sent on 7 August 2012 a particular memorandum and chronology to Councillor Etmekdjian? ---Yes.

30

Could I ask you to have a look at a document, now this isn't in the, the Exhibit 2 it's a document that appears at pages 2450 to 2452. And we'll have to make separate copies and have this tendered separately.

Do you see that?---Yes.

Do you recognise that as the memo that you sent the Mayor Councillor Etmekdjian - - -?---Ah hmm.

- - - along with your chronology, if we just scroll down?---Yes.

40

This is a chronology of events surrounding your meeting with Mr Abboud and subsequent events?---Yes.

So covering the period up to 23 July 2012?---Yes.

I tender that document, Commissioner. That is both the memo and the attached chronology.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 3.

**#EXHIBIT 3 - COPY OF A MEMO FROM MR NEISH TO CLR
ARTIN ETMEKDJIAN DATED 7 AUGUST 2012 AND ATTACHED
CHRONOLOGY**

MR DOWNING: We will have copies made available for the other parties as well.

10 Shortly after this time at the time when the rescission motion in respect of the termination of your contract was still alive do you recall that some Supreme Court proceedings were commenced?---Yes.

And do you recall they were proceedings initially commenced by Council and later further proceedings commenced by ICAC?---Yes.

And in effect seeking that there be injunction to prevent any further vote on the, the motion in respect of your termination?---Yes, that's correct. Councillor Etmekdjian took that action as, as the Mayor.

20 Now this wasn't a period leading up to the September 2012 Mayoral elections?---Yes.

And do you recall on 14 August 2012, sorry I withdraw that. Were you back in, back at work by that time?---Yes.

On 14 August 2012 Justice McCallum granted an urgent injunction preventing the termination, in effect the termination of your employment? ---That's correct.

30 And then subsequently later in September Justice Schmidt made certain consent orders dealing with the Councillor's proceedings and the proceedings ICAC had commenced?---Yes.

Now the Council elections were held on the 8 September 2012?---Yes.

And that resulted in a change in the complexion of the Council?---Yes.

40 Can you tell us what then happened in terms of the Ryde Civic Precinct re-development?---On the night of the Mayoral election the, Councillor Petch who then been voted as the Mayor adjourned.

Who was, who was the deputy there?---The Deputy Mayor was Councillor Li. He adjourned the meeting until 11 o'clock and then we convened from memory it was 11 o'clock, and they brought forward to two, two notices, one was to discontinue with the Ryde Civic Precinct and the other was to go to the Supreme Court and seek the injunction against me to be removed.

Right. And what was the result of the voting on of the, the motions?---(No audible reply)

Dealing, we'll deal only with the Ryde Civic Precinct re-development?
---The majority of the Councillors I think it went seven five had voted to cease all, all action.

That effectively killed off the, the project?---Yes.

10 Can I ask you did Councillor Petch ever speak to you during the time that you've been General Manager about the continued employment of Dominic Johnson?---Yes.

Now just so that we're clear Dominic Johnson is the Group Manager Environment and Planning at the Council?---Yes.

And one of your, the senior Council staff that worked - - -?---Yes.

- - - worked under you?---Yes.

20

Doing your best can you tell us when Councillor Petch spoke to you about that, on how many occasions and what he said?---I recall the first time this came up was in my performance review, my first performance review I think that was in October 2011. On a completely unrelated matter in my objectives it was raised that the Councillors, well by Councillor Petch and also Councillor Tagg that Mr Johnson was a, was not doing his work right, that the whole development assessment process was in shambles, that I should really think about dismissing Mr Johnson, and even though it wasn't related to any of my performance objectives they pressed this point a couple
30 of times throughout that, that meeting.

Was this a review meeting where both Councillors were present?---Yes. I think the review committee at that time was Councillor Tagg, Councillor Petch and I think Councillor Etmekdjian and I forget the other Councillor, it could have been, I don't know - - -

If you're not certain don't speculate?---Yeah. That's all right.

40 So what, what if anything happened as a result of that request then in respect of Mr Johnson's - - -?---Well I informed them that we were reviewing the whole development assessment process and that, which we did in great detail, and that I found Mr Johnson to be doing a very good job. We improved the processes of development assessment even further and we got much better statistics as a result.

So is this before or after September 2011?---It was – I think all that was happening during that time. There were then a couple of other occasions where other Councillors had come to me to say that Mr Johnson's creating

problems and I know at the time Mr Johnson had been dealing with Mr Goubran in a very open, transparent and honest way. And Mr Goubran I believe spoke to Mr Abboud about his frustration with the fact that we had sent his development assessment in Eastwood to an independent assessor rather than have Council staff look at it.

10 When did Mr Abboud speak to you about this? Was this during the meeting you've told us - - -?---This was during the meeting on the 13th, Mr Abboud had mentioned that Mr Goubran had mentioned to him that he had been concerned about a development, his development in Eastwood being slowed down. So there was, there was a couple of occasions where other Councillors had mentioned - - -

Which Councillors?---Councillor Etmekdjian had mentioned it to me that there were problems and as I said Councillor Tagg and Councillor Petch. Now when I, when I left the Council, there was a conversation with Councillor Petch to see if Mr Johnson should also take a, a package to leave at the same time.

20 Sorry, is this something that Councillor Petch discussed with you?---Yes. I put it back to him because I knew of his, because I knew of his, of his predisposition against Mr Johnson and Mr Johnson, I'd spoken to Mr Johnson separately who had come to the view that if he could get a payout he would leave. Councillor Petch initially showed interest and then afterwards when I next met with him declined to take Mr Johnson's offer up.

30 Well I'll come to the meetings and discussions you had with Councillor Petch - - -?---Yes.

- - - leading to the cessation of your employment in a moment. But dealing just with the discussions Councillor Petch had had with you earlier about Mr Johnson's employment, I take it the employment of the General Manager within a Council is a matter that the Council itself determines?---Yes.

Who's responsible for decisions as to the employment of other senior staff within Council?---The General Manager makes the appointment but must do so in consultation with the Council.

40 Did you have any view about whether it was proper or improper for the Councillors to be speaking to you about Mr Johnson's continued employment?---I thought it was improper at the time and it was raised at a time when there was no reason to raise it, but it was part of my performance review discussions.

Can I then ask you about the nature of your relationship with Councillor Petch from the period after the September 2012 Council elections through

until January, late January 2013?---Well it was one of, as I said earlier, what I felt was, sorry this was from 2000 and?

After the Council elections in September 2012 - - -?---September, yeah. Yeah, it was - - -

- - - through until late January 2013?---Yeah. It was, it was not a constructive relationship between a General Manager and the Mayor. I think that a Council works best when the General Manager and the Mayor work together. As I said Councillor Petch had refused to meet with me on, on a one on one basis. And I was used to doing that. And there was these continued attacks on me, not led by Councillor Petch as such, but from the Council floor, but it was coming from Councillor Petch's factions, so I knew there was a lot of aggression in the Council Chambers towards my position. And I suspected that was coming from Councillor Petch's factions, so it was very hard to have trust and a convivial working relationship especially when we'd been to the Supreme Court, especially when Councillor Petch had proceedings in the Supreme Court to be removed so that I could be fired and especially when Councillor Petch had earlier sent me a letter threatening me proceeding with the Civic precinct, suggesting I could be personally liable for damages.

Just excuse me one moment. Are you able to identify the date of the letter that you're referring to that Councillor Petch had sent you threatening you might have a personal responsibility?---I have it in my notes. I might be able to refer to it - - -

Perhaps if you could just locate it for the moment?--- - - - if I may, Commissioner?

ASSISTANT COMMISSIONER: Yes, certainly. I'm sorry, they're in my notes at home. I thought it was in this folder but I can make it available.

MR DOWNING: All right. Perhaps if you could after we've finished court today. Are you able to say roughly when it was by reference to the dates that we've been going through today?---Yes, it was, it was about, no I'd rather just check than speculate.

You've made reference in a few of your answers in the last few minutes about Councillor Petch's faction. By that are you referring to the group of Councillors who generally voted against the Ryde Civic Precinct redevelopment?---That's correct.

Now can I ask you to have a look at page 709 of Exhibit 2. Commissioner, this is a document that does make reference to the identify of a particular IT employee. I would if it might be appropriate now to seek an order in respect of the suppression of that person's identity. The identity won't be of any particular relevance to the Commission I don't anticipate.

ASSISTANT COMMISSIONER: Yes, the identity of the IT officer who made a complaint about a virus as referred to at page 709 of Exhibit 2 is suppressed and may not be published.

SUPPRESSION ORDER ON IDENTITY OF IT OFFICER AS REFERRED TO AT PAGE 709 OF EXHIBIT 2

10

MR DOWNING: I can indicate there'll be similar references in the documents I'll be coming to shortly which I'll need to seek similar orders.

ASSISTANT COMMISSIONER: All right. Well any, any reference to the name of the IT employee who discovered a virus in any document is suppressed and may not be published.

20

SUPPRESSION ORDER ON NAME OF IT EMPLOYEE IN ANY DOCUMENT

MR DOWNING: Mr Neish, I want to ask you about this memo and events before and after that, and I anticipate that some of it might be embarrassing to you and I do apologise for that. But it's important for the purposes of the inquiry. Do you recall receiving this memorandum from the Mayor, Councillor Petch on 5 February?---Yes.

30

And I take it you read it at the time?---I read it, yes.

And can you tell us your recollection of the events with respect to you laptop leading up to receiving this document?---I had been - - -

Let's start at the beginning. As part of your - - -?---Yes.

- - - work do you have a Council issued laptop?---Ah, yes, I do.

40

And in addition to that do you have a desktop computer or a laptop that you use at work?---It was a desktop but I never used my laptop at work.

So have you ever brought it into work in the time that you worked at the Council?---No.

So is that a laptop that the Council issued to you for your, for, in order to do work on?---Yes.

Were you granted as part of the permission that you had from the Council the right to use it for your own personal use?---Yes, I was.

With that laptop - I withdraw that. With the desktop computer you had at work I take it you were connected to the Council network?---That's correct.

With your laptop at home, it's a Council laptop - - -?---Yes.

- - - but was it connected to the Council laptop, sorry, the Council network?
---No.

10 Did you have your own home internet account?---Yes.

And was it connected to that through a modem?---Yes.

From time to time did you do work on that computer at home?---Yes, I did a lot of work on that computer at home.

From time to time did you also use it for your own purposes, that is in looking at different things on the internet or sending emails, private emails?
---Yes. Not private emails. I had, I used it for personal use but also for
20 work use.

On occasion prior to 5 February, 2013 had you looked at adult websites on the computer?---Yes, I had.

Can you tell me then do you recall when you had some contact from someone at the Council about your laptop?---Yes, the person mentioned in that memo had contacted me, I'd just returned from holidays.

Do you recall roughly when this was?---It was probably, it would have
30 been, I was on holidays in, in, in January so I came back from holidays, it was - - -

Was it late January?---It was late January, it was about - I'd been back at work for about two or three days and he mentioned to me - - -

Did he telephone you, did he come and speak to you in person?---He telephoned me.

That's the IT employee?---Yes.
40

And said what?---He said that a virus had been detected on Council's firewall. Now, the - and that I should bring my laptop in which I then did.

And what did you do with the laptop?---I handed it to him to have the virus removed.

Had you noticed any problem with the computer up until that point?---No.

What then happened with your laptop?---I asked on a number of occasions that the laptop be given back to me because I had some work to do it on the weekend and there were excuses made that I, I couldn't have it back.

Over what period of time, are we talking about that day, a couple of days later?---No, it was, it was probably over a week.

And eventually did you get it back?---No, the laptop was - I received this, this memo and - - -

10

So before receiving the laptop back you received the memo from the Mayor?---Ah, yes.

And what did you then do as a result?---Well, I wanted to ensure that, I wanted to ensure that I wasn't interfering in any process but I received a, a demand to, to give the laptop over to a forensic investigator.

20

I'll stop you there. Can you have a look at the document at page 725 of Exhibit 2. Is that a memo that you received from Councillor Petch on 6 February, the following day?---Yes.

Is that what you're referring to?---Yes.

Now can I just ask you so that we're clear about this, the request from the IT person at Council was for you to bring your laptop into work?---Yes.

Did he identify that the virus had been identified on that computer?---Yes.

30

Had you ever used your desktop computer at work which was connected to the Council network in order to access any adult websites?---Never.

All right. So you received the memo on 6 February, 2013?---Yes.

And you've been asked now to deliver the computer to Mayor Petch's office?---Yes.

What did you do?---Well, I went seeking the laptop, because I didn't have it.

40

So the IT person to your understanding still had it?---Yes.

And what happened?---I was informed that Mr Newsome who was the Corporate Services Director had impounded the laptop and ah - because he felt that there needed to be a proper Code of Conduct process followed.

You were aware as the General Manager that the Council had a Code of Conduct and that that included, I'll stop there but there was a Code of Conduct?---Yes.

Was that something that Council staff were educated about - - -?---Yes.

- - - and informed of?---Yes.

Were Councillors informed of it?---Yes.

And trained about what it involved?---Yes.

10 Was that training that Councillors had received as at 2012?---Yes.

And 2013?---Yes.

So you say that you don't, you understood that Mr Newsome had asked for the computer to be impounded?---Yes.

So that a particular form of Code of Conduct - - -?---Process could be followed.

20 And what was your understanding about the Code of Conduct process that you expected would be followed?---Normally in, in these events there would be a Code of Conduct reviewer appointed, there would - - -

Is that someone within the Council or external?---No, externally. They would review the circumstances, there would be a clear notification as to what the Code of Conduct issue was, people would be given - - -

So notification to who, to the - - -?---To - - -

30 - - - person involved?---Yeah, so, yeah, so that there would be due process in place.

Were these matters normally handled confidentially?---Very confidentially.

That is that whatever issue had been raised in respect to the Code of Conduct would be managed confidentially by the Council and the Code of Conduct person - - -?---Yes.

40 - - - appointed to review it?---Yes, because until that time there's a presumption of innocence.

So is that what you understood the process was likely to be in this case?
---Not when I read these memos, yeah, and then when Mr Newsome told me he had done that that's what I understood would, would be the case.
Is that what you understood was the process that should be followed in those circumstances?---Most definitely.

Did you have a concern about what might actually happen in this case?---I had a grave concern, I didn't think I would have any clear hearing, I had a grave concern that has also been played out in social media that my reputation would be tarnished and that there would be a whole social media campaign against me.

10 Did you have any concern that the allegations in respect of the use of your computer that is the laptop might find their way into the media in some way?---Given that I had been subject to a number of, of very personally hurtful rumours leading up to this incident I knew that would be the case.

Now do you recall that subsequent to this memo on 6 February 2013 that you had a meeting with Councillor Petch?---Yes.

And was that on the following day of 7 February?---Correct.

And now you've told us earlier that there was a discussion about not just your employment but also Dominic Johnson's employment?---Yes.

20 Was it during this meeting that that discussion occurred?---Yes. I had, I went to Councillor Petch and suggested that we, we come to an agreed termination of my contract.

Was that during the meeting on 7 February?---Yes.

Right?---And, and he agreed to that. I then drafted some, some positions, some points that I thought would be, that I would like to see in that agreement.

30 That is setting out the, the terms on which you would cease your employment - - -?---Yes.

- - - with the Council?---Yes. Councillor Petch then met with some of the other Councillors I believe of his group and came back the following day with what they would be prepared to accept and not accept, and then it was at that meeting I put to Councillor Petch about Mr Johnson.

So doing your best you believe that was on 7 February or - - -?---Yes.

40 - - - later on 8 February?---It would have been the, the 8th.

Just looking at - can I ask you to look at page 780 of Exhibit 2. Do you recognise this is a, a memo that you sent to Councillor Petch - - -?---Yes.

- - - after your meeting on 7 February?---Yes.

And in that were you attempting to summarise what you understood or the terms that you put forward on the 7th in terms of the basis for your cessation of employment?---Yes.

Did you receive any communication back from Councillor Petch after that?
---Yes. We, we spoke a couple of times and also with Bryan Belling who was representing the Council and drafting my deed of release.

Now just stopping there for the - - -?---Yes.

- - - for the moment. Did you speak further on 7 February or 8 February?
---On the 8th.

10

And you've mentioned Bryan Belling. Did you understand that he was a lawyer who'd been appointed by Councillor Petch on behalf of the Council to, to draft the - - -?---Yes.

- - - deed of separation?---Yes.

Commissioner, is that a convenient time?

20 ASSISTANT COMMISSIONER: Yes, yes. We will resume at 2 o'clock.
Thank you.

LUNCHEON ADJOURNMENT

[1.00pm]