

CAVILLPUB00056
15/07/2013

CAVILL
pp 00056-00102

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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 2.00PM

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

ASSISTANT COMMISSIONER: Thank you, please be seated. Yes, Mr Downing.

<EDWARD JOHN NEISH, on former oath

[2.01pm]

MR DOWNING: Thank you, Commissioner.

10 Mr Neish, earlier you told us about a letter that you received from Mr, from
Councillor Petch in which he asserted that you might need to get some legal
advice about possible liability yourself in relation to the Ryde Civic Precinct
redevelopment?---Yes.

Can I ask you to have a look at a document. Do you recognise that?---Yes,
this is the document I was referring to.

Now, the document's not dated but it refers to a response from your 3 July,
2012. Are you able to say when it was received?---Ah, not specifically, I'm
20 sorry. It wouldn't have been long after that, yes.

I tender that document and we do have copies that can be made available to
the parties.

ASSISTANT COMMISSIONER: Yes. That letter from Mr Petch to Mr
Neish will be Exhibit 4.

30 **#EXHIBIT 4 - COPY OF A LETTER FROM MR PETCH TO MR
NEISH RE CIVIC PRECINCT REDEVELOPMENT**

MR DOWNING: Thank you, Commissioner.

Now, just before the luncheon break, Mr Neish, I was asking you about the
events leading up to the cessation of your employment and I took you to
page 781 of Exhibit 2, which was a, I'm sorry, 780 of Exhibit 2, which was
a memorandum from Councillor Petch to you of 7 February, 2013- -?
---Yes.

40 - - - where you set out what you understood had been discussed between
you and Councillor Petch that day. Can I just ask you, at around this time,
that is after you'd become aware of the complaint about the use of your
laptop made by the IT employee at the Council, did you speak to any other
Council employees about that allegation?---Ah, yes.

I think you mentioned Mr Newsome before?---Correct.

Did you discuss with him what had occurred?---Yes.

And did you tell him that, that the allegation that there had been some access of pornographic material on your laptop at home was true?---Yes.

Did you discuss with him – I think – I’ll withdraw that. I think you told us that you had an expectation about the complaint handling process that should follow?---Yes.

10

Did you speak to Mr Newsome about that?---Ah, only very briefly and in passing because I felt it was improper for me to influence him on that in any respect other than to say that there should be one and it’s unlikely that if there was one I would get a, a fair – without one I would get a fair hearing.

Did Mr Newsome say anything about whether he intended to communicate with Councillor Petch about the matter?---Only in that he wanted to tell him that there should be a proper Code of Conduct inquiry.

20 Could you have a look at page 781 of Exhibit 2. Do you see that document is a memorandum from Councillor Petch to you, also of 7 February, 2013? ---Yes.

And do you recall receiving this after you’d sent your earlier memorandum that day?---Yes, I do.

30 Can you recall what then occurred in terms of the steps that led to the cessation of your employment and the entering into a deed?---I think it was within the next day, there was a deed of release developed by Mr Belling and I went through that deed of release and made some adjustments and amendments and we got agreement and it was on the Friday and the deed was signed by both myself and Councillor Petch late Friday afternoon.

Could you have a look at pages 783 to 790, we start at 783. Do you recognise that as the deed of release and separation that was signed?---Yes, I do.

40 And it’s correct isn’t it that one of the things it provided for was that whilst your employment was to continue until 28 February you wouldn’t actually attend for duties over that period?---That’s correct.

And it covered a number of other matters such as the payment you would receive and the terms on which you would depart?---Yes.

And it’s your signature that appears on page 790, is that correct?---Yes.

And that of the Mayor Councillor Petch?---Correct.

So was that Friday, 8 February, 2013 - - -?---Yes.

- - - that you in fact finished up?---Yes.

In terms of physically attending work?---Yes.

Are you aware that a media release was issued in respect of your departure?
---Yes, I am and it was attached to this deed of agreement.

10 Was that something that you signed off on as well?---Yes.

Could you have a look at page 791. Is that the media release?---That is the media release.

Now you've told us earlier in your evidence today that after ceasing employment as General Manager at Ryde Council you have worked I think for your own company and also for - - -?---Correct.

20 - - - consulting with Councils?---Yes.

And did you start that employment soon after finishing up at Ryde Council?---Yes. I did in negotiations with, with
.for several months and I was - - -

That's, that's prior to these events?---Prior to these events.

30 Late January earlier February 2013?---Yes, it was from about December actually.

So is it the case that from about December the previous year you'd given some thought to whether you might seek work elsewhere?---Yes. I had been actually applying for a couple of different positions.

And was, is it a Mr, is it as the principal of?---That's correct.

40 And had you spoken to him about your, your possible interest in seeking work outside of the or rather than working for the Council?---Yes, he approached me initially.

And had you known him for some years?---Yes. and I knew each other for about probably five or six years.

Do you recall that not long after you - I withdraw that. When did you actually start up with doing consulting work?---It was about a week after I left Ryde.

Do you recall that some time after you started work that informed you that a letter had been received by him?---Yes.

An anonymous letter?---Yes.

Could I ask you to have a look at the document that appears at page 2449 of the brief. Now this isn't, I don't understand, there was a volume of documents that were handed this morning. It is? It is, I'm sorry.

10 It is, it is part of Exhibit 2. Do you recognise that as the document - - -?
---Yes.

- - - that came and saw you about?---Yes.

So I take you don't know for a fact who this came from?---No, I don't.

Did you then discuss with what had happened leading to your, the cessation of your employment at the Council?---Yes.

20 And you informed him of the fact that there had been that finding of pornographic material on your laptop?---Yes.

Can you just excuse me for a moment. Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Now, does any legal representative want to seek to cross examine this witness?

MR HYDE: Yes, I do, Commissioner.

30 ASSISTANT COMMISSIONER: Yes, certainly. Mr Hyde, if you could just indicate to the witness for whom you act.

MR HYDE: Yes, I act for Councillor Petch. Mr Neish, you gave some evidence about having a telephone conversation I think with Mr Abboud on 9 April, 2012?---Yes.

And you say do you that that was a telephone call asking that you meet with him?---Correct.

40 As best as you can can you the Commission in I said, he said terms what it was that exchanged between the two of you on the telephone?

ASSISTANT COMMISSIONER: Mr Hyde, I don't believe this is a matter upon which your client could have any specific instructions for you at all. We don't, I don't intend to allow general cross-examination of this kind. You're entitled to put anything to the witness upon which you have specific instructions or which directly affects some case that your client may wish to put at the end of the inquiry.

MR HYDE: Well, Commissioner, I'll be suggesting that this sequence of events and any conversation that is said to have occurred on 13 April did not take place in the terms that is suggested by this witness.

ASSISTANT COMMISSIONER: Well, I really don't see how your client could do that, he was not a party to the conversation.

10 MR HYDE: Well, he wasn't a party but there are going to be other witnesses that will be called and they will no doubt give evidence as to, that is, Mr Goubran no doubt will say what he understood the conversation to be and no doubt Mr Abboud will be called and he will give evidence about what the conversation is said to have been and at the end of the day that conversation may or may not stack up, my client may or may not have been mentioned and in my submission that is certainly relevant to him at the end of the day given the nature of the accusation.

20 ASSISTANT COMMISSIONER: Yes, but I'm not going to allow you just to go through the evidence again. If you have a particular issue you wish to put to the witness about the conversation then you can do so - - -

MR HYDE: All right.

ASSISTANT COMMISSIONER: - - - even if it's based on the evidence of some other evidence that you know will be given but - - -

30 MR HYDE: All right. Perhaps I can broach it this way, Commissioner. You say that the actual meeting, the face to face meeting occurred on 13 April, have I got that date right?---Correct.

All right. Now, during the course of that meeting with Mr Abboud Mr Petch, that is Councillor Petch's name, was not mentioned in relation to this so-called deal was it?---Yes, it was.

40 All right. And what do you say it was that was said?---Mr Petch's name was mentioned a couple of times. One is that Mr Goubran had told Tony Abboud that he was phoning back to Mr Petch and the membership of the proposed committee changed, so originally it was going to be Councillor Petch wasn't going to be party to that committee and then after a later conversation Mr Goubran told Mr Abboud that Mr Petch would be a member of that committee.

And it was never said by Mr Abboud to you in that conversation that you would keep your job and that is something that he had been asked to convey by Mr, Mr Petch personally?---That's correct. It was, Mr Abboud put it to me that Mr Goubran had mentioned that should I do these things my position would be secure after the September elections and, sorry, if I could

just add, it was also said in the same conversation that Mr Goubran had said Mr Petch would become the Mayor in September.

And you then reported that conversation, did you, at some point?---Yes, I reported it the following Wednesday to Councillor Etmekdjian, who was the Mayor, expressing my concerns and the need to take the matter further.

And that was something that occurred on 18 April, 2012, that is your advice to the Mayor regarding that conversation?---It would have been, yes.

10

So it would be fair to say, wouldn't it, that some five days passed between the conversation that you had with Mr Abboud at the shopping centre and you reporting that to the Mayor?---That's correct. I met with the Mayor every Wednesday and I met with Mr Abboud on the Friday.

And there was nothing stopping you picking up the telephone and calling the Mayor and asking for an urgent meeting, was there?---No, there wasn't.

20

And indeed you understood that from your conversation with Mr Abboud that you were being asked to do something that was potentially corrupt. Correct?---That's correct.

Now, did you then prepare or cause to be prepared the document in Exhibit 2 at page 182 which is described as the chronology of events with regards to notification for protected disclosure referral to ICAC?---Yes.

30

And the first entry on that document refers to a meeting with the Mayor on Wednesday, 4 April, 2012. Would you agree with that?---Yes, when I met with the Mayor, yes.

And it refers to the Mayor asking you whether you'd met with Mr Abboud. Do you agree that you put that there?---Correct.

Right. And your evidence is that the first notice that you had of a proposed meeting with Mr Abboud came in a telephone call on 9 April, 2012?---It was around that time, yes.

40

All right. What is that entry on 4 of April, 2012, referring to in terms of Mr Abboud contacting you?---He simply phoned me to ask me if I would be prepared to meet with him and he was not very specific at that time what the meeting was. He said that he would like to talk to me about some issues that had arisen and I'd previously been alerted by the Mayor that he was going to do so.

And you give that evidence notwithstanding your earlier evidence that your first contact with Mr Abboud with respect to this meeting was on 9 April? ---No. The first – sorry, if I had said that I was incorrect. My meeting was always, I thought I'd said 13 April was my first meeting with Mr Abboud,

but I'd had the telephone conversation with him the previous week when he phoned me to set up a meeting.

And what was it that you were expecting Mr Abboud to contact with – make contact with you regarding on 4 April, 2012?---The Mayor was unspecific. What the Mayor said to me were words to the effect that, has Tony contacted you yet, and I said no, and he said, “Well, he will soon.” And he left it at that.

10 And do you, did you understand after you'd had your meeting – sorry, I withdraw that. Did you understand that on 9 April when you received a call from Mr Abboud that it was the same subject matter that the Mayor had referred to in his conversation with you on 4 April, 2012?---I assumed that it was.

And you subsequently became aware that on 13 April a proposition was being put to you. Correct?---Correct.

20 And you understood that that proposition was something that the Mayor had discussed on 4 April?---I'm not sure what the details of the conversation was between Mr Abboud and the Mayor.

Now, you always understood, certainly in 2011 and 2012, that Councillor Petch was opposed to the Precinct redevelopment?---Correct.

And he had conveyed to you three things in particular, firstly that he didn't think the development of 600 apartments was appropriate in the area?
---Um- - -

30 ASSISTANT COMMISSIONER: Excuse me, Mr Hyde, as Counsel Assisting made clear, we don't care about the rights and wrongs, we don't care about anything except the fact that Councillor Petch was opposed to it, that's the only relevant fact for our purposes so I don't really think it's useful to go into what he may have advanced as his reasons.

MR HYDE: Thank you, Commissioner.

40 Now, on 25 June, 2012 you recall receiving an email from a resident, Di Howe?---Not quite specifically, if there's a copy I - - -

You recall that that email and your response and the resident's further response to you was the subject of a notice of motion on 17 July, 2012?
---Ah, yes.

All right. And you recall, don't you, that Ms Howe on 25 June wrote to you in your capacity as General Manager?---Correct.

And she copied in, amongst others, each of the Council members?---Yes.

And she was expressing grave concerns with respect to the development?
---Yeah, there were a number of residents doing that at that time, not many but maybe 10 or so.

And it's the case isn't it that you responded to that email on 26 June, correct?---Yes.

10 And you made certain observations about the proposed development?---I was answering some of the queries that she had raised and I was responding I thought to answer her queries.

And when you responded to her you saw fit to only include those Council members that were in favour of the proposed redevelopment?---Yes, that was at the time an error.

20 And you then were - I withdraw that. You then received a further email from the resident, Ms Howe, on 28 June, 2012, do you recall that?---Not specifically.

And can I suggest to you that she was critical of you for not copying in each of those Council members to whom she had complained?---Yes, I recall that, yes.

And you were then asked during the course of a meeting on 17 July to explain to those Council members why it was that only those members in favour of the development were copied in on the correspondence?---That's correct.

30 And you, you said when asked, pardon me, Commissioner, you said when asked to give an explanation words to the effect, That is an explanation as to why you'd only copy in those Council members that took a favourable view of the development, you said this is the only case I have ever done this. I did decide to send it back and copy it to the six Councillors who supported the project. This was because I knew that other Councillors were spreading misinformation. That's what you said, isn't it, or words to that effect?
---That's correct.

40 Now - - -?---As I said, it was an error.

All right. And you would agree with me, wouldn't you, that that's inconsistent with your role as General Manager?---Correct.

And it would be fair to say that you were an ardent supporter of the proposed redevelopment?---When you say an ardent supporter from - there's, there's two aspects. One was that the Council resolution was that I should, should support it and secondly, to me it made good, personal, on my personal professional level it made good economic and community sense.

But you understood that there were significant numbers with the community that took a view different to that?---Yes, I understood that there was an opposing view within the community.

And indeed there were a number of residents' groups that sent in letters raising their concerns with the proposed redevelopment?---That's correct.

10 Now, on 9 July, 2012, you were provided with the document in Exhibit 2 at page number 72, that is a note from the Mayor addressed to you concerning a request for an extraordinary meeting of the Council. Correct?---Yes.

And you understood at that point in time that a motion was to be raised seeking your removal from your position as General Manager?---Correct.

And you of course weren't happy with that motion?---I was surprised by the motion.

20 And then it's fair to say isn't it that two days later, namely on 11 July, 2012, you made your protected disclosure to ICAC. Correct?---That's correct, but I'd been working on, on that document since I received Mr Abboud's email on the previous Friday and if you saw the substance of the section 11 disclosure it is quite, it is quite time-consuming to put all that work together.

Now, you refer to Mr Abboud's letter to you. That was quite lengthy and detailed, wasn't it?---It was about a two and a half page letter.

30 And on how many occasions did you need or did you contact Mr Abboud to get him to produce that document?---I think it- - -

Perhaps if I can ask firstly how many telephone calls did you make?---I think – and it was in that chronology of events, I think there was about three or four.

Was that telephone calls?---Yes.

And email contact?---Oh, sorry, I had seen Mr Abboud I think at a social function in between and I asked him again if he could provide me with that.

40 All right. And when was that social function?---Ah, I can't recall the specifics but it would have – it was in that period.

All right. And when you met with him at the social function, what did you discuss?---Ah, it was simply, have you put together the, the information as requested and he said he'd started working on it. I think the social function was actually at a function in Eastwood. But I asked him if he had completely putting it together, he said he'd started working on it and it would be with me shortly. Sorry, it was in Epping, not Eastwood.

I'm sorry?---I think it was in Epping, not Eastwood.

Right. So you say that there are three telephone calls, one social engagement. Were there any other attempts to extract this information from Mr Abboud?---No. I'd, I'd spoken to the Mayor at the time, Councillor Etmekdjian, who said he would also ask Mr Abboud if he could provide the information.

10 And did you ever speak with Mr Etmekdjian regarding whether he had been successful in those endeavours?---Yes, he said he had spoken to Tony and that Tony was, said he would get it to me as soon as he could.

Now, Mr Abboud is a real estate in the area?---A real estate agent, yes.

Yes. And he was also an individual that was participating in a formal sense in some of the committees directed at getting the development off the ground. Correct?---I think he was in one of the working groups, yes.

20 And which working group was that?---I think it was on engaging with the community because Mr Abboud had extensive contacts through both his work and his charitable work and his networking, so he was giving advice on community engagement and was helping when we had open forums to invite members of the community along and getting access and putting together fliers et cetera for that.

And it's the case and I think you've already said this in your earlier evidence that Mr Abboud addressed Council on 27 March 2012 about proposed redevelopment?---It would have been around that time, yes.

30 And you would agree with the proposition that he was quite passionate about this development going ahead?---Yes, as were many other members of the community.

And he said during the course of his address to Council that those and this is, if you can accept this is in words to the effect of, those who were opposed to the development were acting out of self interest. Do you recall him saying that on the, on 27 March don't you?---Not specifically but it wouldn't surprise me.

40 Did you ever have discussions with Mr Abboud about what his interests were with respect to the proposed redevelopment?---Never.

Did he ever indicate to you that he would like an opportunity to sell some of the 600 or so apartments that were to be developed?---Never.

Pardon me, Commissioner, I think - if I could just take a moment to check I think I've finished.

Now you referred in your evidence to receiving some correspondence from Councillor Petch warning about some personal liability if you entered into any contractual arrangements with respect to the proposed development? ---Yes, and that's the letter that was subsequently tabled at the opening of this session.

And you understood didn't you or perhaps if you could tell me what was the date on that piece of correspondence?

10

MR DOWNING: It's undated.

THE WITNESS: It's undated.

MR HYDE: You understood though that the September elections were impending?---Yes.

And you understood that Council was in effect going into what might loosely be termed as caretaker mode?---Not in, in July.

20

But getting dangerously close, would you agree with that?---Yes. And I had extensive legal advice on that from both Clayton Utz and Barry O'Keefe QC as to how to proceed during that period and I'd written to Mr Woodward the, the head of the Division of the Local Government seeking his advice on that matter as well.

Right. But you would accept wouldn't you that there is a certain period leading up to an election where it would be inappropriate to commit Council to significant new contracts?---Yes, and I was very cognisant of that.

30 Yes. Nothing further. Thank you, Commissioner.

ASSISTANT COMMISSIONER: Yes.

MR BENDER: Commissioner, I'd like to ask no more than four or five possibly fewer questions on behalf of Councillor Salvestro-Martin?

ASSISTANT COMMISSIONER: Yes. I mean again it's difficult to see how Mr Salvestro-Martin could have any specific instructions on much of the evidence of this witness.

40

MR BENDER: Well, indirectly and in the sense that his case is that he never issued any instruction of the nature that's been alleged so it must follow that no instructions (not transcribable) had been passed through the chain.

ASSISTANT COMMISSIONER: Yes. And he can certainly give that evidence but I don't know how you can test or question evidence that he couldn't know about. But look I'm happy for you to ask - - -

MR BENDER: It's really by way of clarification.

ASSISTANT COMMISSIONER: - - - a reasonable proportion of questions.

MR BENDER: Thank you, Commissioner.

10 On 13 April, 2013 - I'm sorry, I should say my name is Bender, I appear for
Councillor Salvestro-Martin. On 13 April, 2013 Mr Neish - 2012 I should
say, Mr Abboud never said to you that the proposal that was being put to
you was being put at the request of Councillor Salvestro-Martin, did he?
---No, but he did mention that Mr Goubran had said that, had requested that
this committee's terms of reference that I was to draw up would have
Councillor Li, Salvestro-Martin and Petch on that steering committee along
with Councillor Yedelian and Maggio.

Thank you. Thank you, Commissioner.

20 ASSISTANT COMMISSIONER: Thank you. Yes, does anyone else wish
to cross-examine this witness?

MR McLURE: Yes.

ASSISTANT COMMISSIONER: Yes.

MR McLURE: Commissioner, I wish to ask questions on behalf of
Mr Tagg.

30 ASSISTANT COMMISSIONER: Yes, Mr McLure.

MR McLURE: Mr Neish, you've said already that the three options that
you initially put forward in relation to the redevelopment of the Civic site
were firstly do nothing at all, secondly a limited redevelopment and thirdly
an entire redevelopment of the site. Correct?---No, that's not quite correct.
The three options put forward reflected the views put to me by one-on-one
conversations with Councillors and they were proceed prior to September,
proceed - that's September 2012, proceed post September 2012 or do
nothing.

40 Could you look at page 423 of Exhibit 1 please. Do you see that about
halfway down the page there's a reference to an executive summary, do you
see that paragraph?---Yes.

And do you see it refers to the three options being do nothing, the
refurbishment option and the development option, do you see that?---Yes.

And the reference to the executive summary is the document to be found at page 456 isn't it?---Sorry, which Council meeting was this? Was this the 10 October Council meeting?

Well, the first document that you looked at at page 423 - - -?---Yes.

- - - was from the meeting on 6 June, 2012?---Oh, yes, sorry, I was previously referring, I'm sorry, to the October meeting of Council, the 18 October meeting of Council.

10

2011?---Yes, my mistake.

All right. Well, on any view of it though one of the options which you understood at least in April 2012 that was open to Council to still select at that time or in the future was to not proceed with the development and do nothing, do you agree?---We put into place a series of gateways for Council to consider and each of those decision points, do nothing was always an option.

20

And that option to do nothing, so far as you understood it in April 2012, would still have been available to the new Council after the election in September, 2012, do you agree?---Yes.

Now, you've already agreed haven't you that you were a strong supporter of the redevelopment option?

ASSISTANT COMMISSIONER: No, he didn't agree with that proposition.

30

MR McLURE: I withdraw the question. Do you agree that you were a strong supporter of the development option?---I agree that in my professional opinion the development option was the best outcome for the residents of Ryde.

And that an opinion that you had made known to all of the Members of the Council as at April 2011, correct?---I had made recommendations in accordance with the Council's decision to proceed. Now, if Council had said, which they did subsequently do in, after the last election, not to proceed then I wound the project up.

40

Your professional opinion that the redevelopment option was the best option for the Council was one that you had made known to all members of the Council, correct?---Not necessarily, no.

Well, do you agree that as at April 2012 you had found yourself in conflict with the six members of the Council who were opposed to the redevelopment?---Yes.

So you appreciated didn't you that if after the September 2012 election the balance of power in the Council changed such that those against the development became – formed a majority that would increase the risk of your employment with the Council being terminated?---Not necessarily. It would increase the risk only if the Councillors of the day had decided to terminate my employment in accordance with the contract. Could I say, my professional judgement wasn't what was driving me at that time, it was a resolution of Council to proceed, they had built it into my performance objectives to have it done by a certain date and I was very focussed on delivering what the Council had asked me to do. The political, the political nuances really of what may happen after the election and whether that would secure my employment or not, for me was not a matter of consideration.

What I'm asking you to accept is that in April 2012 you appreciated that if after the September 2102 election the majority of members were opposed to the redevelopment, that may increase the risk of the termination of your employment?---No, not necessarily.

20 ASSISTANT COMMISSIONER: I don't think that's a fair – I'm sorry, don't answer that question. I don't think that's a fair question. He was following through on a resolution, he says his personal opinion had nothing to do with it. I don't think it is reasonable to expect that because he was following through on a resolution made by a previous Council his employment would be in jeopardy if other Councillors were elected.

MR McLURE: Now, could you look at page 182 of Exhibit 2, please. You've already said, haven't you, in answer to questions from Mr Hyde that when Mr Abboud contacted you on 9 April, 2012, you understood that he was contacting you about the matter that Mayor Etmekdjian had raised with you in your meeting with him on 4 April, 2012?---I assumed so, yes.

And you say don't you that when you ultimately met with Mr Abboud on 13 April, 2012, he made an offer to you and/or conveyed to you an implicit threat that if you didn't do something then corrupt conduct would be engaged in. Correct?---He didn't, he put it forward on behalf of another party.

40 But you say don't you that what he was asking you to do was to engage in corrupt conduct?---Yes, but not by Mr Abboud himself.

No. Now, it must have come as a surprise to you that this was the matter that the Mayor had mentioned to you in the conversation you had with him on 4 April, 2012?---The Mayor was unspecific so I, I was bemused at first at the audacity of the suggestion, I was a bit surprised, yes.

You've already agreed haven't you that what you thought Mr Abboud was coming to see you about was something that the Mayor had spoken to you about on 4 April, 2012?---Yes, but- - -

ASSISTANT COMMISSIONER: Mr McLure, the witness has made it clear that the Mayor didn't specify any matter that was to be discussed, he just asked whether a meeting had been set up or suggested a meeting would be set up, so I think it's quite unfair to say he should have assumed it was the same matter.

10

MR McLURE: I'll try to do it differently, I'm sorry. When, when the Mayor spoke to you about it on 4 April, 2012, you must have assumed that he knew something about what Mr Abboud was going to talk to you about?

MR DOWNING: I object to that, it doesn't follow.

ASSISTANT COMMISSIONER: No, it doesn't follow, and I don't see how it's helpful in any way.

20

MR McLURE: All right. Well, when you met with the Mayor again on 18 April, 2012, did you ask him whether he had any knowledge of what it was you say Mr Abboud put to you on 13 April?---The Mayor at that meeting gave an indication that it was in keeping with what Mr Abboud had previously spoken to him about, but he just give an indication, he didn't say, oh, that's exactly what it was, he, he, but he given an indication that was a knowing indication that something like this was being proposed to me on the 13th.

30

Sorry, I just want to make sure I understand you correctly. Are you saying that on 18 April 2012 the Mayor told you that what you say Mr Abboud said to you was in keeping with what he understood was going to be put to you? ---He inferred it in our discussions and then at the end of the conversation he said that I should proceed and, and do the right thing and he also mused at the time because I don't think he understood all the details 'cause he mused at the time as to how Mr Goubran could guarantee that Mr Petch would become the Mayor.

40

All right. Well to the extent that - I'll start again. So you do say don't you that you told Mayor Etmekdjian that Mr Abboud had made an offer to you that you should engaged in corrupt conduct in a way that would preserve your employment, correct?---Yes.

And do you say that Mayor Etmekdjian said to you that that was in keeping with what he understood Mr Abboud was going to say?---No, not specifically. I think he was more, I think he was more focused on the fact and you'd have to ask Councillor Etmekdjian this but he was more focused on the fact that that the suggestion to delay the Civic Precinct would be

somehow supported by the Liberal and the Labor group that supported the project.

Well did you ask the Mayor whether or not he was a party to the corrupt proposal that you've referred to?---No.

Why didn't you?---Because he didn't put anything corrupt to me.

10 No. But you're saying that Mr Abboud put to you a proposal that according to the Mayor was in keeping with his understanding of what it was going to be?---Sorry, not, not the detail of it being a corrupt act I don't think the Mayor had considered until I pointed out to him that it was a corrupt act, he was more involved with the understanding that a proposal what I inferred from our conversation he was more involved in the proposal to create a committee to delay the project. He, he didn't understand at the time until I explained it to him that it was an act to corrupt my decision making as the General Manager.

20 And without asking him did you assume that the Mayor was not a party to the corrupt element of the proposal?---No, because he was totally against any suggestion that a committee be formed.

Yeah. But could you answer my question. Did you assume without asking him that the Mayor was not a party to the corrupt component of the proposal?---Yes.

30 Now you told the Commissioner earlier that some time later Mr Petch was talking to you about the elements of Mr Johnson's performance that he considered to be unsatisfactory, correct?---That's correct.

And you regarded - - -?---Sorry, it was some time prior to this it was in my performance review in 2011.

And you regarded Mr Petch's act of speaking to you about that matter to be inappropriate did you?---Correct. Mr Petch and Mr Tagg and I recalled over the lunch break Mr Butterworth had similar conversations with me.

40 And when you say inappropriate do you mean corrupt or unlawful?---No. It's not based on, on any judgement that I was aware of and there was no evidence of poor performance and it was improper 'cause it was raised during my performance appraisal not against the objectives they were there to assess me on but it got, it got raised separately.

Well surely one of the criteria that they needed to assess you on was your skill and capacity to manage your subordinates?---Yes, but that wasn't, that wasn't in and it goes to the heart of how the performance management system went. I had objectives and then against each of those objectives were decisions to likely to ship managing performance and those things

against each objective. The issue around Mr Johnson came out of the blue and it wasn't related in any way.

This, this performance appraisal meeting that you had with Mr Petch was not the only time that Mr Petch and Mr Tagg and other members of the Council had raised with you their lack of satisfaction with Mr Johnson's performance, correct?---Not the only time that they and other Councillors had raised that.

10 All right. Now, you know don't you that under the Local Government Act you are required to consult with the Council before hiring or firing senior staff?

ASSISTANT COMMISSIONER: Mr McLure, he's already given that evidence.

MR McLURE: Well, he gave that evidence - - -

ASSISTANT COMMISSIONER: Yes.

20

MR McLURE: - - - in relation to hiring but not firing.

ASSISTANT COMMISSIONER: Well - - -

THE WITNESS: I had no intention of firing Mr Johnson, he was doing an excellent job on all accounts.

MR McLURE: Well, but doesn't it follow that if you're required by the law to consult with Councillors in relation to whether or not someone should be
30 fired that it is entirely proper for such Councillors to raise with you their dissatisfaction with the performance of such an officer?

ASSISTANT COMMISSIONER: Only if they're consulted with I would have thought. If he doesn't want to consult with them because he's perfectly happy with the person they can't raise anything.

MR McLURE: Well, that's - - -

ASSISTANT COMMISSIONER: And anyway, that's a matter for
40 argument. I've given you a lot of leeway here. Councillor Tagg has no knowledge at all about most of the issues that you've been cross-examining this witness about and couldn't have any knowledge of conversations except this matter you're now on so - - -

MR McLURE: Well, I'm just about to finish, Commissioner.

ASSISTANT COMMISSIONER: Thank you.

MR McLURE: Mr Neish, I want to put this proposition to you, that the way in which you have reacted to what Mr Abboud said to you and the way in which you reacted to Mr Petch and Mr Tagg put to you in relation to the performance of Mr Johnson demonstrates that when people who were opposed to the Council redevelopment made some proposal to you you assumed that it's improper.

MR HARRIS: I object. Commissioner - - -

10 ASSISTANT COMMISSIONER: Sorry, that question is just wrong on so many levels, I can't even begin to say, I'm not allowing it.

MR McLURE: Nothing further, thank you.

ASSISTANT COMMISSIONER: Thank you.

MR STANTON: Commissioner, in Mr Goubran's interests please, ma'am.

ASSISTANT COMMISSIONER: Yes.

20

MR STANTON: Thank you.

Mr Neish, I appear for Mr Goubran. Mr Neish, it's fair to say, sir, that you regard corrupt conduct as something absolutely an anathema to you as a local government official, do you not?---Correct.

30 And as a General Manager you would not hesitate to ensure that at the very earliest opportunity of being apprised of corrupt conduct you'd do whatever you could to report it immediately would you not?---Yes, as long as I had the evidence sustaining that report.

Yes, and assuming that the evidence was in a manner sustainable you wouldn't take on the role of an investigator or a police person, to use the phrase, you'd have it reported to the authority that was empowered to do the investigation would you not as soon as possible?---Yes, once I had the, the reason to put to them.

40 And you felt that you didn't have enough information until some time - was it August, sir, you made the section 11 declaration, 2012?---Yes, I think it was.

And what date in August, sir, from your recollection?---It's on that chronology of events if I can have a look.

Well, I can help you if I may, sir, the chronology goes to 23 July, page 183? ---Ah, sorry, it was on 11 July I made the section 11 notification, not August.

I see, thank you.

ASSISTANT COMMISSIONER: I mean that evidence has previously been given as well, Mr Stanton.

MR STANTON: I appreciate that, ma'am but - - -

ASSISTANT COMMISSIONER: I'm happy for you to cross-examine but could you please not repeat evidence that's already been given with incorrect dates in it, thank you.

MR STANTON: Certainly, Madam Commissioner.

Now, this exercise started on 4 March did it, sorry, 4 April, did it not, when Mr Abboud contacted you?---No, Mr Abboud and I met on 13 April and that's when I was appraised of the approach.

Wasn't it, sir, that you gave evidence a little earlier, and correct me, I don't want to give you an incorrect date, but wasn't there some discussion of 4 April being mentioned or have I got that incorrectly?---I think 4 April may have been when the Mayor had asked me if I was, I had a meeting coming up with Mr Abboud.

I don't want to go over already well-fallowed territory but you say that all the Mayor asked you was with words to the effect had you had the meeting with Mr Abboud and nothing else, is that right?---That's correct.

At that stage had Mr Abboud contacted you on 4 April?---No, he contacted me, I think it was on 9 April.

You say in your chronology that on 4 April with the meeting with the Mayor, page 182, sir, that you advised you were meeting on the 23rd?---Ah, sorry, that was a typographical error.

Yes. Well, what, what is the correct evidence insofar as that represents a typographical error?---It should have been the 13th but that would say that Mr Abboud contacted me prior to 4 April.

Well, what's the evidence, Mr Neish?---I don't have the exact detail with me of when Mr Abboud phoned but I was assuming it was the 9th because that's what my learned friend over here was saying but - - -

You see, you have already given evidence it was 9 April, which doesn't appear in your chronology, does it?---No.

It's a simple question, sir?---No.

Thank you. And you say that in the conversation of 9 April the words were to the effect that you were going to meet with him on behalf of others. That's what he was telling you, Abboud, is that right, paraphrasing as I am? ---When I met with him in 13 April?

No, sir, the conversation on 9 April?---Yes.

The evidence you've given earlier today- - -?---Yes.

10 - - -was with words to the effect, Abboud said at the time he had a proposal to put to me on behalf of others, he would tell me more when we met? ---Yes.

It was unspecific?---Correct.

I agreed to meet. See that?---Correct.

Well, not see that, do you remember saying that?---Yes.

20 Yeah. And you met at the Top Ryde Coffee Lounge. Is that right?---It was in the Top Ryde Shopping Centre in a coffee lounge. I'm not sure of its exact name.

That was on 10 April?---On the 13th.

Well, see, I've got here 10 April is my note that you've given in evidence. Is it – and subject to correct, was it 13 April you say you met?---Yes, it was the 13th.

30 Okay?---I was consistent with that.

All right. And it was at 11.00am?---Yes.

Right. Now, insofar as you met with Abboud, did you take notes at the time?---No, I didn't have a notepad with me. Mr Abboud had notes and- - -

I didn't ask you that, I asked did you take notes?---Yes, not- - -

40 Just listen to my question, please, if you would?---Not contemporaneously. I went back to the office and then wrote up notes.

Okay. So you took back, so you went back to the office after 13 April and you wrote up notes of the conversation?---Yes.

And where were they contained, in a notebook, exercise book?---In my diary.

Sorry?---In my diary.

Have you produced that diary to this Commission?---Yes.

Right. And are those notes available to your knowledge still with this Commission?---I believe so.

Has the diary been returned to you?---No.

10 No. Now, insofar as you wrote those notes up in the diary, was that the practice that you did for each and every meeting you had with Abboud?
---No.

Was it the practice that you compiled contemporaneous notes in that diary for phone calls you had with Abboud concerning this matter, the reference from, allegedly from Goubran?---The – sometimes I just made notes in my diary contemporaneously and if they were detailed notes I, I would sometimes do it contemporaneously or I'd do it after I'd had the conversation.

20 Now, can we agree on one feature of those notes. Were they contained within your diary or were they compiled elsewhere?---No, they were contained in my diary.

And only in your diary?---Correct.

Not on your computer?---No.

30 No?---Except when Mr Abboud sent me his version of events on, on my computer, I responded to him saying thank you.

And that's the only comment you made?---Yes.

Yeah. Now, did you use those notes from Abboud in July together with your contemporaneous notes to compile the section 11 notification?---Yes.

In part?---Yes.

40 And did you effectively, as far as your evidence is concerned here today, rely on Mr Abboud and Mr Abboud only for what was being communicated by him?---Yes.

You didn't go and seek out or source out from elsewhere that what Abboud was putting to you concerning Goubran's alleged representations was in fact to your satisfaction coming from Goubran through Abboud?---No, I didn't see that as being my role, I believed that to be the role of ICAC.

I didn't ask you whether it was your role.

MR DOWNING: I object.

MR STANTON: Well, well, I'll, I'll, well, I'll- - -

MR DOWNING: If he would let the witness finish his answer- - -

MR STANTON: Certainly, Mr Downing.

10 MR DOWNING: - -it might actually assist us in getting a proper flow of questions and answers.

MR STANTON: Noted, Commissioner. Sorry, Mr Neish, please finish?
---Yes, I was saying that I felt once I had the information from Mr Abboud, to verify whether this conversation took place or not was not my role, it was for an investigating authority to do that.

20 But you see you relied on Abboud, did you not, for the dissemination of the information and its accuracy, because you took no other steps to see whether it was correct or otherwise, other than referring it to the investigative body.
Is that the case?---That is the case.

Yes. And to the extent that you trusted Abboud, as you obviously did, did you not?---I trusted Mr Abboud.

30 Yes. What was your relationship with him as at 10 April?---As I have said earlier, I met with him on several occasions, he was a member of a strategic planning group that we were doing a strategic plan for the city, I met with him in his role of the various Chambers of Commerce he represented and I had seen him at functions.

He was a businessman who had an interest in Council matters did he not as a real estate agent?---Yes.

He had clients who had planning proposals did he not?---I'm not sure.

Well certainly it's within your assumption that he would have clients who had planning developments?---Not necessarily. I thought he sold real estate not development.

40 Well real estate is certainly something that receives development consideration does it not within Council consideration in terms of business?

MR DOWNING: I object.

ASSISTANT COMMISSIONER: Normally not by the real estate agent, Mr Stanton - - -

MR STANTON: I didn't say by the real - - -

ASSISTANT COMMISSIONER: Yes. Well - - -

MR STANTON: Commissioner, I'm not trying to argue with you, ma'am.

ASSISTANT COMMISSIONER: You're speculating and I don't think it even follows from what you're saying that a real estate agent would have applications before the Council.

10 MR STANTON: But certainly clients of real estate agents may well have applications for, before Council would they not?---I was unaware of any Development Applications from Mr Abboud.

My question - - -?---And, and normally I wouldn't be as a General Manager I didn't get too close to that anyway.

Appreciate that, sir, but my question is not whether there were applications but it was within Mr Abboud's clientele possibly that they may have applications before Council may they not?---That's supposition.

20

ASSISTANT COMMISSIONER: Anybody may have applications before Council his clients were no more or less likely than anybody else I suppose.

MR STANTON: Thank you, Commissioner. Now moving on if we may to this meeting at the Top Ryde Centre in the coffee lounge was it customary to meet Mr Abboud there in the coffee lounge?---We didn't meet very often, in fact that was one of the very few informal meetings I can recall ever having with Mr Abboud.

30 And this was a meeting alluded to by the Mayor without any specificity was it not - - -?---Correct.

- - - as at before? And was there any problem in you seeing him in your office Mr Abboud?---No.

But you decided to go to the coffee lounge, is that right?---Yes.

Was there any reason to have the meeting outside of the Council office area?---Only it was a more pleasant setting.

40

I see. And being so far as it was a more pleasant setting the meeting occupied you say one hour from 11.00am?---About that approximately.

You took no notes at the time?---No.

And you relied on your contemporaneous recording of them later in your diary to give your evidence here today, is that correct?---Yes, I went back to

the office and I wrote down some notes and I asked Mr Abboud his, his version of events in writing as well.

And when you say you asked for his version of the events in the course of that one hour he gave you his version is that, is that the case?---Yeah, he had some notes with him already that he had taken from his discussions when he spoken to Mr Goubran so I assumed and he didn't get back to me until about whatever the dates were some time later with his written version of events that I put into the section 11 notification to ICAC.

10

Now bearing in mind, sir, that what he was communicating to you was tantamount to corrupt conduct on one view was it not?---Yes.

Just excuse me, sir, the question can be answered yes or not - - -?---Yes.

- - - surely?---Yes, it was.

Thank you. And in so far as you agree with me that it was tantamount to corrupt conduct on one view and he was referring to notes did you take
20 custody of those notes for the purpose of reading them while you were at the coffee lounge?---He should them to me but I didn't take custody - - -

My question, sir - - -?---I didn't take custody of them it wasn't my right to do so.

Well just, well did you ask for them and he said no?---I asked him if he, if he could write them up because they were in bullet points.

I see. So you saw enough of them to know they were in bullet points?
30 ---Yes.

How many pages were there?---It was on about a page and a half of his notepad.

Of his what?---Of his notebook.

I see his notebook. What sort of notebook was it?---It was a small notebook about that big.

40 You say small. You're indicating with your hands?---Yes, it's - well I don't know that size it's A6.

Well then, well then do the best you can?---A6 perhaps.

A6 and what brand of notebook did you see that?---I wouldn't have a clue.

(not transcribable)?---It was bound, it was a bound notebook.

Yeah. What colour pen did he use to write the notes?

MR DOWNING: I object. I'm not sure that Mr Neish has given evidence that he saw Mr Abboud writing up the notes, that's not as I understood his evidence at all.

ASSISTANT COMMISSIONER: No, he didn't but I suppose he might have observed what info were written in it, he had a particular good memory.

10

THE WITNESS: Yeah, I think it was, I think it was black.

MR STANTON: You think it was black, yeah?---Yes.

And a page and a half of A6 you think note paper?---Yes. In, in point form.

And you say you read them?---He showed them to me I didn't read them all in detail but he took me through them and he kept referring to them to make sure that his, his facts were accurate when he was talking to me about it.

20

So as so far as he took you through them in detail I assume he showed them to you?---Yes.

And you read them when he showed them to you?---Not in detail, he took me through them.

Did you read them at all?---Yes.

All right. What, what do you - - -?---Later.

30

Sorry, sir?---Later.

How much later?---When I received a copy of them.

Mr Neish, have you finished? I asked, I asked you did you read them?---I was going to answer your question.

Sorry?---I was going to answer your question. I read - - -

40

No, no, it's not your province to ask me questions?---No, I was going to answer, answer your question, I'm - - -

Sorry?---I was going to answer your question.

Oh, I'm sorry?---You asked me if I had read them.

Yeah?---Yes, I had read them insofar as he was sitting at the table, he had them, he showed them to me and I, I briefly scanned them but I didn't read them in great detail.

Yeah. This was over the hour was it not?---Yes, and Mr Abboud was talking me through them.

Yes. And insofar as you scanned them can you recall what they said as you sit here in the witness box today?---Yes.

10

Well, what did they say?---They said that Mr Abboud had met with Mr Goubran and that Mr Goubran had put some propositions to him about the make-up of the committee to be formed for the Civic Precinct review committee and that the Councillors' names to be on that committee were Councillor Petch, Li, Salvestro-Martin and two Liberals being Yedelian and Maggio and that there would be members of a community committee being - and there was about four names but one of them being Mr Abboud and that two of my, two of my executive team, being Mr Johnson and Ms Dickson and Mr Abboud put to me that Mr Goubran had said - - -

20

Mr Neish, I'm just asking you, sir, what else was on the notes, I'm asking you about the notes, nothing orally at this stage. What, what did you read is what I'm interested in?---Ah, I, I - - -

As far as you scanned them I think you said?---I read the, the, the, the members of the different committees and the proposition in bullet points.

And what of those propositions in bullet points, what can you recall now? ---I was just explaining that.

30

Nothing other than - well, in terms of exhausting - - -?---No, the propositions in bullet points was this committee of review would be formed, that I was to do a report to the Council, I think there was a bullet point about the terms of reference I had to write. My job would be secure after September when Petch would be the Mayor. Now I'm, I'm recalling that detail but I think there was enough bullet points to give substance to what was later reaffirmed in more detailed writing by Mr Goubran, Mr Abboud.

40

Well, just about that bullet point about your security of position?---Yes.

What do you recall was that bullet point or is it - or have I exhausted your recollection on that particular bullet point?---Well, you've exhausted my recollection but I did query it with Mr Abboud in some detail so that was verbal.

Now, you say, sir, that you've left some notes at home?---Sorry - - -

Today?--- - - - they were found.

They were found?---Yes, and that's what was just tabled after the break.

And what do those notes refer to that were just found?

MR DOWNING: Commissioner (not transcribable) clarification. My friend might be referring to the evidence about a letter before from Councillor Petch not notes made by this witness.

10 MR STANTON: Oh, no, well, no - - -

MR DOWNING: Because I don't there has been any evidence about notes having been left at home.

ASSISTANT COMMISSIONER: No.

MR STANTON: Well, Commissioner, I will stand corrected but I will say this I've got a note here, "I will need to refer to my notes, they are not with me, I'm sorry, I've left them at home." Now, do you recall giving that
20 evidence, Mr Neish?---Yes, I do.

Well, at least you and I are on the same point?---And then, and then I recalled it was in the evidence that I had prepared for the section 11 - - -

Yes?--- - - - and they were found and they were tabled after lunch.

Well, they were tabled after lunch?---Yes.

30 Okay, right?---It's this, this document.

So they're the notes you're referring to?---Correct.

Okay. Now, I think also did you say that it was a direct threat you say Abboud communicated to you allegedly from Goubran, you say it wasn't a direct threat but rather it was something that was implied?---Yes.

Do you remember saying that?---Yes.

40 What were the circumstances of implication that you understood that made it implied as opposed to express?

ASSISTANT COMMISSIONER: I'm sorry, I'm just concerned you're not putting correctly to the witness what was said. As I understood the evidence he asked Mr Goubran was it a direct or implied threat and Mr Abboud said it was an implied threat. So it's no good asking him what was meant by the word implied.

MR STANTON: Thank you, Commissioner.

Insofar as you say Abboud said he said not a direct threat, it was implied, did you ask him what was the nature of the implication in terms of him referring to it as implied?---Yes.

And what did he say?---He said it was implied that if you did these things then your position would be secure after September.

And- - -?---Which I took as a, I, I took at that point as a threat.

10

Now, you haven't given that evidence here today, have you?---(No Audible Reply)

You haven't, you haven't given evidence of what you asked Abboud about today, have you?---In what way?

20

I put to you, sir, you were, you said, Abboud said, he said not a direct threat, it was implied. And then I've asked you about what was the circumstance concerning the implication, what did you say to him. You've just answered now what, words to the effect, what did he mean by that. You never gave that evidence earlier today, did you?---As far as my personal view was concerned, no.

No?---But I wasn't asked that.

No. Well, see, sir, you see, here you are receiving a threat to your job security, are you not?---Correct.

30

And you have a conversation with, with Mr Abboud as to what would it be that would be implied as to the tenure of my employment being under threat?---Correct.

And you didn't give any evidence about that until I asked you today. Is that right?---Well, I did actually because in the, in the chronology of events that was tabled I was very clear that I mentioned it to Councillor Etmekdjian when I met with him the following Wednesday.

40

See, in your, in your chronology, sir, it's very very brief, the 13 April meeting, is it not?---(No Audible Reply)

See the chronology there, page 182?---Yes.

And the further entry on page 182, your meeting with the Mayor on 18 April, the proposition put to me – see that, if I, if I may paraphrase, please, sir, you found that to be improper and in breach of the Local Government Act and possibly ICAC guidelines. Do you see that?---Yes.

Yeah. And that was a proposition you say wasn't expressed but rather put to you as something that was implied?---Yeah, I felt, if I may comment, I felt like a gun had been held to my head and somebody said, you can do what you like.

There's no doubt sir, that in your mind, certainly as at the 18th, you wanted to send a section 11 ICAC notification, did you not?---Yes. I'd discussed it with the Mayor and thought that would be the proper thing to do.

10 Now, the reality is that you relied on Abboud for these communications to you?---Correct.

You relied on his one and a half page possibly A6 notepad recollection of what Abboud said was the proposition being put allegedly by Goubran to him to you?---Correct.

20 Yeah, which you scanned briefly?---No. When he wrote the email, which I scanned briefly on his notes that he was talking me through in great detail and then when I read them when they arrived they, they agreed with those notes plus the notes I'd personally made in my own diary.

Now, you say that they agreed with his notes that he made and were handwritten you think in black ink. Did you ever get a copy of those? ---Eventually I did.

When was that?---I got a copy from the ICAC.

Not from Mr Abboud himself?---No.

30 And when did the ICAC provide you with those?---Can I answer that?

ASSISTANT COMMISSIONER: I don't know. What is the relevance of that?

MR STANTON: The relevance is, ma'am, that this is an allegation against my client- - -

ASSISTANT COMMISSIONER: Yes.

40 MR STANTON: - - -from which its composition and compilation is critical. We've got a timeframe and I don't want to go into it, I'm going to ask some questions about it, that is somewhat leisurely, to say the least, in terms of notification, from the time in April to the time it's made available on 11 July, and I'm entitled to test how it is that he puts it all together and where he gets his information from. Now, he said that ICAC provided it to him. There can't be any secret there surely. When did ICAC give it to you is my question. Can you answer that?---Yes, it was in a - may I disclose it, Commissioner?

ASSISTANT COMMISSIONER: Are you talking about a compulsory examination?---Yes.

When, when, just the time. We don't care what sort of a thing it was. Do you remember the time?---It was in December, yes.

December?---Last year, 2012.

10 MR STANTON: Thank you, Mr Neish. And did you keep a copy of it once shown in that meeting or sorry, in that hearing in December 2012 did you keep a copy of that document?---Yes.

And I take it you've still got possession of it?---Yes.

Right. So you've got the note from Mr Abboud that he showed you in the coffee shop meeting if I could, if I could call it that, you've got your notes in your diary you made subsequently?---Yes.

20 And you've then got what Abboud sent you in July 2012 and your notification on 11 July?---Yes.

Now, of course you didn't have his handwritten note until after you'd made your notification?---Correct.

That's Abboud's handwritten note. Now, can you – I withdraw that. Surely you must have been somewhat frustrated with Abboud that having communicated to you what you thought was a corrupt overture and you having communicated that to the Mayor as well, this is in April 2012, he
30 took until 9 July to get you the document?---Yes. It was my understanding Mr Abboud was ill at the time and he was also on holidays for some of that time.

Okay?---I did chase him up several times and he, he eventually complied with my request.

And you told him, did you not, in the course of communicating to him that this was a serious matter and you were intending on reporting it to ICAC. Is that the case?---Correct.
40

And he knew well what you were minded to do with this material once you got it to your satisfaction- - -

MR DOWNING: I object.

ASSISTANT COMMISSIONER: Yes, I'm sorry.

MR STANTON: I withdraw that. I put it this way. You had communicated to Mr Abboud that you were going to make a notification to ICAC, did you not?---Correct.

Yeah. And when did you tell him that for the first time?---Ah, Thursday, the 19th.

That's after you met the Mayor on the 18th. Is that right?---Sorry, can you just scroll down that – I'm pretty sure it was Thursday, the 19th. Yes, in a
10 phone call to Mr Abboud.

And he said to you as at the 19th he agreed to do so but it may take some time?---Correct.

Did he give, did he give any reason that doesn't appear in your chronology as to why it may take some time?---Ah, no.

Can you recall now what it was that he might have hinted at or implied that
20 might have made it require some time before he could give you the material?---As I said, I believe he was going on holidays so I don't know if that was I his mind when he said that, and then he was ill for a period of time, but he wouldn't have known that back on 19 April.

Mmm, well, yes. In any event, it's another three months effectively, is it not, before you get the material?---April, May and June, yeah, almost three months.

Now, how many times had you met Mr Goubran as at April 2012?---I, I
30 recall meeting him maybe on two occasions prior to that with his sons and – or with one of his sons, and another meeting I met with, I think it was his father.

Sorry?---I think I met with his father.

With Mr Goubran, John Goubran's father?---I think it was his father.

I see. What was his name?---I can't recall. But they came to see me about
40 a, to, to see if – for some charity work about building a retirement village within Ryde.

Nothing untoward about that?---Nothing untoward.

I fact on any of the occasions Mr Goubran came to you there was nothing untoward in anything he said to you, was there?---No, each meeting was attended and there were notes taken by planners. I never met with a developer by myself.

So you say that Mr Johnson was open, honest and transparent with the manner in which he dealt with Mr Goubran. Do you remember giving that evidence?---Yes.

10 In what way was Mr Johnson to your satisfaction open, honest and transparent?---I can give you one example. Mr Goubran had, had purchased some land in Waterloo Road. He purchased it knowing what the zoning was and he purchased it knowing that the site had some restrictions. And Mr Goubran on a number of occasions had tried to get the zoning of that site changed to allow more height and a different development mix on the site. Mr Johnson constantly advised him – and I was there at one meeting and Mr Johnson told me on several other meetings he had he had given them the same story, that the chances of this happening were very, were very low because first we would have had to have done a detailed site analysis of the whole precinct, that the planning instruments, there would have had to have been a planning proposal to have it changed and that because we were doing the new LEP the LEP would have had to have been in place first before these other steps were taken, so he was very open about that and very transparent about that, and very honest in telling him and not giving him any false hopes about that development. Subsequently though there was a notice of motion from the floor of Council suggesting Mr Goubran could draw up his own master plan and present it back to Council for their consideration.

20 But that wasn't referred to ICAC though, was it?---It was later mentioned, yes.

And Mr Goubran in fact reported Mr Johnson to ICAC did he not?---I don't know.

30 You don't know. Not to your knowledge?---Not to my knowledge.

I see, okay. In any event your position concerning Mr Abboud wasn't until he had provided you with his report as at the 9 July you couldn't take the matter any further?---I prefer when I provide, when I provide notice to bodies like ICAC that I do so in a way that is verified and I saw Mr, Mr Abboud's notice as an important element of that verification.

40 And his verification as you term it was unsigned it's an email, it's unsigned is it not?---It had an accompanying email with this name and his company logo on it.

Yeah. It's not a statutory declaration is it not?---It wasn't a statutory declaration, no.

And it took some three months to get, I know we've been over this already but just finally it took some three months to get out of him?---It took time to have it finalised.

Yeah. And there were detailed notes at least in a paraphrased format that you saw at your meeting with him you say on 3 April that certainly gave him sufficient ability to, that you scan them and look at them and report to you what occurred then?---Yes, but they, they weren't clear exactly the points on it to a casual observer needed more interpretation than the bullet points. That's why Mr Abboud went to some length to talk me through the issues.

10 And in so far as he spoke to those points and talked you through them as you say he couldn't get them to you in a sufficient format that you could rely upon them in a verified manner until 9 July.

MR DOWNING: I object to that. I'm not sure if that's a question or a submission.

MR STANTON: Well it is a question but I'll withdraw it. I'll put it this way. In so far as you were spoken to in terms of the detail in the notes on the 13 April, that's what you say do you not by Mr Abboud?---Yes.

20

Nevertheless you weren't satisfied until 9 July when he sent you the email that you had them in a sufficiently full format with verification as you term it to send them or to rely upon them for the section 11 declaration?---Yes. Once I received them I received them on the Friday, I spent that weekend and the following Monday, Tuesday preparing the section 11 notification. And relying on Mr, sorry and relying on Mr Abboud and only Mr Abboud as to what Mr Goubran had allegedly said and done?---As far as what was what alleged, yes, as far as other matters that were concerned they had to compile and fair bit of other information.

30

Relying primarily on what Mr Abboud had told you and what appeared in the notes for the matters against Mr Goubran, isn't that the case?---Not entirely, no.

Primarily is what I put to you. Not exclusively primarily. What do you say to that proposition?---Only of the events of our meeting on 13 April.

Nothing further, thank you, Commissioner.

40 ASSISTANT COMMISSIONER: Thank you. Yes. If there's nobody else, do you have any re-examination, Mr Downing?

MR DOWNING: Commissioner, could I just ask for a very brief adjournment. There's just one or two matters and I just wanted to speak to those assisting me. I'd only need five minutes.

ASSISTANT COMMISSIONER: Yes, all right.

MR CHALMERS: Commissioner, I act for Mr Abboud.

ASSISTANT COMMISSIONER: Yes.

MR CHALMERS: I haven't got a copy of Exhibit 2 or the, the chronology and it's a bit difficult to follow from the TV. Could I get copies of those exhibits please?

10 ASSISTANT COMMISSIONER: Yes, Mr Chalmers, certainly. We'll see to that. We'll adjourn for five minutes.

SHORT ADJOURNMENT

[3.24pm]

ASSISTANT COMMISSIONER: Thank you, please be seated. Yes, Mr Downing.

20 MR DOWNING: Thank you, Commissioner.

Mr Neish, you were asked some questions by Mr Stanton, counsel for Mr Goubran, about the extent to which you actually saw the notes that Mr Abboud had with him at the meeting you had with him on 13 April, 2012?---Yes.

And you were asked some questions in particular about what they looked like, what colour the writing was and things of that nature. Can I ask you to have a look at a document page 131 of Exhibit 2. Just looking at that
30 document does that appear to be the notes?---Yes.

They are, that is the notes that Mr Abboud had with him at the meeting on 13 April?---Yes.

MR STANTON: Commissioner, could I just interject? I hate to do that. I don't have page 131 in my Exhibit 2, I don't know if my learned friends are equally deficient.

40 MR DOWNING: I'm sorry, I'll have - - -

MR STANTON: It just might be me.

MR DOWNING: - - -I'll have copies made for all parties. It'll need to be separately tendered, it must not part of Exhibit 2. We do have copies and we'll make them available.

Also in the course of your evidence, Mr - perhaps - I withdraw that. Commissioner, perhaps for the sake of clarity I'll separately tender that document now, that is page 131.

ASSISTANT COMMISSIONER: Yes. Those notes will be Exhibit 5.

#EXHIBIT 5 - PAGE 131 – JOURNAL ENTRY OF MR ABOUD'S DATED 3 APRIL 2012

10

MR DOWNING: Mr Neish, also in the course of some questions by Mr Stanton you were asked whether you'd made any notes yourself as a result of a meeting with Mr Abboud, do you recall those questions?---Yes.

And you indicated that you made some notes in your diary?---Yes.

Can I ask you to have a look at - perhaps I'll get the court's - just before we do it we do now have the documents to hand up as the exhibit.

20

Commissioner, the documents that I'm tendering at present at the documents that Mr Neish has identified as having seen during that meeting with Mr Abboud. Mr Neish, just looking at the actual itself is that your 2012 diary?---Ah, yes.

Can I ask at this point that that the diary be marked for identification, Commissioner?

ASSISTANT COMMISSIONER: Yes, that will be MFI 1.

30

#MFI 1 - MR NEISH'S 2012 BLACK DIARY

MR DOWNING: And did you - looking at the diary did you make an entry in respect of the meeting you had with Mr Abboud on Saturday, 14 April, 2012?---No, I made it later on Friday the 13th but I had made other notes so I put it on the page Saturday the 14th and referenced it across.

40

But it was made, the actual writing was put into the diary later on 13 April? ---Yes.

I'll tender that document, it's not part of any of the exhibits at this stage and we'll provide copies to the parties, Commissioner.

ASSISTANT COMMISSIONER: You're tendering the page 14 April?

MR DOWNING: Just the page which is - - -

ASSISTANT COMMISSIONER: Yes.

MR DOWNING: - - - the page which has the date Saturday, 14 April, 2012.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 6.

**#EXHIBIT 6 - DIARY NOTES OF MR NEISH FOR SATURDAY,
14th OF APRIL 2012**

10

ASSISTANT COMMISSIONER: Thank you, Commissioner.

MR DOWNING: Thank you, Commissioner.

ASSISTANT COMMISSIONER: Yes. Well, that concludes your examination, Mr Neish and you are now excused, thank you.

20 **THE WITNESS EXCUSED**

[3.35pm]

ASSISTANT COMMISSIONER: Yes, do we have another witness for today?

MR DOWNING: I hope we do present in the Commission at the moment, Mr Abboud if he's present.

30

ASSISTANT COMMISSIONER: Yes.

MR CHALMERS: While he's making the long walk to the stand I explained to him section 38 and he wishes to take the objection and he'll take an oath.

40

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

**PURSUANT TO SECTION 38 OF THE INDEPENDENT
COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT
ALL ANSWERS GIVEN BY THIS WITNESS AND ALL
DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE
COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO**

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

ASSISTANT COMMISSIONER: The witness will take an oath, thank you.

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner.

Mr Abboud, if you state your full name for the Commission please?---Tony Charbel Abboud.

10

And your date of birth?---22nd of the 12th, '56.

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

Now, Mr Abboud, you're a real estate agent?---That's correct.

And is it Snowden Parkes Real Estate that you're a principal of?---That's correct.

20 And that's a real estate agency in Ryde?---Yes, it is.

And for how many years have you worked for that agency?---33 years.

Now you also have an involvement, is it correct, with the Chamber of Commerce?---Yes, I've been the president of the Ryde Macquarie Park Chamber of Commerce since 2010.

30 And in the course of your work through the real estate agency, sorry, I withdraw that. Are you also a member of the Rotary Club?---Yes, the Rotary Club of Ryde, I've been there since 1986.

In the course of your work and also your membership of the Chamber of Commerce and Rotary are you familiar with the members of Ryde Council? ---Yes, I am.

And also the Ryde Council senior staff?---Yes, I am.

40 You know Mr John Neish, the former General Manager of the Council? ---Yes, I do.

Do you also know the former Mayor Etmekdjian through the Council? ---Through the Council and through the Rotary Club of Ryde and also through the Chamber of Commerce prior to him becoming Mayor.

And are you also as at 2012 and 2013 were you familiar with Councillor Petch?---Yes.

And for how many years have you know Councillor Petch?---Oh, for many, many years, you know, the last 20 years, 15 years that I've been in real estate and been involved in the local community.

Do you also know John Goubran?---Ah, yes.

10 And as at 2012, the early part of 2012 you knew Mr Goubran?---I knew him but I didn't have any sort of contact with him for many, many years but I knew of him and I knew him from when I first started in real estate, he used to do work with my previous employers at that office.

When you say did work with?---Real estate work.

Did you know him as a property developer?---Yes, originally he was a jeweller to my knowledge and then he became a property developer.

Now, in the period 2010 to 2012 were you aware of the Ryde Civic Precinct redevelopment was that a proposal before Council?---Yes, I was.

20 And had you attended Council meetings on occasions in respect of that matter?---Yes, I had.

And did you have a view yourself about the rights of the Ryde Civic Precinct redevelopment?---Yes. I was always in support of it.

And were there occasions when you spoke in favour of it at Council meetings?---Yes, I spoke on at least two occasions that I could recall in favour of the development.

30 Are we talking about in 2012 or other times?---I spoke on two occasions in 2012 on the 27 March and on 8 May.

Now do you recall receiving a message on 30 March 2012?---Yes, I received a phone message on Friday 30 March to call John Goubran and the message said "I would know what it was about."

And did you know what it was about at the time?---No, I didn't.

40 So what did you do?---Well I, I recall I was in the car and I returned the call. The first thing he did was, he was quite upset that apparently he'd left me several messages and I hadn't returned his call and - - -

Was that something he said to you?---Yes, he did say that. And I said to him well this is the first message I'd got from you and I'm, I'm now returning your call he said he wanted to have a talk to me about a few things and he would prefer that I meet with him and at that time we made a, we agreed that I would meet him on the following Tuesday morning at his offices at around 8 o'clock that morning.

And did you at that stage have any idea about what it was he wanted to speak to you about?---Not specifically, I assumed it was to do with his various developments - - -

MR STANTON: Commissioner, concerning my client I object. Even though the rules of evidence don't apply these are serious matters. I object to his assumption. Something as serious as this man to the fact - - -

10 ASSISTANT COMMISSIONER: I'm sorry, what, what's the assumption that's - - -

MR STANTON: Well "Did you know, did you know what he was calling you about? I don't know I assumed."

ASSISTANT COMMISSIONER: Well I think as long as - well, do you have any basis for your belief?---Only that I was aware that he had various developments and that I assumed that he wanted to talk to me about them. That's' what I assumed.

20 Look I think that's fine. Go ahead?---There was no other reason for him to call me that I was aware of.

MR DOWNING: Sorry, Mr Abboud, so I think you said that you'd then organised for a, during the conversation on the 30 March you organised to meet and when was that meeting for?---It was the following Tuesday morning, I think from memory it was the Tuesday, is it 3 April at 8.00am?

30 Could I ask you to have a look at a document which I hope is page 139 of Exhibit, sorry I'll stop there.

Commissioner, at this stage I'd like to tender a series of documents in respect of Mr Abboud that I expect I'll be taking him to a course of his evidence. I'll hand up the copies. And we do have copies for the parties.

And what I was - ask you to have a look at if we could bring it up on the - well, sorry I'll wait until that's been tendered, Commissioner.

40 Yes. The bundle of documents in relation to Mr Abboud will be Exhibit 7.

#EXHIBIT 7 - BUNDLE OF DOCUMENTS IN RELATION TO MR ABBOUD

MR DOWNING: What I wanted you to have a look at, Mr Abboud, is page 139 of Exhibit 7. Do you recognise that as a print out of your Outlook calendar?---Yes, it is.

And do you see an entry there for the 3 April 8 to 9.00am?---Yeah, that was the meeting that was organised.

Now so you attended the meeting on 8 April?---Yes.

Do you recall who was present?---Initially it was just John Goubran but sometime throughout the meeting I recall his son Simon came into the meeting.

10

And can you tell us again doing the best that you can using words to the effect of what was said to you by others and what you said what then transpired at the meeting?---Firstly there was discussion about his developments and in particular Eastwood and the - - -

20

What did he say about the - - -?---He was quite upset with Council, he was very upset with Dominic Johnson and he said after quite a long period of going back and forth with their, with his Development Application regarding his Eastwood site that Council have now referred it to an external assessor and, and he said, he was quite upset about that and he said that they effectively have to start all over again.

Right?---That was the first part of the discussion.

All right. What did he next say?---The discussion then led onto the Civic redevelopment. I was saying to him re-affirming my support of the Civic redevelopment and I was sharing with him how I just been to a Council meeting the previous week.

30

Well how did he raise it, what did he say the Ryde Civic Precinct redevelopment?---He - I don't exactly recall how he raised it but it came about that we, we got on from his development and I think it was along the lines of you know if the Civic redevelopment was to go ahead that would set a precedent for other developments to, to go ahead. And I was saying to him that I had attended a Council meeting the week before, I told him how I'd spoken in favour of it, I also told him how in my opinion I was disgusted at the way the treatment that John Neish was getting at that particular Council meeting where the meeting went on for quite a long time and it appeared to me as if John Neish had to answer questions and respond to every minute thing that he'd done as part of this process and I thought he was being treated unfairly.

40

Did Mr, did Mr Goubran say anything about that?---No, he didn't make any comment one way or the other regarding that.

What was next said?---Well as a result of that discussion he then said to me the real reason he wanted to see me was that he wanted me or was I interested in putting a deal forward to the, to, to Mr Neish and that would

bring closure to the, the, the deadlock if you like between the six no Councillors and the six yes Councillors, he wanted me to see if I was prepared to take a deal to John Neish.

10 At that point did you ask him anything about the, the deal and what it was that was being put to you?---Well, well the first two things I said to him I said why me and he said something along the lines that he felt that I might be able to have the ear at both sides of the, the Councillors between the yes and the no Councillors and I thought that was very nice that either he or, or other people out there thought that I might have the ear to, to both sides of the argument. The second thing I, I put to him was what about if this deal that you want me to take to John Neish what about if I don't agree with it because I'd only just finish telling him how I was very much in favour of the redevelopment of the Civic Precinct and at that point he said well he'll get back to me later and let me know the details of the deal.

So at that face to face meeting did he not say anything specific in terms of what the terms of the deal was?---No.

20 Was there any further discussion at that point at the meeting?---No. That was about the, the essence of and then I had to go leave because I had a back up meeting to go to.

How long do you estimate the meeting went for?---About an hour.

And how much of it do you estimate was taken up with talking about matters like, well the Development Application issue that he raised with you?---The first part about his development? Probably about 20 minutes or so, 25 minutes.

30 And how long talking about this issue of the deal that might be put to Mr Neish?---Well we, we then spent, spoke for about 10 minutes or so about you know my opinion as to the Council meeting and the mistreatment of John Neish and the fact that I'd spoken in favour of the redevelopment and then it would have been the last 20, 25 minutes or thereabouts that he talked about this supposed deal that he wanted me to take to John Neish.

And you say he indicated to you that he would contact you with the details of the deal later?---Later, yeah.

40 Now, during this initial meeting did Mr Neish – sorry, I'll withdraw that. Did you make any specific notes during this meeting in the offices?---No.

Do you recall if Mr Goubran in the course of that meeting in asking you to take a deal to Mr Neish, said anything about Mr Neish's employment? ---I don't recall if it was at that particular meeting or when he called me back that afternoon to actually give me the details of this deal that he wanted to – that he wanted me to take to John Neish.

Doing your best, what's your recollection as to what he said about Mr Neish's employment?---After he told me what this supposed deal that he wanted me to take to John Neish, he, he, he reaffirmed that if John Neish was to do this his position would be secure, particularly after the, the Council elections in September.

10 Did he say anything about whether he wanted that to be communicated to Mr Neish?---Well, he didn't say to me specifically whether he wanted me to say that or not but I felt that it would – that's something that John Neish should be aware of.

And you say that you can't recall whether this, this part of the discussion, that is in relation to Mr Neish's employment, was during the first discussion face-to-face in the offices or later?---Yeah. It was that afternoon that he called me back and gave me the specific details of this deal.

20 But you're not able to recall now whether the discussion about the employment was during that first meeting or during the telephone conversation?---It, it may have been both, but I can't recall.

And you say that he said something about Mr Neish's employment being secure beyond the upcoming September elections if he were to broker the deal, in effect?---Yes.

30 Did that strike you as somewhat unusual?---Well, one of the thoughts I had at the time was I don't know – because I wasn't aware of the, the processes as to how that could come about and I didn't know whether he had some power that I wasn't aware of or of like I mean I had a few doubts in my mind as to how could he do that, how could he guarantee someone's position. So I wasn't aware of his influence, power base, whatever.

Do you recall whether during that first conversation, that is at the face-to-face meeting, Mr Goubran said anything about whether he was speaking on his own behalf or on behalf of others?---No, he, the implication was that he was, he, he was asked by certain people to ask me to put this deal to John Neish, but he didn't nominate who.

40 You say that that was the implication?---Mmm.

What led you to form that view?---Well, he actually said, he said, "You know, there are certain people who've asked me to approach you to take a deal to John Neish." Or words to that effect.

Did he say anything to identify who they were or might be?---When he called me back and gave me the details of the deal, that's when he started mentioning names.

But you say during the first conversation that you had in the face-to-face meeting he indicated then that it was a proposal that he was being asked to put on behalf of others?---Yes.

Now, you say that he told you that he would get back to you later with respect to the details of this proposal or deal?---Yes.

And your meeting, according to your diary, was on the morning of 3 April?
---Yes.

10

Can I ask, do you recall later in the day receiving a phone call?---Yes.

Do you recall that there was a series of phone calls where you missed each other before then or whether there was just one phone call where you spoke to him?---I don't recall, to be honest with you, but I did take a call from him later that afternoon and that's when he put the, this supposed deal to me.

Do you recall – you say later that afternoon that you received a call?---Yes.

20

Did you speak to him for some time?---Yes, it might have been 20 minutes, half an hour, 'cause when he said, "I've got the, I'll tell you what the deal is," I opened my journal and started making notes.

That, are you talking about during the phone call?---Yes.

So you didn't make notes during the face-to-face meeting?---No, I made the notes when he rang me and said these, this is the, the deal, because at the morning meeting, the face-to-face meeting, he didn't give me any details of this deal.

30

Could I ask you to have a look at a document which appears at page 142 of Exhibit 7. Do you see that's a, what appears to be a log of phone calls?
---Sure.

Do you see on 13 April, 2014, there is one at 14.24?---13 April?

13 April from Tony Abboud to John Goubran?---Yes.

40

And you see there's some earlier calls that would appear from John to you, John Goubran to you on that same day at 14.22?---He rang me that morning 'cause he knew I was meeting with John Neish on Friday the 13.

I'm sorry, I'm dealing with the wrong date, Mr - - -?---Yes.

- - - Mr Abboud. If you could go back to the 3 April?---Yes.

Do you see at, at 4.58, so 16.58.32?---Yes.

There's a record there of a call from you to Mr Goubran?---Yeah, I may have been returning - - -

Of 1007 seconds?---Sure. Well he must have called me at 16.56 and I must have returned his call at 16.58.

Right. Now can I ask - - -

10 ASSISTANT COMMISSIONER: Mr Downing, I should just note that isn't part of Exhibit 7 as far as I can see that page 142?

MR STANTON: Yes. It's not in line with that.

MR DOWNING: I'm sorry I - - -

MR STANTON: It's not in mine, Commissioner.

20 ASSISTANT COMMISSIONER: Yes. Well anyway people have been able to see it up there on the screen. I don't know whether you need to tender it at some stage. I'm just raising that - - -

MR DOWNING: I'm happy to tender it now, Commissioner, there's no secrecy about it.

ASSISTANT COMMISSIONER: Yes. If you have separately. The - - -

MR DOWNING: I'm sorry, I had understood it was part of it.

30 ASSISTANT COMMISSIONER: Yes. Well that list of phone calls will be Exhibit 8.

#EXHIBIT 8 - LIST OF PHONE CALLS

MR DOWNING: Well perhaps just in the short time remaining there's just one other matter I'll cover today, Commissioner.

40 ASSISTANT COMMISSIONER: Yes.

MR DOWNING: Could I ask you to have a look at Exhibit 5. Now do you see the document on the screen in front of you?---Yes.

And are they the notes that you made during the phone conversation with Mr Goubran on 3 April 2012?---The, the notes on the right-hand side of the page is what I may, they're notes that I made during that phone call. The notes on the right-hand side of the, of the left-hand side of the, left side of

the page were the notes I made that Friday morning on the 13th before the meeting when John Goubran rang me and - - -

Sorry, just, if I could stop you there. So the page divided in half - - -?---The right-hand side, the right-hand side page are the notes I made when John Goubran called me or when we spoke on the, that afternoon.

Then the left-hand side of the page - - -?---The left-hand side of the page, the bit on the right - - -

10

Which starts with --- - - -which says “Way out for the Libs, face saving both camps and the four names including mine they were the notes I made that Friday morning before meeting with John Neish as a result of the phone call John Goubran that morning before meeting with John Neish.

So that’s on the morning of 13 April - - -?---That’s correct.

- - - before meeting with Mr Neish?---Correct. And the bits on the left that headed up Council resolution they were the notes after I met with John Neish on the 13th.

20

Thank you. Is that a convenient time, Commissioner.

ASSISTANT COMMISSIONER: Yes, yes. You’ll have to come back again tomorrow morning at 10 o’clock. So we will adjourn at this time until 10 o’clock tomorrow morning.

30

AT 3.59PM THE MATTER WAS ADJOURNED ACCORDINGLY
[3.59pm]