

CAVILLPUB00412
19/07/2013

CAVILL
pp 00412-00476

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 FRIDAY 19 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. Yes, Mr Bender.

MR BENDER: Commissioner, there's something I wish to raise in respect of two of the matters about which Councillor Salvestro-Martin was examined yesterday by Mr Downing. The first matter is the matter related to the disclosure of confidential information relating to Mr Neish's termination and the second matter is the matter connected to the Ryde Concerned Citizens Association and their retained of Mahony Taren
10 Lawyers. I seek confirmation whether the nature of the allegation or the complaint being investigated by the Commission includes some complaint against my client in respect of either of those matters.

ASSISTANT COMMISSIONER: I'm sorry, what's your question? Whether we're investigating those matters?

MR BENDER: Yes, I'm deliberately using the words in section 31(6) of the Act which is, as I'm sure you're aware, Commissioner, the provision that states that a person required to attend a public inquiry is entitled to be
20 informed of the general scope and purpose of the public inquiry and the nature of the allegation or complaint being investigated before or at the time the person is required to appear at the inquiry. My question is whether - I withdraw that. I seek information whether the nature of the allegation or complaint being investigated before or at the time the person is required to appear at the inquiry includes in Councillor Salvestro-Martin's case some investigation of a complaint or allegation concerning the two matters I referred to earlier.

ASSISTANT COMMISSIONER: Well, we're obviously investigating
30 those matters. I mean, the section doesn't have to say that we particularise in respect of each person at this stage what they may or may not have done wrong. I mean, obviously we are investigating those matters. I think the question is, if I may so, that you might wish to pose is more whether at this stage there is an allegation that your client's involvement in those matter could amount to corrupt conduct.

MR BENDER: I'm perfectly happy to put the question in those terms.

ASSISTANT COMMISSIONER: Well, if it's put in those terms,
40 Mr Downing do you want to - - -

MR DOWNING: Yes, Commissioner. In that respect I can indicate that on the basis of the evidence that is presently before the Commission I don't expect to be making a submission at the end of the inquiry that Councillor Salvestro-Martin in those two areas engaged in conduct that would amount to corrupt conduct. I obviously can't give a binding indication as to what the future evidence might indicate but certainly on the basis of the evidence

presently before the Commission that would be my view in terms of the submission I'm ultimately likely to make.

ASSISTANT COMMISSIONER: Yes. So, Mr Bender, you understand that's only in respect of those two issues and it's only in respect of what we know of the evidence to date because this is an investigation.

MR BENDER: I do.

10 ASSISTANT COMMISSIONER: But you've heard that.

MR BENDER: I'd also be indebted to my learned friend Mr Downing if he might turn his mind to the question whether he expects any witnesses who are being called in the future to adduce evidence which might cause him to submit that my client's engaged in corrupt conduct in those two matters, noting that Mr Downing did refer to his expectation in respect of evidence in his opening on a number of occasions.

20 ASSISTANT COMMISSIONER: No, I don't think he can be bound to give any indication in those terms.

MR BENDER: Thank you, Commissioner.

ASSISTANT COMMISSIONER: Not at all.

MR BENDER: Thank you.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Downing.

<JEFFREY LEONARD SALVESTRO-MARTIN, on former oath
[10.09am]

MR DOWNING: Councillor Salvestro-Martin, in the course of your evidence yesterday there were a couple of occasions where I took you to advertisements that you'd placed in The Weekly Times for the 2012 Council elections and asked you whether the documents you'd produced to the Commission included records showing invoices and payments and you
10 indicated that you would make some attempt to locate records overnight?
---Indeed, indeed, sir, I have and if, with the Commissioner's approval I would like to submit this document which provides some clarity in respect of my invoices if that's possible. I haven't had an opportunity obviously due to the late hour to go through in any detail but if, if you will please accept this as - - -

Perhaps if I could have it or if we could have some copies made and I'll come back to it at some point later in the evidence.

20 ASSISTANT COMMISSIONER: What is the document you're producing?---It's a summary sheet of my invoices against advertisements in the, in the TWT, Commissioner.

Could I ask why this information wasn't produced in response to the earlier notice?---Commissioner, yes, it's a very good point. The, the letter that was presented as - to, to you I actually had signed and I wanted to raise this morning as well, I had signed the cover letter in advance of the content being compiled and sent to you.

30 Well the cover letter did indicate that it included all of your expenditure for the election?---Yes. And I guess my - - -

And it appears that was not correct?---Yes, correct. I'm sure Councillor Butterworth can attest to that.

Yes. All right. Well a copy of this can be provided to Counsel Assisting and then it came be tendered at a later time.

MR DOWNING: Thank you, Commissioner.
40

Councillor Salvestro-Martin, the last matter I was asking you about yesterday was the ads that were placed on 29 August and 5 September - - -?
--Yes, sir.

- - - for the group of Councillors with the saveryde.com - - -?---Yes.

- - - name on it and I just want to confirm that I properly understand your evidence that, that you had organised for that ad to be created?---Yes, sir.

That the person who you organised to create it was Mr Anthony Stavrinis?
---That's correct.

So did, I take it you instructed him as to who was to appear in the ad?---I, I need to, I should take ultimately responsibility for that, for those advertisements, yes.

10 But, but you instructed him as to who would appear in it?---Yes. It was a group of six.

Did you provide him with the photos that were used or was that something he - - -?---No, sir.

Do you know how he obtained those?---I think they were website photographs.

20 And you instructed him that he was to then circulate it amongst the Councillors?---Sorry, I believe, yes.

I don't know if you were here for the evidence of Councillor Li but it's evident from his email anyway that when he received the email he actually noticed that the ad was already up on the website for the Weekly Times?---I, I wasn't here for his evidence, no.

Do you know whether you gave a direction to - I withdraw that. I think you've agreed with me that you gave a direction to Mr Stavrinis that he was to circulate the ad amongst the Councillors to seek their okay?---Yes.

30 Did you give any direction to him about whether he could send it to, to the Weekly Times for publication before actually getting the okay from Councillors?---Look I may have, I, I may well have done that, I, I just, I know it was a frenetic day for me and, and I do apologise for my what appears at times to be a lack of clarity of my own memories of events but, but I, if I can say there's a whole range of things that have, have, that affect me at this time as well as also the - I do if I can quantify in a sense, my work commitments are probably 95 percent of my, of my efforts and outputs - - -

40 Are you speaking of now or at the time of the election?---Of, of all times.

Right?---Of all times. So I do apologise to the Commission yesterday for what appeared to be my, my lack of clarity, I'm trying my best.

Coming back then just to the saveryde.com ads were your instructions to Mr Stavrinis that it would be you who would be paying for the, the ad for was it that the ad should be, the cost of it should be shared amongst the six Councillors?---Well I was thinking that it would take the format of, of all our previous ads but in the, I guess in the, also in the circumstance that I

presented and gave people very little chance to, to approve the, the ad, it should also be my ultimate responsibility as well.

But, but just thinking about your discussion. You obviously had a discussion with Mr Stavrinis to tell him what he could do on your behalf?

---I, I don't recall the detail of the discussion.

Well okay, but you accept there was one don't you? You're not suggesting - - -?---Oh, yes, no I accept - - -

10

- - - that Mr Stavrinis just thought this idea up himself?---No, no, no, absolutely not, no.

Well are you able to say, I'll withdraw that. You knew that the ad would have to be paid for by someone?---Yes sir.

Are you able to say whether you gave some direction to Mr Stavrinis about who the invoice should be made out to?---No, I don't think I did.

20

Because you would expect The Weekly Times would want to know that before they agreed to place the ad wouldn't you?---I would assume so.

Well from your dealings with the paper - - -?---But I've also in my dealings with the paper I've also had ads placed on my behalf as well. And I've had to query down the track. So I have, and I have represented on a number of occasions concerns to the TWT about how those ads, how ads were placed and I have issued actually also some instruction at times that, you know, I would be the only person really that should be placing ads.

30

Have you had some difficulty with The Weekly Times in the past in terms of the actual - - -?---Yes.

- - - layout and content of ads or, or is it the billing?---No, it's, it's the, it's the - I've had, I've had difficulties with billing. I have had occasionally some difficulty with content. But you know I also appreciate that people are running to deadlines and there are issues in that respect as well.

40

Just doing your best now do you recall whether you said anything to Mr Stavrinis about who he should tell the paper ad was being placed on behalf of and who an invoice should be made out to?---No sir, I don't, I don't believe I did.

So you're not able to say whether you said the bill should be made out to six of us?---I don't, I don't believe I did.

Doing your best do you think it was likely you said the bill should be made out to me or do you think you said nothing about it?---I think I said, I said, I

think I said nothing and looking at the email traffic that you provided to me yesterday it seems I said very little on the matter.

Well you didn't join in the email discussion about who was paying for it at all did you?---No sir.

And is it correct that you can't recall any discussion after these series of emails with any of the councillors about who was paying or had paid for it?
---I don't, I don't recall a discussion. I do - - -

10

ASSISTANT COMMISSIONER: Whose idea was it to place this ad?---I'm sorry, Ma'am?

Whose idea was it to place the ad?---Well I think we, we'd had a collective view that we should, we needed with the election approaching we needed to do all possible to present our – so I believe it was a collective view.

Well as I understood your evidence you hadn't discussed this ad with the councillors before it was sent to them?---Yes.

20

Is that right?---Yes.

Well then somebody obviously got the idea to place this ad. Was it your or Mr Stavrinis or somebody else?---I think it was myself.

So you discussed with Mr Stavrinis that an ad should be placed?---I had a number of discussions with Mr Stavrinis about placing ads and trying to lift my profile in advance of the election.

30

Yes, but you know the ads we're talking about?---Yes, I do ma'am.

Did you discuss placing those ads with Mr Stavrinis?---Yes.

And did you approve the copy?---I don't think I did.

So he drafted the copy?---Yes.

Thank you. Yes, Mr Downing.

40

MR DOWNING: Thank you. Can I now – just a last question on that topic?---Yes, sir.

Are you able to say whose idea it was to place this ad with the banner saveryde.com on it?---I can clarify that it wasn't my idea.

Did you have any discussion with Mr Stavrinis about whether saveryde.com was something that he created?---Yes.

And were you aware that it was a website that he was running providing some commentary on the Ryde Civic precinct redevelopment?---Yes, yes I'd become aware of that, exactly when I don't, I don't know, but I did become aware, yes.

Well did you give him the okay to not only place this ad promoting the group of six councillors but to mention saveryde.com in the ad?---No sir, I don't believe I did.

10 But presumably when you saw the mock up of this before it – did you see the mock up of it before it went to print?---I'm uncertain as to whether I saw the mock up and yes, you're absolutely correct, I, there's a lot lacking in my what should have been proper behaviours after, after the event.

But I take it you weren't unhappy with the saveryde.com name being on the, on the ad?---Sir, I, I was in a, in a situation of, of being the first candidate on a ticket in totally uncertain circumstance. I have no experience, very little experience in politic and I was - - -

20 Well, you'd run for office once before because you were already a Councillor?---I was the second, the second on a ticket and I was always instructed as what to do and how I should do it and my greatest regret in that respect is not having done exactly as I was instructed as the - in respect of the Civic Centre.

You remember the series of emails that I showed you yesterday?---Yes, sir.

30 And you've confirmed that the first one in the chain came from Mr Stavrinou, this is Exhibit 22?---I, I don't have that with me at the moment.

We'll have it put in front of you?---Thank you, Gina.

40 The first email from Councillor Tagg was to the effect, Jeff asked me to forward this for approval. Well, presumably you must have looked at it before you had it sent it on to - - -?---I'm, I'm, I'm not sure that I did, I was, I was driving to Canberra, I know I had to be in Canberra. I, I am quite lax with emails on occasions and forward things without reviewing them properly, that's a habit of mine.

So it might have been that you were busy and actually didn't look at it before you had Mr Salvestro-Martin send it to Councillor Tagg and Councillor Tagg send it on?---It's quite, it's quite possible. It's quite possible.

All right. Now, the document you've provided us with this morning - - -?
---Yes.

Perhaps I'll have you return that exhibit just so that we don't get lost. Now, I'll give you back now that we have copies the document you've provided this morning, and there's two copies for the Commissioner. Can I ask you is this a document that you obtained from your own records or from The Weekly Times?---Sir, I obtained it from The Weekly Times last night.

So did you contact Mr Booth or someone else?---Yes, I did, I contacted him yesterday here.

10 And he was able to provide this to you?---Yes, sir.

Okay. Now, yesterday if we have Exhibit 21 at page 1303 put up on the screen and I took you to this ad, it will come up just in a moment, down the bottom of the page. So this, accept from me that this is 4 July and it's one of your campaign ads?---Ah, yes.

And this was one of the ads I took you to yesterday and you indicated that the documents that you had provided to the Commission didn't include an invoice or proof of payment for it. Can you tell us if there is something on
20 this document you've provided us today that demonstrates what the cost was and whether it was paid?---(No Audible Reply)

Now, I don't know whether this will assist or not, Councillor Salvestro-Martin but there is evidence from other ads that ads of this dimension which appear to be something in the order of half a page came at a cost of about \$950?---Mine I believe, I believe were about \$600 and can I see the date on this please?

30 It's 4 July, if you go to the top of the page, the right-hand corner?---July, yeah.

4 July, 2012, page 9?---Right. Okay. And I suspect that falls into the category of the ads that are in that \$1,200 mark. I suspect that's where they fall.

Are you able to say whether - - -?---These, these ads - it should be possible to tell exactly what ad relates to what payment from TWT records I thought, perhaps not, I'm, I'm, I'm assuming that that's the case, that you're able to match an ad to a, to a payment. I'm hypothesising.
40

Are you able to say whether in July 2012 you placed further ads with The Weekly Times beyond this one?---Yes, I did, I ran a, I ran a whole series of ads, Mr Downing, in terms of I ran ads on my concern about the, the PPP nature of the, of the Civic Centre.

Is that public private partnership?---Yes, sir, because the public private partnership was a very significant tenet to how this thing was, was operated.

In terms of timing was that in the lead up to the election as well, in the period July to September?---It was somewhere in the vicinity of, of that. There was, whenever the, whenever the PPP, whenever the - I also ran an ad on the, the short-listing, I remember running an ad on the short, in respect of the announcement, the Expressions of Interest announcement.

Well just trying to find out what ads you did place for the purposes of the September 2012 elections in July of that year. This is one from the 4 July - - -?---Yes. And I believe it falls into that, it was indicated to August period - - -

In the 1200?---Yes, sir.

Now yesterday Exhibit 29 that was put before you was the document the bundle of documents you provided to the Commission in respect to the notice where you provided your records of gifts and donations, records of expenditure in respect of the election and bank account statements?---Yes, sir.

20 And included in those and if we could have those put back in front of you. So Exhibit 29?---Thank you.

And page 1666 and 1667 appear the two Weekly Times invoices that you provided to the Commission, one from June 2012 and one from September?---That, that were provided on my behalf, sir.

They were, I understand that. But in neither of those is there any reference to any ad in July 2012?---Correct.

30 So I'm trying to understand what other ads if any beyond this one at page 1303 of Exhibit 21 you placed in the Weekly Times in July 2012?---Sir, there were, there were a number and I understood that I had until 23 September to, to conclude that document.

Well to disclose them to the Electoral Authority?---Yes, sir.

40 But in terms of producing documents to the Commission are you able to say how many ads there were during that, that month and whether you paid for them?---We could, we could establish that by reviewing the papers during that period, it'd be very evident my, my ads, there'd be - - -

Well dealing them just with a figure \$1200 in July 2012?---Yes, sir.

You can take it from me - I withdraw what I indicated a moment ago. Take it from me that the same ad that I've shown you at page 1303 not, sorry, not in your disclosure documents but in, it'll be on the screen in a moment, the one that appeared on the Weekly Times on 4 July?---Yes, sir.

That same ad appeared in the Weekly Times on 18 July. So you can take it from me that appeared on two occasions that month?---Right.

I think you indicated your recollection was you were charged something like \$600 for ads of this dimension?---Yes, sir, yes.

Would that then accord that if there were two of the same ad appearing during that month the \$1200 would relate to those ads?---Yes, sir.

10 So one on 4 July and one on 18 July?---That sounds probably, probably correct, yes.

And does this recording indicate that you paid that amount?---Yes, sir.

So - - -?---There's a payment there for 13, I think \$1320 so 1200 plus the GST of 120 is 1300 and in the far right columns section of the third from the, from the right 13, 1320.

20 All right. Then in respect of the ad at page 1316 of Exhibit 21?---Could I - oh, it's coming up.

It'll come up?---Right.

This is an ad from 8 August and it's the same ad again but appeared in the Weekly Times on 8 August?---Yes, that almost won an award.

I'm sorry?---This ad almost won an award. It was an advertising event.

30 Now you'll see the, the document you've provided as from the Weekly Times has a balance for a total, ad balance for August \$1200. Do you think again you may have placed two ads of this size or of this type - - -?---Yes.

- - - during the month? And was that paid during the month?---I believe it was. I, I, what I do know with absolutely certainty is that I still have an outstanding, I have an outstanding balance of \$422.80 which was for a, an ad that was placed by I believe Councillor Butterworth in respect of a ALP type generic ad which properly is not my, properly is not my full amount that should have been split three ways.

40 So that's the subject of some dispute?---It is. There's also three other ads outstanding which were part of a federal campaign which aren't on here yet, but well it was a federal campaign. So there's, there are, there are still ads there that haven't been paid, yes.

All right. So the balance of \$422.80 which we see at the bottom relates to that disputed item?---That one yes, but there are more disputed, sorry, not, they're not disputed at all, they are unpaid.

Right. I understand. But just dealing with the lead up to this Council election, if I then ask you to go to page 1320 of Exhibit 21, which again will come up in a moment?---Yes sir.

This was an ad that appeared on 22 August. So looking at the documents is it likely that this was the second of the ads in August that came to a total of \$1200? I took you, the last one I took you to was earlier in August?---Yes, it's the second of my, it's the second of my ads.

10 So page 1316 was an ad from 8 August and page 1320 is an ad from 22 August?---Yes.

So the total of 12 hundred is made up by those two ads?---It should be, yes.

And it's been paid?---Yes.

Right. Thank you. Commissioner, I'll tender the document that Councillor Salvestro-Martin has provided that he's identified as having come from The Weekly Times.

20

ASSISTANT COMMISSIONER: I mean Mr Salvestro-Martin this document doesn't show that you paid for these ads. It shows that they were paid. Why have you not produced accounts about how these ads were paid for? What you produced previously is a Commonwealth Bank statement for April, June, that was produced as showing all of your expenditure?---Yes.

So why have you not – is there some problem with obtaining - - -?---It was all, it'll all be in my BAS statements which I'll need to get from my accountant and - - -

30

Couldn't you just download – was this, were these paid by cheque from your campaign account?---These were paid by, no.

They weren't?---No, I paid them from my Master Card or my, or my cheque.

Well you had a campaign account didn't you?---Yes.

40 So why weren't these paid from that?---My naivety, my, my fault, my inexperience. I paid for them.

On a Master Card?---Master Card, cheque, generally.

Or a personal cheque?---No, usually using a company cheque. But I can get, I can get those records for you.

Well that's what you were asked to produce originally. And now you know it makes it very difficult to investigate these matters when we're not being

given the records and you are required to comply with the Notice to Produce. It's not optional?---I understand.

All right. Well look I'll accept the tender of this document, but it doesn't address the issue that's raised which is showing that you paid for these ads. Do you understand?---Yes, I do.

Thank you. Well that, that printout from The Weekly Times will be Exhibit 30.

10

**#EXHIBIT 30 - PRINTOUT FROM THE WEEKLY TIMES –
SUMMARY INVOICE OF ADVERTISEMENTS RE JEFF
SALVESTRO-MARTIN**

MR DOWNING: I apologise Commissioner, I'm just trying to find something on the screen just for the moment.

20 THE WITNESS: Mr Downing, can I mention one other thing as well? That there's a correction to what I said yesterday in reference to Mr Peake?

MR DOWNING: Is there some particular matter that you want to correct from your evidence yesterday?---If I, if I am able to.

Sure. Is it to do with the Ryde Concerned Citizens Association?---Yes, sir.

30 All right. What, what aspect of your evidence do you wish to correct?
---That I indicated that Mr Peake was a, was part of that group, in fact I -
and I think I did that based on looking at the emails, I think Mr Peake more
accurately was a concerned Ryde citizen rather than a member of that group.

So he was, he was a concerned Ryde citizen but not - - -?---Rather than - - -
- - - a member of the Ryde Concerned Citizens Association?---Ryde, yes,
yes, sir.

40 And can I ask whether you've clarified that yourself overnight or has
someone spoken to you about it?---I received an email overnight, sir.

From Mr Peake?---Yes.

Indicating that he wasn't a member of that organisation?---Yes.

So what you're telling us is based on not your recollection but his
information?---Yes, sir, but I felt obligated to - - -

Now, I want to show you another document. This is - and we'll bring it up on the screen. This appears to be a further ad that you placed in The Weekly Times on 22 August, 2012, so this is a third ad from August. Commissioner, I apologise but I don't have any further paper copies but it will be up on the screen. Do you recognise that as a further ad that you placed in The Weekly Times during that month?---Yes, I do with the exception that I've aged a lot in that, since that time.

10 I'm sure we all have to some degree, Councillor, but can I ask, it now appears from the records that there were in fact three ads in August. There was the ad at page 1303 of Exhibit 21 from, I'm sorry, I withdraw that. There's the ad at page 1316 of Exhibit 21 which is an ad from 8 August. There was an ad at page 1320 which is an ad of 22 August and now this is an additional ad it would seem?---Sir, there were more than that.

20 Well, you say there would have been more placed during the election campaign?---Well, there was, there was also an ad that was - I recall Mr - there was an ad, there was an ad that a gentleman put in suggesting that people should vote for Salvestro-Martin as well.

But in terms of ads that you placed it would seem that this is a third ad from August?---Yes, sir.

And isn't the document that you've provided us with today a document that you asked for from Mr Booth - - -?---Yes, sir.

- - - indicating the actual billing to you for advertising in the relevant period?---Yes, yes.

30 So would it - looking at that then with a total of \$1,200 do you know whether you were billed for all the ads or perhaps not billed for some of them?---I don't know whether I was not billed for some of them, it's, it's - I mean that question rightly needs to be asked of the TWT.

But as far as you know this total of \$1,200 for August 2012 was the total you were billed for your election - - -?---Yes, sir.

- - - campaign ads?---Yes, sir, as far as I know, yes.

40 I'll tender that additional ad, Commissioner.

ASSISTANT COMMISSIONER: Yes. But you've produced no invoices for these ads. Didn't you receive invoices?---I've got - my recordkeeping was, is not what it should be.

Yes. Yes, this advertisement from 22 August will be Exhibit 31.

#EXHIBIT 31 - ADVERTISEMENT PLACED WITH THE WEEKLY TIMES DATES 22 AUGUST

MR DOWNING: Councillor Salvestro-Martin, I wanted to ask you about a different matter now and this involves some Council business to do with the, some building works at a property at 29, and I'm sorry I know I keep - - -? ---Vimiera, Vimiera.

10 Vimiera - - -?---Vimiera Road.

- - - Road, Eastwood?---Yes, I'll proudly speak about that.

Now, you're aware that that's a house that's occupied by Mr Norm Cerreto aren't you?---Yes, I am.

And do you have a personal friendship with Mr Cerreto?---No, I, I know Mr Cerreto, I certainly do know Mr Cerreto and I did vote against the Council recommendation at the time.

20

Well I'll come to that in a moment - - -?---Okay.

- - - but is Mr Cerreto someone you know through Councillor Petch?---No, I don't think I met him through Councillor Petch, I've met, I've known Mr Cerreto over I think now probably a couple of years.

But he's not someone you would regard as a friend?---Not a friend, no, but I mean in the sense that I've got to meet enormous numbers of people in Ryde over time.

30

Now in terms of the, the history of this particular matter do you recall that - well I withdraw that. You are one of the members of, the regular members of the Planning and Environment committee at Council aren't you?---Yes, sir, I am.

And that committee meets fairly regularly. Is it every fortnight?---Roughly. But yeah, every fortnight.

40 In order to deal with as the name suggests planning and environment type matters?---Correct, sir.

And do you recall on 4 June of this year the matter was before, the matter involving 29 Vimiera Road, Eastwood was before - - -?---Yes.

- - - the committee, it was one of the matters?---Yes, I do.

And on that occasion is it normally Councillor Simon who's the chair? ---Yes, sir, it is.

But on that occasion Councillor Simon was absent and Councillor Pendleton
- - -?---Councillor Pendleton was there, yes.

So the committee members on that occasion were the acting chair
Councillor Pendleton - - -?---Yes, sir.

- - - you - - -?---Yes.

10 - - - and Councillor Chris Chung?---Craig Chung, sir.

I'm sorry, Craig Chung, apologise. And it was all - was Mr Johnson a
Council employee present as well?---A person I have great admiration for.

And so one of the items on this occasion was an issue to do with 29 Vimiera
Road, Eastwood?---Yes.

And were you aware that an earlier point in time the matter had come before
Council because it appeared that some illegal works had been done - - -?
20 ---Yes.

- - - at the premises?---Yes, absolutely.

And there'd been complaints from residents?---Absolutely, yes.

And Council at a time before this meeting back in March of the year do you
recall had made a decision to pursue an order for demolition?---Yes.

And is your recollection that the reason it came before Council on the 4
30 June was that - well do you recall whether it's owned by Mr Cerreto or a
company that he controls?---I think it's a company he owned, I think it's a
company, I recall I think a company name at the top of the - - -

Does the name Alramon A-l-r-a-m-o-n Pty Limited ring any bells?---Not
necessarily but it, but it could be.

But do you understand that whether it was Mr Cerreto himself or a company
he controlled that there was an application before Council on 4 June - - -?
---Yes.

40 - - - for a building certificate to be obtained effectively retrospectively?
---Yes.

And do you recall - - -?---I've done exactly the same thing myself.

Done works and then had to apply for - - -?---Yes, yes.

- - - approval afterwards?---Yes.

So on this occasion the status was that the Council had already determined to seek a demolition order that is at an earlier meeting of the Council?---I recall I think I spoke against that at the time as well.

10 And can I ask why it was you spoke against it?---Yes, absolutely. I'm, I'm a firm believer in, in trying and I actually have a record of standing up on a previous matter like this as well against the, a demolition order, I don't believe that anyone, we should treat people in such a fashion, I wouldn't do it to you, I wouldn't do it to anyone in this room, that's a person belief. I think we can find a way regardless of who it is of trying to work these issues through and I'm, I'm very much against combative type approaches. The Council went down this path once before on a matter in Gladesville and it became very evident as we went down that path that, that Council elders were getting cold feet. My experience is that nobody was going to be a winner in that circumstance whatsoever and I stand proudly, proudly to support and actually defend people who don't have, people who, who are treated in what I regard as, as poorly by, by us as a monopsony.

20 Well you were aware though that there'd been a number of complaints from residents about the size and scale of the, the works?---Yes, yes.

ASSISTANT COMMISSIONER: I'm sorry. So you defend the right of anyone to illegally undertake work and then apply for retrospective approval?---No, ma'am, I try and defend people, I try and defend, give people, I try and believe in the goodness of people and try actually find situations where we can work through issues rather than - - -

30 There must be a limit to that. Somebody put a six-storey building in their backyard would you approve that?---I - yeah, there would be a limit to it, yes.

I'm sorry?---Yes, there would, yes, there would be a limit to that. But I try and find, I try and find a path that is, is, is one that respects all, all the people involved and - - -

40 Well I'm sure you wouldn't encourage people to take on unauthorised building knowing that they could then just go and get retrospective approval, that's not a very good trend - - -?---No.

- - - to encourage is it?---No, no, I don't encourage that. But I've stood up, I've stood up on a number of examples of, like this.

Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner.

Can I show you a document and I'll provide copies to the Commission?

---Yes.

And this appears at page 2299 through to 2312. Have a moment to look over it and go through, you'll see there's a photograph 2308?---I'm sorry, sir, I lost the page that you said.

I'm sorry. It starts at 2299 - - -?---Yes.

10 - - - and I might have said, might have given you the wrong page to go through, the report ends at 2308?---Yes, sir.

Do you recognise this as a, a report that the committee had - - -?---Yes, sir.

- - - for the purposes of the meeting - - -?---Yes.

- - - on 4 June?---Yes, absolutely.

If you go to 2308 - - -?---Yes.

20 - - - is that the house at 29 Vimiera in the foreground?---Yes, sir, yes, yes, it is.

That is the red brick coloured house and then - - -?---I'm sorry, yes, I'm sorry I didn't realise you - - -

And in the background is that a white object what appears to be - - -?---The new construction.

30 - - - the additional works that have been done to the house?---Yes, sir.

So this was what was before the committee on that occasion?---Sir, can I put some context into this?

Well I'm, I'm sure you have counsel here and if there's a matter that he wants to ask you about afterwards he will but I really at this stage just ask you to direct your answers to my questions?---Yes.

40 Now can I ask you, you, you've told me that the Planning and Environment Committee meets fairly regular?---Yes.

Normally every two weeks?---Yes.

Is it your experience that the Mayor rarely attends the meetings?---Yes, sir.

That is the Mayor Councillor Petch we're talking, the Mayor since the September 2012 elections - - -?---Rarely, yes, sir.

But he did attend on this occasion - - -?---Yes, sir.

- - - on 4 June. And do you recall whether on this occasion Mr Cerreto was represented by a, a lawyer Mr Stefano Laface?---Yes, he was, sir.

And is Mr Laface also the lawyer who's acting for the defendant Councillors in the Supreme Court proceedings?---Yes, he is.

Are you one of the persons he's acting for?---Yes.

10 Do you recall when the Mayor attended the meeting whether he initially sat with Mr Laface?---No, because I, I think at the time I was facing the windows and so I, and I generally face the, put my back to the, to the gallery in that, in that meeting anyway, I think nine times out of 10 I'm always sitting on the, the side that I don't actually have visibility of the, what's behind me.

So you couldn't see the people that were actually - - -?---But my - - -

20 - - - on the floor?---No, my, my memory is that Councillor Petch moved at some stage around the table around Councillor Pendleton to the end of the table I think that's - - -

Well is that came to the table of the people who were actually on the committee?---I believe so, I think that's my memory of it, yes.

30 But you don't have a recollection of him sitting with the particular lawyer acting for whether it's Mr Cerreto or the company?---No, sir, I don't because I, as, as I said I always sit with my back to that gallery to the, to the gallery seating.

Now do you recall - - -?---And I do, sorry.

I'm sorry?---No, I'll stop because I'm not answering the question.

That's all right. Do you recall whether Mr Cerreto was present at the meeting?---No, I don't recall.

40 Can I ask you to then look at pages 2209, 2310 which you'll find at the back of the bundle of documents - - -?---I've got them, yes.

- - - I've given you?---Yes.

And should come up on the screen?---Yes, sir.

And are they the minutes of that meeting on 4 June, that is at the Planning Environment Committee meeting?---They are, sir.

And you'll note that in respect to that meeting it refers to there being disclosures of interest. On the first, sorry, page 2309?---2309. Yes, sir.

And you'll see that it refers to you and Councillor Petch disclosing non-pecuniary interests in respect of item 3, but that relates to a different property in Putney, but in respect of this item there's no record there of any disclosure of interest. Is that your recollection of what disclosures were made at the time?---I think it must be. I have faith in the minutes.

10 Were you aware at that time of whether Councillor Petch had had a long standing friendship with Mr Cerreto?---I knew they were known to each other, I didn't know the, the complexity of the relationship.

Well you knew Councillor Petch fairly well, well enough to know who he was friends with didn't you?---I have a long standing admiration for Councillor Petch and the work he's done at Ryde, yes.

20 Well were you aware of whether he'd had a long standing and fairly close friendship with Mr Norm Cerreto?---Yes, I believe, I believe they had a long standing relationship.

And do you recall that this meeting as a result of a resolution moved by you and Councillor Chung was adjourned for some time?---Moved by Councillor Chung to be adjourned.

Oh I'm sorry, it wasn't moved by you as well?---No sir.

30 Okay. And the meeting then went into a private session for a period?---At Councillor Chung's request.

And were in the course of that meeting arguing against pursuing demolition?---I was asked for my position on it and I presented my case which is along the lines that I presented to you earlier.

But the Council had already dealt with that question of whether to pursue demolition at an earlier meeting prior to this time hadn't it?---Yes.

40 And I think you've agreed with me the purpose of this meeting was to determine a retrospective application for a building certificate?---Sir, that's what I'm there to do as a Councillor, is to make decisions in a democratic way. That's what I'm trying to do.

Well I'm just trying to come to the decision - - ?---I was in no way influenced by any perceived relationship in any shape or form. I made the decision based on my own best judgement and my principals.

So your version – sorry, I’ll withdraw that. Your view was on the merits that it was not appropriate to pursue demolition?---As I said earlier, I wouldn’t do it for anyone in this room.
In terms of the decision it’s correct isn’t it that the decision reached, and you can have a look at the minutes to confirm this if you like, the decision reached in respect of 29 Vimiera Road was not to grant the building certificate?---Yes sir.

10 And the matter then was ultimately referred back to Council?---To Council where it should be.

And Council ultimately met on 11 June?---I suspect you’re right.

Well I’ll come to the minutes, but before I do that Commissioner can I tender the report that was before the committee on that day and the minutes of the committee that day? They appear at pages 2299 to 2312.

ASSISTANT COMMISSIONER: That will be Exhibit 32.

20

#EXHIBIT 32 - REPORT AND MINUTES OF MEETING (PAGES 2299-2312 INCLUSIVE)

MR DOWNING: And then dealing with the Council meeting on 11 June, these appear – if you could have a look at Exhibit 1 pages starting at 2357. You recognise those as the minutes of the meeting on 11 June?---Yes sir.

30 And if you go page 2358 there’s a record there of disclosure of interest on the top of the page?---Yes sir.

And it records that Councillor Petch declared a significant non-pecuniary interest in respect of the 29 Vimiera Road, Eastwood matter on the grounds that the applicants and the objectors were known to him and that he didn’t participate in the consideration of the item?---Yes.

40 And in respect of you, further down the page, that you declared a less than significant non-pecuniary interest in respect of 29 Vimiera Road for the reason that a party was, sorry the party known to you?---Yes.

And was that party Mr Cerreto?---Yes sir. Mr, I’m just trying to think whether it was that or Mr, Mr - - -

Laface, the lawyer?--- - - - Laface. Yeah, I can’t recall which I, which I - - -

Well - - -?---But I did not participate.

So it's the case that neither you nor Councillor Petch participated in the vote that was, that occurred at full Council?---It appears to be the case.

Can I ask, assuming that the records are correct and that you didn't declare an interest at the Planning and Environment Committee meeting but did at the full Council meeting, what had changed over that weeks time?---Probably more time to consider the item and realised that I should have probably walked out of the first one as well.

10 In all events the Council voted at the meeting to refuse the application for a building certificate?---Yes, yes.

And that's where the Council's decision stands. That's correct?---Correct sir, correct.

Thank you. Now I wanted to ask you now about a different matter and that is a matter relating to the Supreme Court proceedings, in particular the costs issue in relation to those?---Mmm.

20 You're aware aren't you that on 9 April this year the Council delegated to Danielle Dickson, the Acting General Manager the handling of the, the handling of the Supreme Court proceedings?---Yes sir.

And are you aware of any communications that Councillor Petch has had with Ms Dickson in which he's given her direction or a suggestion as to how she should actually handle those proceedings, particularly relating to costs?---Yes sir.

30 Tell me what you're aware of?---I think that Councillor Petch indicated that ---

Is this indicated to you or were you present when he had a discussion with Ms Dickson?---No, I was never, I was never present during a discussion, but ---

So is this something he's relayed to you?---Relayed to me, yes sir.

40 Tell us when you're talking about and what you can recall?---That the timing of, the timing, I'm not, not particularly good with the timing of it but there was, it was along the lines of an indication to Ms Dickson that there was a, she needed to take account or consideration of the interests of all the councillors who were defendants in this matter in terms of the forthcoming, in terms of her employment, yes.

Doing your best when was that discussion?---Sir, I, I don't know. I don't know.

And sorry how did the issue come up?---I thought Councillor Petch raised it with me.

And try as best you can to use the words he used and you used what was said?---Something to the effect that I've, I've, I've met with Danielle and, or I've met with Danielle and I've let her know words to the effect of what I just said previously that, that she needs to take into account – there's a lot of people depending on your decision. Or something like that.

- 10 What to take account of the interests of all Council, all the councillors, something to that effect or - - -?---Yes.

Do you recall - so I'll withdraw that, this was a discussion that Councillor Petch had with you where he indicated something about a communication he'd already had with, with Ms Dickson, is that correct? Not something he was planning to do but something that he'd already said to her?---No, I think, I think it was, there were multiple occasions where it was discussed and that there was an intention to or an intention to move in that direction.

- 20 Now I take it that you regarded this matter, that is the question of how to manage the proceedings and particularly costs as one that was in some ways quite awkward for the Council to manage?---Yes, it was because there were a lot of people that were - in fact, to be honest the, the whole Council was conflicted in this matter, the whole Council, everyone in that 12 chairs was conflicted in some way or another.

Well, I mean, Councillor Petch who became Mayor in the elections last year was one of the defendants in the proceedings?---Yes.

- 30 So he obviously had a personal interest in terms of what costs orders might ultimately come out of the proceedings?---Yes.

But at the same time he was Mayor and Mayor of a Council that had delegated to Ms Dickson the power to manage the proceedings?---Yes, sir.

Did Councillor Petch ever indicate to you any intention to suggest to Ms Dickson that she might handle the costs issue in a particular way if she wanted to be looked on favourably to become the permanent General Manager?---Yes, sir.

40

Did he tell you that that was something he was going to say to her or something that he had said to her?---I think it was both.

Did you regard that as an appropriate matter for Councillor Petch to raise with Ms Dickson?---In hindsight absolutely you're right it's not and my judgment, it calls in question completely my judgment.

Because - - -?---I should have said something.

- - - suggesting to Ms Dickson - I withdraw that. You were aware that the Council was going through a process of trying to recruit a permanent General Manager this year?---Yes, sir.

Because Ms Dickson was appointed was an Acting General Manager in February?---Yes.

10 And is it your recollection that come about April the Council delegated to the full Council which was in effect a committee for the purposes of the recruitment process, the decision or the power to actually appoint a new General Manager?---Yes.

So that the Councillors themselves would ultimately make a decision about who would be appointed Acting General Manager?---Yes.

20 And would you accept that it would be improper to suggest to Ms Dickson who'd had the power to manage the costs issue in these proceedings delegated to her that if she wanted to be look on favourably for the position of permanent General Manager she might manage the proceedings in a way favourable in terms of costs outcome to the defendants?---I, I agree entirely. I, I found this an enormously difficult issue because I, I actually hold Ms Dickson, Ms Dickson in extremely high regard professionally but I also find that I am conflicted myself in that I have a personal admiration for her as well.

Right. Can I ask you to have a listen to a telephone conversation and the transcript of it will come up on the screen I hope.

30

AUDIO RECORDING PLAYED

[11.03am]

MR DOWNING: Now, Councillor Salvestro-Martin, do you recognise that as a telephone conversation between yourself and the Mayor, Councillor Petch?---Yes, sir.

40 And the transcript indicates a date of 4 April, 2013, 9.08pm. Bearing in mind that I've already suggested to you that it was on 9 April that the Council delegated the power to manage the proceedings to Ms Dickson, does that accord with your recollection in terms of rough timing?---Yes, yes.

Commissioner, I tender the audio and a copy of the transcript.

ASSISTANT COMMISSIONER: Yes, that will be Exhibit 33.

**#EXHIBIT 33 - COPY OF AN AUDIO CASSETTE AND
TRANSCRIPT OF A TELEPHONE CONVERSATION BETWEEN
MR PETCH AND MR SALVESTRO-MARTIN ON 4 APRIL 2013 AT
21:08:02**

MR DOWNING: Councillor Salvestro-Martin, just so that there's no confusion about what had occurred I want you to have a look for the moment at Exhibit 28, page 1432?---Which one?

10

1432?---Oh.

You'll see at the top these are minutes of a meeting of 27 March, 2013 but if you scan down the page you'll see there were a number of attempts to hold a meeting and a problem with there being a quorum if you go to the next page to 1434, ultimately after a number of failed attempts because the meeting was inquorate, the meeting was actually convened on 9 April at 10.26pm, you see that on 1434 about halfway down?---Yes, sir, 9 April, yes.

20

And if you go two pages ahead to 1436 you'll see that it indicates there was a motion there in respect of the legal costs of the Supreme Court injunction and a resolution at the bottom moved by Councillors Simon and Pickering was that the Council delegate the proceedings to Ms Dickson and that voting on that was unanimous in favour and Ms Dickson's also to provide updates as to the progress of the proceedings over time?---Yes.

30

Now back to the telephone call and in context, so this is five days before that delegation occurred, in the telephone conversation Councillor Petch is saying, heard saying to you, "G'day, mate, I just spoke to him." Did you understand that he was referring to Mr Laface, the lawyer who was acting for the defendants?---I think that's exactly, yes.

And that he was indicating that the proceedings were in for mention the following day?---Yes.

And that Councillor Petch was indicating that Mr Laface had communicated to him that he'd had some communication with the other side, that is the Council, the lawyers acting for the Council and that they realised they'd got to pay anyway?---Yes.

40

Did you understand him to be, Councillor Petch to be saying well, from my communications with our lawyer, Mr Laface, he's been speaking to the lawyers - - -?---That's, that's what I understood, yes.

- - - for the Council and they understand they've got to pay our costs?---Yes.

So you were, you being one of the defendants you were clearly happy about that?---Yes.

He also then said, going over the page in the transcript to page 2 of 3, he indicated that he was probably going to delegate to the Acting General Manager and I take it you understood that to be the control of the proceedings?---Yes.

But he suggested that before she goes to delegate I'll give her a good, a firm talking to and say listen, a lot of people have been watching, the majority of Council have been watching how you handle this matter?---Yes.

10

And at that time you were aware that the majority of Council would ultimately be the group of people who would make a decision about appointing the permanent General Manager because by now the recruitment process had begun?---Well as it turns out I think the, I think there's not, it's not the full Council that's determining, my memory of it is it's a panel now, there's a panel of selected councillors which because of the conflicts I spoke about earlier, I've stayed out of - - -

20

I'll take you to the documents in a moment. But do you accept that according to the initial decision of Council, there was a Mayoral minute and a decision made - - -?---Yes sir, yes.

- - - that there was delegated to the whole Council constituting a committee the process of recruitment a permanent General Manager?---Yes.

So that at least as at this point in April 2013 the position was that - - -?---It would be considered - - -

30

- - - each of the councillors would have a vote?---Yes, correct, yes.

And Councillor Petch goes on indicating that he would, he would communicate to Ms Dickson that if she ever wanted to be General Manager of this place she'd tread very carefully?---Yes sir.

40

Did you understand him to be suggesting through that that what he wanted to communicate to Ms Dickson was that you might want to handle the proceedings, in particular the costs aspects of it in a way that I'm suggesting if you ever want to be permanent General Manager of the Council?---Yes, I did understand that.

Now you would accept wouldn't you that in the Mayor's position that was a completely improper thing to be suggesting to Ms Dickson, if in fact he ever suggested it?---Yes sir.

But at the time you made no comment other than that – well suggesting that you absolutely agreed?---I, I've had a great deal of difficulty with the whole legal matter on a number of contexts.

Councillor Salvestro-Martin, I don't suggest other than it presented some quite unique conflicts - - -?---Yes.

- - - given the parties involved and the complexion of Council?---Yes.

But this issue that Councillor Petch was raising wasn't - - -?---Yes, I agree with you, sir.

- - - a complex issue was it?---Yes.

10

It was black and white - - -?---Yes.

- - - that putting pressure on Ms Dickson - - -?---Yes.

- - - to agree to pay the defendants costs on behalf of Council if she ever wanted to be given the permanent GM's job was grossly improper?---Yes, I agree.

20 Now I, I do want, just in fairness to you to see the documents I was referring to in respect of the recruitment process for the General Manager. And if you give me a moment - - -

ASSISTANT COMMISSIONER: Do we need to go into this Mr Downing?

MR DOWNING: Only very briefly just to confirm the position.

THE WITNESS: If it helps Mr Downing, I don't think I've been involved in any part of this process.

30 MR DOWNING: In retrospect it's something I'll take up with Ms Dickson. But you've agreed with me that the initial delegation for the recruitment process was to the Council as a whole?---Yes, sir.

Now Councillor Salvestro-Martin, I wanted to ask you about – I'll withdraw that. Just were you present later – I'll withdraw that. On 2 May, 2013 were you present at a particular function where Councillor Petch was also present?---Sir, can you give me more detail, please?

40 I will. Do you recall a Mayoral, sorry an event in the Mayoral Chambers on 2 May for volunteer awards judging?---No, I don't. I don't think I was there.

Did you have any conversation with Councillor Petch around that time in which he indicated that he had had a discussion with Ms Dickson in which he had conveyed to her just the type of message he's referred to in the telephone call we just played?---Yes, yes. But I don't believe I was at that function. Yes, there was a conversation but I don't believe it was at that time.

Were you present with him later in the evening of 2 May at a time when he made a call to Ms Dickson and attempted to speak to her again about the question of costs and whether she thought about what he'd said?---Yes, there were a number of councillors in the room.

Who else was there at the time?---I thought we'd just come out of a – was there a Council meeting that evening?

10 Do you recall that evening, sorry - - -?---I, I thought it might have been a Council meeting evening, because my memory is that there were a number people in the room and that Councillor Petch moved across to his desk. And we were sitting in the lounge area.

Do you recall – so you were present when he made a phone call to Ms Dickson?---Yes, around that time, yes.

20 Do you recall whether there was a community meeting that evening?---No, I had the recollection that it was actually a Council meeting. I thought it was a Council meeting.

Could it have been a community meeting that the Mayor also attended?---I, I'd have to check the Council diary.

Do you recall that it was at about 10.00pm you were with the Mayor when he made a call, put a call through to Ms Dickson?---Yes, I do. Yes, I do, which, which accords with my memory of it being a Council, after, following a Council meeting.

30 Tell me what you can recall about what Councillor Petch said in that phone call?---Very much along the lines of you've repeated earlier, that he needed to, needed to, I mean it was from some distance, but very much needed to take into account that there are a number of people involved in this and there'd be a favourable outcome if it was considered in the right, in the right fashion.

A favourable outcome in terms of Ms Dickson's - - -?---Yes sir.

40 - - - appointment as General Manager?---Yes sir. Yes.

And do you recall if the phone call was on loud speaker or was it just Councillor Petch speaking through a hand piece so you couldn't actually hear what was - - -?---I recall, I recall that there was trouble with the connection. That's what I do recall. I can't recall - - -

In the sense that what, the line dropped out?---The line dropped out and I think, I thought there was an attempt by both parties to ring each other back and I think my memory is that Ms Dickson said that she couldn't discuss

this matter and they might have had a meeting after that at some stage.
Something, something along those lines.

Do you recall, well is your recollection that it was on speaker phone so that you could hear what Ms Dickson was saying or that you could only hear what Councillor Petch was saying?---No, I can't, I can't recall, sir. I know there was difficulty – what I do remember is difficulty with the comms.

10 Right. But is your recollection that Ms Dickson said something to the effect that what, that she didn't think it was appropriate to be talking about it or couldn't talk about?---Inappropriate to talk about I believe.

Did you after the call have any discussion with Councillor Petch about that matter?---I had a number of conversations with Councillor Petch about that matter.

20 Well what did he say to you? And I'm talking about around the time that this call on 2 May?---It's, it's, look it's consistent with the, consistent with a favourable outcome, proper consideration that was favourable to the affected councillors and that he would continue to convey that message to make sure that Ms Dickson understood that.

So that he wanted to make it plain to her that she'd be looked on favourably as being appointed to permanent General Manager's position - - -?---Yes sir.

- - - if she were to do what he was asking - - -?---Yes.

- - - in terms of the costs of the proceedings?---Yes.

30 Do you accept that that might be interpreted by Ms Dickson an inducement to act in a way favourable to Councillor Petch?---Yes, I do.

Or an implied threat that if she didn't act the way it was being suggested to her - - -?---Yes, I do.

- - - that she might not receive very favourable treatment - - -?---Yes.

40 - - - when it came to decisions about appointment as an acting, as permanent General Manager?---Yes.

Now, there's one other matter I wanted to ask you about, Councillor Salvestro-Martin, and it relates to the Council's advertising?---Yes, sir. It's long been a concern of mine.

Now, can I ask you as at 2012/2013 it's correct isn't it that the Council has done its advertising under a contract it entered into with The Northern District Times?---Yes.

And it's correct isn't it that in the Ryde area there are effectively two competing local papers?---Correct.

There's The Northern District Times?---Correct, with Council as an monopsony.

Sorry, with?---With Council acting as a monopsony buyer.

Of advertising?---Of advertising, correct, absolutely.

10

And the other paper is The Weekly Times?---Correct.

And in the past is the case that The Weekly Times has had the Council's contract for advertising?---In some shape or form I think there were arrangements in the past when it was shared, I don't know what, I really never looked, I tried not to look at the past but I was aware that there was other, there had been other arrangements in the past, correct.

20

But are you aware that, that there'd been a tender process that had been gone through for advertising services and that according to the tender it, it was The Northern District Times obtained the contract for the period 1 April, 2012 to 30 March, 2013?---You could loosely call it a tender but the procurement process at Ryde is, is a disgrace.

That's your view of it?---A disgrace, an absolute disgrace.

In all respects?---Yes.

30

Right?---And it's a thing that I've fought passionately for for a very long time to actually have a proper analysis of procurement at Ryde because there are many, many issues that need to be looked at.

Well, can I ask you to have a look at a document, I'd ask you to have a look at a document and I'll provide two copies for the Commissioner. You'll see - and this appears at pages 1134 to 1136 and it should come up on the screen for the benefit of all parties in a moment. Starting with 1135 do you recognise this as a memo from the Acting General Manager Ms Dickson - - -?---Yes.

40

- - - dated 27 February, 2013 to do with the advertising contract?---Yes, I do, this was the, this was the mechanism by why the contract was extended for a further six months to the existing tenderer without reference to Council.

So there'd be an earlier contract from 1 April, 2012 to 30 March, 2013? ---Correct.

And then Ms Dickson had exercised effectively an option under the contract to extend for a further six months - - -?---Yes, sir.

- - - to 30 September and the matter then came before Council?---Yes.

And you see there's some background here in terms of the Council having engaged the Northern District Times for advertising for that period - - -? ---Yes.

10 - - - from 1 April to 27 February. It makes reference in there as well to the fact that The Northern District Times had printed and distributed 23 copies of the Ryde City View. What was the Ryde City View?---Oh, the Ryde City View was a local, it was a flyer type newsletter type document that was an insert to the papers that was - it was form of communication to residents.

Was it a Council publication?---Yes, it was, sir, yes.

20 So as part of the advertising they would include in the paper itself, The Northern District Times - - -?---Yes.

- - - this particular flyer from Council?---Yes, yes.

All right. Well, in terms of background it provides that over the relevant period that the, The Northern District Times had published 51 pages of paid advertising and it shows a total cost of \$109,748.94?---Sorry, where, where's - - -

30 Oh, on page 1135, sorry under "Background", third paragraph down?---Yes, there's the justification for extending it.

Well, that's the figure for the advertising which was shown according to this memo?---Yes.

I take it this is a memo that - sorry, I might have said before that it was from Ms Dickson, it's actually from the service unit manager, Community Capacity and Events to Ms Dickson?---Yes.

40 But would you agree that the amount that's shown, \$109,749 in round dollars over that period shows that Council was a fairly significant buyer of advertising?---Yes, I agree.

So that the contract whether it went to one, one paper or both was worth some considerable amount of money?---Yes.

Now, you told us earlier in your evidence that you'd had some particular problems with billing but also with the actual content of ads that you'd placed with The Weekly Times, do you know whether there'd been similar problems that the Council have experienced?---The Council had a, had

presented the case that because the flyer was a couple of millimetres short in its dimension, this is very roughly my recollection of it, that therefore - and this was for the original contract back in the days of Mr Whittaker, that, that the, therefore it disqualified the TWT, that was for the original contract in, in a much previous term. The documents we really need to be looking at here at the tender responses from both the NDT and the TWT because they paint an entirely different story and that actually happens in Council is that these documents and a lot of procurements are presented to us with a glossy report over the top and no detail and Councillors cannot sit there and
10 honestly make a proper assessment of procurement based on, on, on a couple of pages of a report. We actually need to see the detail and I've fought long and hard and passionately for this over a number of years and I presented the case to have the procurement system overhauled. It's one of ICAC's own recommendations. I read Operation Jarek I think it was with some considerable interest and, and I thought this was, this was absolutely required at Ryde.

MR DOWNING: So was your concern that with procurement there wasn't enough information to make informed decisions?---There never was, there
20 never was and for a period somewhere in the, in the vicinity of 18 months I abstained from all tender, voting on all tenders, I just, I just refused to vote on them because I wasn't comfortable.

Well understanding your concerns about the procurement process at Ryde generally - - -?---Yes.

- - - do you recall that when the Northern District Times won the contract for advertising starting on 1 April 2012 was that after a process where the Weekly times and the Northern District Times had both put in tenders?
30 ---Yes, they had, yes.

But ultimately the decision that Council reached was to award it to the Northern District Times?---Sir, there was never a decision it was a, it was a pre-determined outcome in terms of the NDT winning that account.

Do you say there was no vote on it?---There was a vote on it but it was - - -

ASSISTANT COMMISSIONER: Well there was a decision then. I don't understand how you can say that?---Because there was never any doubt in
40 my mind that the favourable coverage that the NDT had been giving the Civic Centre debate this contract was the carrot that was held out there for both parties to, to keep them compliant with, with the wishes of Council during the procurement of the, during the Civic Centre debate.

Well just come back to this, these relevant events - - -?---Sir, sorry to interrupt, if I may. What's really relevant here in this issue is pulling the two contracts and looking at them line by line and you can make your own -
- -

ASSISTANT COMMISSIONER: No, we're interested in any of that?---All right, okay.

The only relevant issue for us is that there had been a Council vote to give the tender to the Northern District Times?---Yes, ma'am.

You, you'd accept that?---I'm sorry, yes, I'm, I'm passionate about this issue.

10 Well we don't want to go line by line - - -?---All right, okay.

- - - through the tender because we don't really care?---All right.

So carry on.

MR DOWNING: Can I, can I ask have you ever advertised yourself in the Northern District Times?---I couldn't afford to.

So it cost more than the Weekly Times?---A lot more.

20

All right. Now you've, you've told us already that you had a great deal of respect for Ms Dickson and the job she was doing?---Yes.

But you seem to have indicated some degree of disquiet about her action in extending the contract for six months from 30 March?---Ms Dickson also did some very positive things in terms of for me in terms of having an opportunity for us to look closer at the procurement process and she arranged for me to attend a meeting with the auditors and I forget the names of the auditors but, but it was a very productive conversation. I could see some really positive steps happening in terms of us getting to the point where we could confidentially overhaul or review our procurement processes and one of the - - -

30

ASSISTANT COMMISSIONER: Mr Salvestro-Martin, you're not answering - - -?---I'm sorry, okay.

- - - or I think even listening to the question?---All right.

40 You were just asked were you concerned that Ms Dickson had extended this contract for six months?---At the time then, yes, I was.

Yes, thank you?---I'm sorry.

MR DOWNING: In any event it's correct isn't it that in March of this year after this report about advertising contract renewal was made available the matter came before Council for debate at a particular Council meeting?---Absolutely.

Can I tender the document, Commissioner, which contains at 1135 and 1136 the memorandum, I should describe is a confidential memorandum dated 27 February 2013 and the covering page 1134 is an excerpt from the minutes of a Council meeting of 26 March 2013.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 34.

10 **#EXHIBIT 34 - COPY OF A CONFIDENTIAL MEMORANDUM
DATED 27 FEBRUARY 2013 AND EXCERPT OF A COUNCIL
MEETING DATED 26 MARCH 2013**

MR DOWNING: Perhaps I've mis-described, I thought Exhibit 30, I'm sorry, no, 33 was the telephone intercept and the transcript.

ASSISTANT COMMISSIONER: Yes.

20 MR DOWNING: Thank you, Commissioner. Is that a convenient time?

ASSISTANT COMMISSIONER: Yes. We will adjourn for 15 minutes.

SHORT ADJOURNMENT

[11.31am]

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

30 MR DOWNING: Thank you, Commissioner. Just before I come back to the advertising issue, there's a couple of matters I did want to try and clear up with you first, Councillor Salvesto-Martin. I asked you before some questions about the Council meetings and the committee meetings in respect of 29 Vimiera Road, Eastwood?---Yes sir.

And I'd asked you whether you could recall declaring an interest yourself at the Planning and Environment Committee meeting on 4 June and I think your recollection was that you hadn't?---Well - - -

40 The minutes don't record one?---The minutes don't record it.

Is your recollection that you did or you didn't?---Sir, my recollection is that I did, but the minutes clearly don't, so I'd defer to the minutes.

And in fairness to you I expect that there may be some evidence or I anticipate there might be some evidence from someone else present at the time who might be of the view that, well might suggest that you did as well. But can I ask this, your recollection is though that you participated in terms of the vote on 29 Vimiera Road?---Yes sir.

Normally where you declare an interest you have no say or you abstain from having an input don't you in respect of the relevant matters?---It depends on how you assess the level of interest as to whether it's affecting your judgement on the issue.

Well doing your best in terms of recollection do you believe that you did declare an interest?---I do believe I did, but the - - -

10 Pecuniary or non-pecuniary?---I think it was less than significant.

Well but pecuniary or non-pecuniary?---I think, I can't honestly remember.

Well you didn't have a - I mean you know what pecuniary means, a financial interest?---Yeah.

You didn't have a financial interest in respect of 29 - - -?---No, no, sorry, non-pecuniary.

20 And do you think it might have been a less than significant interest?---Yes sir, yes sir.

And do you sometimes when you declare an interest of that nature, despite declaring it you still participate?---You still, you still participate, yes sir.

And you do have a clear recollection don't you that you did participate - - - ?---Yes, yes.

30 - - - on the vote and you spoke against pursuing demolition?---Yes sir.

Now are you able to tell us, again bearing in mind the dates, 4 June being the date of the Planning and Environment Committee meeting and 11 June being the date it came to full Council - - -?---Yes sir.

- - - did you have any discussion with Councillor Petch in between those dates in which he indicated to you that he'd been served with a summons by ICAC?---Yes sir.

40 Did he say anything to you about that one issue raised in the summons was the disclosure of certain interests?---Yes sir.

Did he say anything to you about whether he was intending to declare interests in respect of 29 Vimiera Road in the future?---I don't know whether he did on that, I don't know.

Did he make any suggestion to you about whether you should declare an interest in respect of that matter?---I honestly can't recall.

But he did tell you that he'd received the summons - - -?---Yes sir.

- - - and told you something about the subject matter?---Yes sir.

Now coming back to the advertising issue, it's the case isn't that you favoured splitting the advertising equally between The Weekly Times and The Northern District Times?---No sir.

10 That's not the case?---No. No I actually favoured it to be reassessed in its entirety to be honest. I actually wanted to, I would prefer to have seen a new, a new tender. I was keen to, keen to actually see the tender go out again.

Well can I ask you to have a look at a document and this won't be on the system unfortunately, so we'll provide copies. Do you recall whether you actually drafted a particular motion that was put before Council on 26 March in respect of the Council's advertising?---Yes. This looks very much like my original wording, yes.

20 And that it referred to the Council being a monopolise buyer?---Yes.

And - - -?---And that wording is incorrect because I then changed it to monopsonist.

Monopsonist, Okay. So should we correct that to monopsonist?---The eventual, the eventual wording was monopsonist.

30 But you accept that other than that error in terms of the wording, this represents the wording of a motion that you put up?---Yeah, it does. And with all these motions it's a case of striking a balance that everyone around the table will agree to. So I, I certainly wasn't personally in favour of splitting it but to get the motion through and taking into account the views of other councillors, you know you can often, well I do take those things into account when I draft.

Well the way this reads is that the Council should not exercise the option to further renew the contract?---Yes.

40 I take it that means beyond 30 September, 2013?---Yes.

And that the City of Ryde is a monopsonist buyer, and if I summarise to some degree, has a duty to act with equity and fairness and as such seek revised costs for the provision of advertising services from both The Weekly Times and the Northern District Times with a view to evenly splitting the advertising expenditure between those parties for two years?---Yes sir.

So that it was a process that was to be gone through where you would seek revised costings from both but with a view to achieving an outcome of splitting it evenly?---Yes.

So in terms of the Council's position it would have, that would have shifted it from one where the Northern District Times had the entire tender - - -?---Correct.

- - - for one split evenly?---Yes, sir.

10

Would you accept that you'd received fairly favourable coverage from the Weekly Times in the couple of years leading up to March 2013?---Yes.

And Councillor Petch certainly had too hadn't he?---I think a lot of Councillors, a number of Councillors had received favourable reporting. Some had received not so favourable reporting, yes.

20

Would you accept that over that period there'd been a fairly, in terms of the coverage of the Ryde Civic Precinct redevelopment and those whose were on Council who were for or against it the paper had taken a pretty strong view in support of those who were opposed of redevelopment?---Correct, yes.

Did you have any view in favour of splitting advertising because you'd had that favourable treatment from you, from the Weekly Times?---Sir, I can tell you absolutely honestly I, it was not affected by that coverage in terms of this, this was driven by my desire to, to in terms of procurement.

30

Well were you aware as at March 2013 that Councillor Petch had a fairly close relationship with Mr Booth?---I learnt, I learned that there was a, some sort of financial relationship but the timing of which it's, it's probably the last few months.

I'll come to the financial relationship in a moment but I just want to know whether you were aware as at 26 March that there was a fairly close personal relationship between Councillor Petch and Mr Booth?---Personal relationship, it was a relationship - - -

40

Would you regard them as friends?---Yes, I would.

Now you've looked at this document that I've put before you and you say the change of that word monopolist to monopsonist this represents the motion you put up?---Yes.

I'll tender that, Commissioner.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 35.

#EXHIBIT 35 - COPY OF A DRAFT MOTION OF MR SALVESTRO-MARTIN

MR DOWNING: And I should make it plain that that should have the word altered to reflect the evidence that Councillor Salvestro-Martin has given.

10 ASSISTANT COMMISSIONER: Well if I knew what that word was I, I would arrange that but - - -

MR DOWNING: I'm going to take a stab and say monopsonist.

ASSISTANT COMMISSIONER: All right.

MR DOWNING: And I'm sure Councillor Salvestro-Martin will tell me if I've got it wrong.

20 THE WITNESS: You're correct, you're correct, you're correct.

MR DOWNING: Now do you recall at that meeting Councillor Petch speaking in favour of the notion of splitting the advertising equally between the two papers?---No, sir, I don't.

Do you recall of him, do you recall him saying something about the fact that it would be a good idea to equally distribute the advertising between the two papers?---I honestly have no recollection of that.

30 Do you recall him taking any, speaking at all at that meeting about what might be the appropriate position for the Council, the Council in respect of its advertising - - -?---I think, I think he, he said something, I think he said something but he rarely, rarely says much at the meetings so, look he may have.

Do you recall if he said something about it being appropriate there being two local papers to share the advertising - - -?---Yes.

- - - between those papers?---Yes, yes, yes, yes.

40 And do you recall him also saying something about the fact that newspapers and the print media generally were doing it fairly tough?---Yes, there was a discussion - - -

- - - in present days --- - - - on that point, yes.

Now do you recall that after you put this motion up the actual motion as passed was in a different form?---Completely, yes.

And if we go back to the document on, I'm sorry, I'll find the page number now - - -?---1134.

1134?---Yes.

That reflects the actual motion - - -?---Yes, it does.

- - - as past?---Yes, it does.

10 And do you recall that after you put the motion up in the form that I've, that's now Exhibit 35 seeking an even split that Ms Dickson who was present made some comment about there being a concern that that might not be compliant with the Local Government Act?---Yes, I - yes, I do.

So that there was then a change into the form that appears at page 1134? ---Yes, yes.

20 And there was also a part of discussion wasn't there that the Ryde City View be done away with?---There was a lot of discussion on that point, yes, and there was also the, the view that, you know, perhaps we should seek some, some form of sponsorship as well, there was a lot of discussion on that point I recall.

Do you recall whether the motion that you put up was your idea or whether you'd been asked to put it up by Councillor Petch?---No, it was definitely my idea.

30 I'd ask you to listen to a telephone conversation and the transcript will appear hopefully on the screen.

AUDIO RECORDING PLAYED

[12.01pm]

MR DOWNING: Now, Councillor Salvestro-Martin would you accept that that's a telephone conversation between you and Councillor Petch?---Yes, it is, sir, and I stand and correct my previous advice, clearly I had had a conversation.

40 All right. Well, I'll come to that in a moment but the date on the transcript is 20 March, 2013 at 1.15pm. Does that accord with your recollection in terms of the time?---Yes.

I tender the audio and the transcript of the telephone conversation.

ASSISTANT COMMISSIONER: That will be Exhibit 36.

**#EXHIBIT 36 - COPY OF AN AUDIO CASSETTE AND
TRANSCRIPT OF A TELEPHONE CONVERSATION BETWEEN
MR PETCH AND MR SALVESTRO-MARTIN ON 20 MARCH 2013
AT 13:15:25**

MR DOWNING: Now, before I come to the part in relation to advertising there was a reference there to Councillor Pickering. Do you recall there'd been a Council meeting that night?---Yes.

10

And had Councillor Pickering been ejected?---Yes.

When you were referring to him hopefully being locked up and tasered, that was as a result of some altercation that resulted in him being expelled from the meeting?---An unfortunate attempt at humour on my part.

Now coming back to the matters I was asking you about before, I asked you whether it was your idea to put up the motion to split the advertising. Having heard that recording do you accept that in fact Councillor - I
20 withdraw that. That you had rung Councillor Petch and raised the question of the contract but it was actually Councillor Petch who suggested you put up a motion that involved splitting the advertising between the two local papers and doing away with the Ryde City View?---Yes, sir, on the evidence that's there, absolutely but I - the reason I felt it was my idea and why I've, I've been driven by this issue and the procurement issue for so long so I, I do see it as, as any much, anything associated with that issue as being pretty much my nemesis.

30

But in this instance dealing with advertising the germ of the idea came from Councillor Petch. Do you accept that?---Yes sir, yes sir.

In the phone call you agree that you'll have a go at drafting the motion and then get to him. And I take it that's the document which we now have or the wording that's contained in the document, which is Exhibit 35?---Yes.

40

In the phone call you don't make any inquiry of Councillor Petch about why he might be interested in splitting the advertising. Did you subsequent to that call inquire of him why he was asking to do that?---No, I don't think I did, but it had been an idea that had been suggested a previous occasion I think by Councillor Maggio at some point about splitting it.

At that time, that is at the time of the telephone conversation on 20 March, that Councillor Petch late the previous year had entered into a loan agreement with Mr Booth under which he leant \$250,000 to Mr Booth?
---No sir, I only become aware of that fairly recently that, that arrangement.

So you say you weren't aware of that at the time you were asked to put the motion up?---I don't believe I was aware of that at the time, yes.

Or at the time that the meeting was held and there was discussion and vote on it?---I can't be so sure about that.

How did you first become aware of the loan that Councillor Petch had made to Mr Booth? Did he tell you about it?---No. There was, there was some, it was gossip that I'd heard I think.

10 Had you been aware of that loan arrangement that Councillor Petch had with Mr Booth would you have been prepared to put the motion up?---No sir, I don't believe I would have.

Do you have any recollection of Councillor Petch disclosing any pecuniary interest in respect of the advertising matter when it came before Council on 26 March?---I don't believe he did.

Thank you, Commissioner.

20 ASSISTANT COMMISSIONER: Thank you. Yes, is there an application to cross-examine?

MR HYDE: Yes. Thank you, Commissioner. Mr Salvestro-Martin, I appear for Councillor Petch in these proceedings. Can I start by asking you just with respect to the telephone conversation that you had with Mr Petch on 4 April, 2013 about the costs of the Supreme Court proceedings, do you remember you were asked questions by Counsel Assisting and you had the transcript played?---Yes, yes.

30 It was the case wasn't it that Councillor Petch had told you that he'd had legal advice with respect to who it was that might be liable to meet the costs - - -?---Yes.

- - - for the respondents in those proceedings?---That's correct, yes.

And indeed those conversations that you'd had with him were back as far as February 2013?---These conversations have been going on for a long time. This issue has been going on for a very long time, yes.

40 And he indicated to you that the advice that he'd sought and obtained indicated that the respondents would have their costs covered because it was part of - - -?---Yes sir, yes.

- - - Council business that they were attending to - - -?---Yes.

- - - in responding to the Supreme Court proceedings. Correct?---That's correct, yes.

All right. Now you were asked some questions about Ms Dickson and I want to ask you whether you ever had conversations with Councillor Petch

that he was favourably disposed towards Ms Dickson, that is that he was well disposed toward her for the purposes of her taking over the role of General Manager?---We all were. We all recognised that Ms Dickson was a very professional person.

And indeed Councillor Petch said during the course of one or more conversations with you that he thought that she would make a excellent general manager?---Absolutely he did.

10 And he'd said that prior to the 4 April 2013 when she was in the caretaker role?---Right. I think almost within days of, of her taking over it was probably, probably indicated that that she was - I mean we'd seen, we'd seen her develop fairly, fairly rapidly anyway but, but yes, there were comments soon after she took over.

And soon after she took over that is when she went into the temporary position - - -?---Yes.

20 - - - would it be fair to say that Councillor Petch was lobbying on her behalf for her to in effect take over that role?---In fact yes, he was.

All right. Now it'd be fair to say and moving topics but it'd be fair to say that in early 2012 there was a ground swell of opposition against the yes camp for the redevelopment, correct?---I'd call it a tsunami.

All right. And would it be fair to say that the writing was on the wall as far as you were concerned for the yes camp for the purposes of the September elections?---Indeed, yes.

30 And would it be fair to say that you never had a conversation with Councillor Petch regarding a proposed deal in about early April 2012 with the if I can use the term the yes camp?---Yes. In, can you expand a little bit?

Sorry. I probably haven't made my question very clear. In 2012 as at that, as at April or late March 2012 Mr Petch had never approached you and had a conversation to the effect that he wanted to strike a deal with the yes camp?---That's, that's a laughable suggestion. There was never a deal.

40 And why do you say it's laughable?---Because I'd heard the same, I'd heard a rumour that, about delaying you know potential delaying so that there could be other option, there was never any other option.

And did Councillor Petch ever say to you that this would be a face saving way out for the yes camp after the election?---No.

All right. Now just briefly do you recall on 17 July 2012 there was a motion moved on the floor to the effect that Mr Neish should explain his conduct in

relation to his failure to include six of the 12 Councillors in a response to a concerned resident?---Absolutely I do because there was uproar from the gallery on that, on that evening I'll never forget it.

And can you tell us what occurred on that evening?---Effectively Mr Neish admitted to the Council that he was copying documents only to six Councillors because he could not trust or we were, regarded us as liars the other six words to that effect.

10 Was that the sentiment that you took from his explanation?---Indeed.

All right. And did you consider that to be a fundamental breach of trust between the general manager and certainly from your perspective you?---In, indeed, yes, I did.

And, and why did you consider that to be so?---The, the, the general manager's role is to communicate with all 12 Councillors and to be, remain a political but very clearly it became evident that a political role had been adopted.

20

And you were asked questions by Counsel Assisting yesterday about the termination of Mr Neish and you indicated that you had your own reasons for wanting him terminated?---Yes.

And what were you referring to and please don't go into an extensive synopsis?---No, my reasons were very simple it was, it was commercial incompetence and, and I think that if you look at the history of, of performance at Parramatta at the National Trust and Ryde that there's, there's evidence.

30

Yes, thank you, Commissioner. Thank you?---Thank you.

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

MR DJEMAL: Commissioner.

ASSISTANT COMMISSIONER: Mr Djemal.

40 MR DJEMAL: With your leave, thank you.

Sir, I act for Mr Norman Cerreto, if I could just ask you a couple of questions. Yesterday you indicated you had with respect to the invoicing from TWT enormous problems with accounts, do you remember that?
---Yes, sir, I did.

Now, in respect of that, did that involve being sent invoices for advertising that you never had undertaken?---It, it, it involved exactly - oh, invoices for ads that other people had taken, yes.

Now today - - -

ASSISTANT COMMISSIONER: When was that, Mr Salvestro-Martin?
---That was in the timeframe of the - there was some during the timeframe of the multiple, the shared ads, when we did the, some of the shared - - -

10

Yes, early in 2013 is that, I mean, '12, 2012?---I think it was around the time that, that we did the shared ads, there was a lot of confusion in that whenever we did, whenever those shared ads were appearing with all six photos.

And sorry whose, whose ads were you invoiced for?---I was invoiced for Councillor Tagg's ads.

On how many occasions?---Oh, ma'am, I think twice, I think twice.

20

All right. And you cleared that up with The Weekly Times?---I went into the TWT, yes.

So is that the only time you were mis-invoiced?---I've been mis-invoiced against recently for a, an ad that the ALP took and it's been charged to my account.

That the ALP took?---It's the, it's the outstanding amount of \$422.80 as well.

30

Yes, thank you. Yes, Mr Djemal.

MR DJEMAL: And just picking up from that then, sir, so you've taken up those invoices that you're aware of with TWT, you agree with that?---In due - well - - -

The ones that you became aware of that were wrongly invoiced?---Well, when I, when I get a bill, yeah, I worry.

40 Okay.

ASSISTANT COMMISSIONER: Well, you haven't received any other wrong bills have you, to your knowledge?---To my knowledge, yeah.

MR DJEMAL: Now it became evident today and you accept that - and I might for this purpose, sir, ask that Exhibit 31, if that could be put up on the screen, that was, that's a new exhibit, that was the advertisement that was tendered today as an additional advertisement from the August - - -

MR DOWNING: It can be put on the screen.

MR DJEMAL: It can be. Do you see that there, that was tendered today?
---(No Audible Reply)

Now, you accept that that's an advertisement that you would be liable for?
---Yes, sir.

10 And it's something that you've got I understand till 29 or 23 September this year to reconcile, is that right?---I, I tend to leave things like this to the very last minute.

I see. Well, what I'm getting at though, sir, is it seems that on what you've produced to the Commission that's, you haven't produced an invoice for that particular advertisement, is that right?---No, I've produced a summary of, just a summary of - - -

20 That's right?---Yeah.

But is it possible that you haven't been invoiced for that and that's why it hasn't been paid?---Potentially that's possible, yes.

Okay. Now, sir, moving to a different point, you've been asked some questions about the 4 June decision you made with respect to the planning committee you were sitting on, remember that?---Yes.

30 And as I understand it there was a recommendation for demolition of the 29 Vimiera Street address, Eastwood?---Yes.

But in respect of that there'd been an application for a retrospective building certificate that would retrospectively rectify any of the unauthorised works, correct?---Yes, that's true.

Now you'd sat on meetings such as that before?---I, I daresay, yes.

40 Okay. And at that stage you were aware of a report and you might need access to Exhibit 32. Do you see that report there at the beginning at page 2299 that goes on for about - a few pages and ends at 2308, do you see that there?---Yes, yes.

That was a report commissioned by Council in respect of the building certificate application. Is that right?---Correct.

And it was to look at whether the unauthorised works as they were deemed by Council staff complied or not?---Yes.

Now is it correct that in your experience sitting on this committee not every recommendation by Council – well you never voted in agreement with every recommendation at Council. That could be correct wouldn't it?
---Absolutely.

Okay. And at that stage this report was tabled in support or as part of the determination. Now at the beginning of it there, it's got what says there to be the Ryde LEP. Is that right?---Correct.

10 And it's correct that the unauthorised works complied with height, floor space ratio, etc cetera?

ASSISTANT COMMISSIONER: Mr Djemal, I don't see the relevance of any of this. We're looking at, as I understand it, undisclosed possible conflicts of interest. We don't really care about the validity of the building or the application or anything else.

MR DJEMAL: The purpose, Commissioner, is not for that purpose at all, but it's to determine whether the decision after the closed session in any
20 way was influenced or whether it was a normal decision made in the course of the material that was before the committee. It's for that purpose. And I say that because the question Commissioner, you posed was that if there was a six storey building - - -

ASSISTANT COMMISSIONER: Yes.

MR DJEMAL: - - - would you approve it? Now it's obvious that on what's been tendered before the Commission, this building complied in numerous respects and so the decision itself seemed that it could have been based on
30 normal material or planning advice that was before it as opposed to any influence so - - -

ASSISTANT COMMISSIONER: Yes. But I'm sure as you're well aware the question of whether somebody has a conflict of interest doesn't turn on whether they make a good decision or a bad decision. And I think it's entirely irrelevant.

MR DJEMAL: If the Commission pleases. Well sir, can I ask you this then, as I understand it before the closed session at that stage had there been
40 someone that spoke on behalf of the applicant. Is that right?---I think both, on both sides of the argument.
On both sides?---Yes.

So the committee had heard a for and against - - -?---Yes.

Okay. And is it the case that after that the closed session occurred?---Yes, I believe so.

Was it the case that in the applicant's behalf a deferment was sought of the decision?---Yes, yes it was.

And was that to provide further information to address issues that were identified in Exhibit 32 which was the report?---Yes I do recall that, yes.

And that's what ended up happening. Is that right?---Yes.

Thank you, Commissioner.

10

ASSISTANT COMMISSIONER: Thank you Mr Djemal. Yes, Mr Griffin.

MR GRIFFIN: Mr Salvestro-Martin, my name is Griffin. I act for Councillor Li. I want to ask you some questions about the Save Ryde advertisements. In your evidence yesterday to Counsel Assisting at page 406 you were asked, "Prior to you directing Mr Stavrinis to prevent this had you obtained the okay from the various councillors for them to authorise this ad?" And you replied, "I'd sent, I'd asked for that to be done via the email which was sent out to all the councillors"?---Yes sir.

20

Do you remember that evidence?---Yes sir.

Then this morning when you were asked about the topic of the ad you gave evidence that it was a collective decision of the Council as to place the ad. Do you remember that?---Yes.

And then subsequently you said, as I understand it, "I think it was my idea in discussions with Mr Stavrinis to place the ad." Do you remember that evidence?---Yes.

30

Is the last answer the correct position?---The last answer is, is me taking responsibility for it.

But was it your idea along with Mr Stavrinis to place those ads on behalf of Save Ryde?---It was my idea.

Does it follow from that that you have no knowledge of Councillor Li authorising those advertisements before they appeared?---Correct.

40

Does it also follow that you have no knowledge of Councillor Li being involved in the content of those advertisements?---Yes.
Thank you Commissioner.

ASSISTANT COMMISSIONER: Thank you Mr Griffin.

MR TAYLOR: Commissioner, for Mr Butterworth.

ASSISTANT COMMISSIONER: Yes, Mr Taylor.

MR TAYLOR: Just in relation to that last point Mr Salvestro-Martin, similarly in relation to Mr Butterworth - - -?---Yes.

- - - he gave no approval prior?---Correct.

And had no input into it?---Correct.

Thank you.

10 ASSISTANT COMMISSIONER: Thank you.

MR TAYLOR: There's nobody else.

ASSISTANT COMMISSIONER: Yes. I think there is.

MR DAWSON: I have a couple of questions if I may, Commissioner, on behalf of Mr Pickering.

20 ASSISTANT COMMISSIONER: Mr Pickering, yeah.

MR DAWSON: Mr Salvestro-Martin, I appear for Mr Pickering - - -?
---Yes, sir.

- - - Dawson is my name. You were asked some questions about the recorded conversation between you and Councillor Petch on the 20 March this year, do you remember those questions?---Yes.

30 And in the course of that conversation you referred to your desire to have Mr Pickering locked up and tasered didn't you?---Yes, sir.

And that was a reference wasn't it to a move by Mr Petch on the previous night to have Mr Pickering ejected from the Council meeting?---Yes, sir, it was a very poor attempt at humour, yes.

Thank you, Mr Salvestro-Martin. You supported that move by Mr Petch to have to Mr Pickering removed from the meeting didn't you?---Yes, I did.

40 And that occurred in the context didn't of Mr Pickering raising concerns at that Council meeting in relation to the way in which Council was handling the issue of the payment of legal costs incurred by the defendant Councillors in the injunction proceedings taken against them by Council the year before, that's correct isn't it?---Yes, I believe that is correct.

And you were one of those defendant Councillors weren't you?---Correct.

And you were one of the defendant Councillors that would stand to have his costs paid in the event that Council decided that it was appropriate to do so?---Correct.

Now Mr Pickering was concerned wasn't he that there was a lack of transparency in how Council was handling that issue. Do you agree with that?---There was a, a conflict right around that table, none of, nobody at that Council table should have been involved in any part of that decision whatsoever.

If, if you'd be good be - - -?---Councillor Pickering was conflicted as well.

10 If you'd be good enough to answer my question please, Councillor. Mr Pickering was concerned so far as you knew wasn't he that there was a lack of transparency in how Council was handling this question of whether or not it should pay the defendant councillors costs?---That was the concern he represented.

Do you agree with the proposition I put to you?

MR BENDER: I object.

20 THE WITNESS: No, I don't.

MR BENDER: He's answered the question.

ASSISTANT COMMISSIONER: Well I think he says that was the position Councillor Pickering was representing.

MR DAWSON: Thank you, Commissioner.

30 You were aware weren't you that at the time Mr Stefano Laface was giving advice to Mr Petch about this issue?---Mr Stefano Laface was giving advice, yes.

And you were aware that he was giving it to Mr Petch in relation to this cost issue, correct?---Yes.

40 And what Mr Pickering was suggesting amongst other things was that Council should obtain independent legal advice about whether it was appropriate that it pay the costs of the defendant Councillors, is that correct?---Yes. And that was what was agreed I'm sure at some point in time that we did get independent advice.

In, in other words what you're saying is that Mr Pickering's proposition raised the night before in a meeting in which he was ejected after a motion was put which you supported to have him ejected what he was putting was that there ought to be independent legal advice obtained by Council as to whether it was appropriate for it to pay the defendant Councillors costs, correct?---Yes.

And that was ultimately something that the Council did wasn't it?---It did seek that, yes.

Yes. And it was in the context of that discussion that the alleged act of disorder by Mr Pickering occurred wasn't it?---It followed a number of acts of disorder, yes.

Thank you, Commissioner.

10 ASSISTANT COMMISSIONER: Thank you, Mr Dawson.

MR ANDRONOS: Councillor Salvestro-Martin, I appear for Councillor Perram. You were asked some questions a short while ago by Counsel for Councillor Li and Councillor Butterworth about whether or not you'd had any communications with either of those Councillors - - -?---Yes, yeah.

- - - prior to 28 August advertisement?---Correct, yes.

20 Had you had any conversations or communications with Councillor Perram?---None whatsoever.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Bender.

30 MR BENDER: As a preliminary matter can I please ask Mr Downing through you, Commissioner, to confirm whether the issue about the Supreme Court proceeding costs and Ms Dickson's role in that is in the same category as the two issues that I raised earlier that is an issue that Mr Downing doesn't on the basis of the present evidence intend to make a submission that Councillor Salvestro-Martin has engaged in corrupt conduct.

ASSISTANT COMMISSIONER: No, I don't think it's appropriate in that matter to give any such indication.

MR BENDER: Well it wasn't opened on that basis and no notice has been given to my client that there had been such a complaint - - -

40 ASSISTANT COMMISSIONER: The opening is a general outline we're not required to provide particulars and we can't provide particulars because the evidence goes where it goes. Notice is given in the form of closing submissions about any particular matter that might give rise to an allegation of corrupt conduct.

MR BENDER: Well, with great respect, Commissioner, my client is entitled expressly to be informed of the nature of the allegation or complaint being investigated before or at the time that he's required to - - -

ASSISTANT COMMISSIONER: Yes, the complaint being investigated is whether an inappropriate approach was made to Ms Dickson threatening to terminate her employment or inducing her to act in a certain way by Mr Petch and as you've heard with Mr Salvestro-Martin's for knowledge that such an approach was to be made.

MR BENDER: Well, that's the first time it's been suggested that a complaint being investigated in respect of that matter related to my client's knowledge with respect.

10

ASSISTANT COMMISSIONER: Yes, it's a matter for evidence, that's been the evidence, you've heard the evidence.

MR BENDER: Yes. Well, I think the most efficient way to deal with this and the other two matters I raised this morning is this: I don't want to hold up proceedings by applying to adjourn the proceedings while I get instructions about each of those matters and then seek to re-examine my client on them on the basis that he may at the end of these, at the end of the evidence be the subject of a submission that he's engaged in corrupt conduct so what I propose, and I don't understand Mr Downing to object to this, is - well, I want to make clear that if evidence is adduced in the future that suggests that he may be the subject of such a submission in respect of those matters I will apply to recall Councillor Salvestro-Martin so I can address those matters on the basis of proper instructions.

20

ASSISTANT COMMISSIONER: You seem to be confusing the issue of submissions about what conclusions are open on the evidence with the evidence. You know what the evidence is, you're welcome to now re-examine on the fact evidence that's been given. You don't need instructions from your client as to whether a certain matter is capable of amounting to corrupt conduct, that's a legal issue.

30

MR BENDER: No, but I have absolutely no instructions whatever about for example the issue concerning the Ryde Concerned Citizens Association so there's nothing I could put to my client.

ASSISTANT COMMISSIONER: He's given evidence about the knowledge of the Ryde Concerned Citizens.

MR BENDER: Well, obviously I'm not going to elicit the same evidence from him.

40

ASSISTANT COMMISSIONER: No, well, there's no need to.

MR BENDER: I think Mr Downing has something he wants to say at this point.

MR DOWNING: Commissioner, this might assist to some degree. My friend raised two particular factual issues this morning and we had an exchange and I indicated what my position was having regard to the evidence. On the issue that's now been raised and that is as I understand it the particular knowledge or involvement of Councillor Salvestro-Martin in respect of the cost issue and threat or inducement if I can use that language neutrally at the moment, that was put to Ms Dickson, in view of the evidence that has come out I, I don't intend to give any similar assurance in terms of any submission that might be put. In those circumstances I would
10 invite my friend if he wants a short adjournment in order to seek some instructions that that might be done now and I use the word short advisedly but - - -

ASSISTANT COMMISSIONER: Look, I really - well, we were talking about conversations which have been recorded. I don't really see what taking instructions could achieve. I mean, it's not as if Mr Salvestro-Martin can deny what was said on the tape.

MR DOWNING: Well, I guess, Commissioner, the only concern I had is
20 he, he certainly has heard what's on the tape and he's given evidence about that but there - I don't want it to be suggested that there was no opportunity to perhaps give some additional evidence that might shed light on it - - -

ASSISTANT COMMISSIONER: All right.

MR DOWNING: - - - so I'd only ask that there be a short adjournment - - -

ASSISTANT COMMISSIONER: Well, would 10 minutes suffice,
30 Mr Bender, to have a talk to your client?

MR BENDER: No, no, no, Commissioner.

ASSISTANT COMMISSIONER: Well, that's what you're being offered, Mr Bender. Really, I am under no obligation to adjourn the matter at all. Everybody else is in the same boat. This is an investigation. Your client was well aware of the issues.

MR BENDER: Well, I respectfully disagree with the proposition?

40 ASSISTANT COMMISSIONER: Well, the issue about Ms Dickson was raised in the opening.

MR BENDER: Yes, in no connection to my client.

ASSISTANT COMMISSIONER: Yes, well, your client knew what had gone on didn't he?

MR DOWNING: Commissioner, could I suggest this perhaps - - -

ASSISTANT COMMISSIONER: I mean, did you speak to him about that issue at all? I don't want to ask you that but I'm sure that you would have, as a responsible counsel you would have spoken to him about all of the issues would you not?

MR BENDER: As you know, Commissioner, I can't disclose what I've said.

10 ASSISTANT COMMISSIONER: No, I don't want you to disclose but I'm saying I am assuming you have spoken to him about these issues but if you want to speak to him further about them I am willing to allow a short adjournment to do so.

MR BENDER: And thank you, Commissioner, I'll take what's offered.

ASSISTANT COMMISSIONER: Thank you.

MR DOWNING: I don't know whether this might be another way to accommodate the same issue but it might be appropriate that we could take
20 lunch early and resume at, instead of - - -

ASSISTANT COMMISSIONER: I'm not willing to take lunch early.

MR DOWNING: Thank you.

ASSISTANT COMMISSIONER: I guess I am willing if you think it's to stand Mr Salvestro-Martin down till he can come back at 2 o'clock and we can proceed with another witness.

30 MR DOWNING: Well I'd probably prefer to finish him rather than interposing a witness. If the Commissioner's view is that 10 minutes would be appropriate then I'll - - -

MR BENDER: I'll withdraw my application, Commissioner. There is absolutely no point in me seeking instructions for 10 minutes.

ASSISTANT COMMISSIONER: Well do you wish to re-examine your client?

40 MR BENDER: No, Commissioner.

ASSISTANT COMMISSIONER: Thank you. All right. You are now - - -

MR HYDE: I'm sorry Commissioner, I overlooked one matter, if I may with your leave - - -

ASSISTANT COMMISSIONER: Yes.

MR HYDE: And it's in relation to Exhibit 21, sir. And in particular page 1330 and 1331. Exhibit 21, I don't think you have that in front of you but - -?---No, I don't, no.

MR DOWNING: We can bring it up on the screen.

MR HYDE: All right. If you would. Thank you, I'm grateful. Looking at that document and the following one on page 1331 would you agree that you did not have discussions with Councillor Petch at any time prior to seeing that document?---Yes.

Thank you, sir. Thank you Commissioner.

ASSISTANT COMMISSIONER: Thank you. Mr Salvestro-Martin you are now excused?---Thank you.

Thank you.

20 **THE WITNESS EXCUSED**

[12:36pm]

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. The next witness will be Warwick Cooper or I hope will be assuming that he's here.

ASSISTANT COMMISSIONER: Is Mr Cooper here?

30 MS McGLINCHEY: Yes, he is Commissioner.

ASSISTANT COMMISSIONER: Could he come forward.

MR DOWNING: Perhaps just before we do that I think Councillor Salvestro-Martin might have accidentally taken some Exhibits with him when he left the witness box.

ASSISTANT COMMISSIONER: Yes.

40 MS McGLINCHEY: Commissioner, my name is McGlinchey. I seek leave to appear for the witness.

ASSISTANT COMMISSIONER: Yes, Ms McGlinchey.

MS McGLINCHEY: I can indicate that he will take an oath and we're seeking a section 38 declaration.

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 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.

10 **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.**

20

ASSISTANT COMMISSIONER: Could the witness be sworn, please.

ASSISTANT COMMISSIONER: Thank you. Just take a seat. Did we get the documents back? Thank you. Yes, Mr Downing.

MR DOWNING: Mr Cooper, can I ask that you state your full name for the Commission?---Warwick Reginald Cooper.

10 And your date of birth?---12/11/45.

And your address?---Current is in New South Wales.

And Commissioner, similar to other witnesses I don't see any particular relevance of the address, so I'd ask that that be suppressed?---Yes, please.

ASSISTANT COMMISSIONER: Yes, I suggest, I suppress the private address of this witness.

20

SUPPRESSION ORDER ON PRIVATE ADDRESS OF MR COOPER

MR DOWNING: Mr Cooper, is it the case that as at 2011/2012 you were living in the City of Ryde council area?---Yes.

And at that time I take it you had some familiarity with the Ryde Civic precinct redevelopment?---Yes.

30

You're aware that it was a matter that had been before Council quite a lot over the period 2011/2012?---Gradually over a period there was an escalation occurring and we picked up fairly late in that escalation, yes.

And you were aware that there some considerable controversy amongst community members about it?---That would be an understatement of the first order.

40

And amongst Council members in respect of it?---Also an understatement of the first order.

Now did you at some times attend Council meetings where that matter was discussed?---Only after we became actively, really involved in attempting to stop the redevelopment, yes.

Okay. You spoke of we, were you speaking on behalf of someone else or of an association or - - -?---Well I was speaking in terms of me, my wife and the putative, an advertised putative Ryde Concerned Citizens and you have

often referred to it by way of misnomer as an association in fact only ever got to the citizens, the association wasn't attached I don't think.

Right. Well can I ask you whether you were present at various Council meetings in 2012 when the Ryde Civic Precinct redevelopment was debated?---Yes.

And you were aware weren't you that there was a fairly established line between Councillors voting for and against it?---Six and six, yes.

10

With the Mayor Councillor - - -?---Casting vote, vote.

- - - well the then Mayor Councillor Etmekdjian generally casting a - - -?---Yeah.

Sorry, casting his vote in order to have the resolutions passed?---Disgracefully, yes.

20

Well I take it from that comment that you had a strong view against the Ryde Civic Precinct redevelopment?---Implacable opposition to it, yes.

Now I take it as at 2011 and 2012 you were familiar with Councillor Petch?---I've known Ivan John Petch for 18 years, yes.

And - - -?---What's more I find him a close personal friend in a manner with credibly high repute.

Okay.

30

ASSISTANT COMMISSIONER: Mr Cooper, we could do without the commentary. Could you just answer the questions that are asked of you. You'll be given an opportunity through re-examination to make any relevant points that you wish to make?---Thank you.

MR DOWNING: Can I ask in what circumstances you first met Councillor Petch?---He was campaigning on Meadowbank Wharf and I think 1996 or thereabouts for the State Election.

40

Right. Your relationship with him goes back well before 1998 though doesn't it?---No.

No. So it's from those circumstances where you first met him?---Yes, I think yes from memory.

Now do you recall in mid 2012 that there was some particular matter that brought your wife to telephone him?---The, the answer to that is very simple, we had heard increasingly the angst from friends, neighbours, fellow

residents about the Ryde Civic Precinct development. Beth and I phoned Ivan one night.

And I should just, just stop you there. Beth is your wife?---Yeah, sorry, Elizabeth Susan Cooper (not transcribable) she's up the back there.

Right. Thank you. So, sorry, I interrupted you. You, your wife - - -?
---Right. We phoned Ivan basically to ask an old friend whose intimations I value what it was all about, he invited us to go to a Council meeting, we
10 were absolutely outraged at what transpired the, the idea of roughly \$100 million worth of prime public land been given to a developer plus a \$35 million loan and he gets about a billion bucks and we get 40 extra seats in an auditorium. There was a great inequity as far as I was concerned.

Well you've told us that you were implacably opposed - - -?---That's correct.

- - - to the project. Did as a result of that your wife - I withdraw that. Did
20 you or your wife raise the possibility and discussion of perhaps seeking some type of legal remedy to prevent it happening?---Yes, we did. Beth rang Ivan the next morning and suggested to him that we should consider a class action against Lend Lease and all the various parties, Ivan - - -

Sorry, so she - if I just stop you there. So were you present when your wife made this call or was this something she discussed with you?---I recall overhearing that conversation, yes.

So your wife suggested the notion of a class action?---That's correct.

30 But what the, presumably would be brought on behalf of the community - - - ?---That's right.

- - - seeking to prevent it happening?---That's right.

And do you recall either through being present or through your wife relaying this what Councillor Petch indicated?---Yes. He said he hadn't thought of that but that he would take it on notice and get back to us and I can't recall whether we phoned him or he phoned us or how, how the matter was conveyed but the answer was not a bad idea and then we then went into
40 a huddle on how we would get lawyers to, to affect that and put that matter in train and a - - -

Could I just stop you there and I'll let you continue on with that information - - -?---Yeah.

- - - but can I ask in, in calling Councillor Petch, well, your wife was calling, but you were both obviously aware he was a Councillor on the Ryde Council, were you calling him to seek his assistance or participation in this

class action as a citizen of Ryde or as a member of the Council?---As a friend and citizen of Ryde, it was immaterial to me in that sense of him being a Councillor. Certainly he had obligations and duties as a Councillor and I recognised those from my experience as a Commonwealth officer, all of that, yes, I recognised but nonetheless I was calling him for advice and guidance as a friend.

10 And a resident of Ryde?---And as a resident of Ryde. I might also add I was born and raised in Ryde and I've been a very long-standing resident of that municipality.

All right. So I'm sorry, I did cut you off before so there was the discussion with Councillor Petch, he indicated he hadn't thought of the idea of a class action?---No and - - -

What else did he say about it?---Then we - and I can't remember the I said, you said, he said but there was general discussion on, on procurement of legal advice to see how on earth, how that could be put in train.

20 And did, did he suggest a particular solicitor?---Well, we canvassed a number of solicitors and I think it's important to understand that, that it wasn't just John Mahony of Mahony, Mahony Taren, there were a number canvassed, for instance Ian Lloyd I was looking for, I couldn't, couldn't track him at that time but so Ivan said that, that, that Mahony may be suitable because of his ties with the Liberal Party and with Alan Jones and a number of us trooped out to see Mahony shortly after that.

So do I take it from that discussion that Councillor Petch had come - - -

30 ASSISTANT COMMISSIONER: Sorry, Mr Cooper, the short answer then was that he did suggest Mr Mahony and it would have been a lot better for us and time efficient if you'd just said yes. We don't need to know the entire history?---Thank you, Commissioner, but what I was explaining with the utmost of respect that it wasn't just a nomination of one person.

Yes?---There was a considerable amount of - - -

That's irrelevant?---Thank you.

40 MR DOWNING: But it was Councillor Petch who identified Mahony Taren who might act in the proceedings?---Yes.

There was - were there then some steps taken to organise a meeting with John Mahony of Mahony Taren?---Yes, I don't recall those steps but the meeting occurred.

Do you know who it was that invited or who picked the persons that would attend?---I think there was obviously an in part collective decisions because

my wife and I attended, as to the others I'm, I can't at this stage recall. That's a long time ago.

Well, do you recall the meeting was on 15 June, 2012?---If that's your recollection.

Well, you attended?---Yes.

Your wife attended?---Yes.

10

Councillor Petch, did he attend?---Yes.

Do you recall others that were there at the time?---Phil Peake and Rex Honey I think were the other two.

And can you indicate to us who those persons are, Phil Peake?---Phil Peake is a community leader and - - -

20

From the Ryde area?---Absolutely and he in fact is the anchor for the Ryde Community Alliance, I hadn't met him beforehand but he's tied with Denise Pendleton and a range of other people and at this time, sorry, at that time was in fact the convenor of probably a 15 or 20-man executive covering groups all over the Ryde area in opposition - - -

If I could just stop you there. I think you've - did you indicate up until this point, that is the initial meeting with the lawyer you hadn't met him before? ---No.

30

So do I take it from that that you understood that Councillor Petch organised for him to be there?---I don't know that, it may have been Mahony who suggested it, I'm not sure, he was just - - -

Did you contact Mr Mahony to organise the meeting?---No.

Do you understand that it was Councillor Petch who contacted you - - -? ---Yes, he did.

- - - with the time and date and asked you to attend?---Yes.

40

All right?---And, and Rex Honey is some, I think some sort of financial bloke, he was putting together the cost involved in the redevelopment.

Is he also from the Ryde area?---Yes, I understand so.

All right. Well, I'll ask you again just in fairness to you if you have a look at - this will come up on the screen I hope in front of you, Exhibit 28 at page 1248?---Is this it the - oh.

Yes, the screen should - if you just give it a moment. Now, I'll take you to this document later but accept from me this is a bill of 26 June, 2012 from Mahony Taren?---Yeah.

And you'll see there's a reference there "15/6/12, conference with client 1.2 hours, solicitor JFM" which I'll ask you to accept is Mr Mahony. Does that accord roughly with your recollection that it was in about the middle of last year?---Yes.

10 Noting that the Council elections were in September?---That's correct.

Right. Now, you've told us who you recall attending?---Oh, sorry, John Mahony obviously was attending.

I'm sorry, I didn't mean to mislead you with that, Mr Cooper. Now, can you recall there the discussion then about whether someone should put up their hand to be the nominal head of the organisation?---I think, Counsel, you have to put that in context. There were various initiatives discussed, various forms and, and, and, and MOs discussed and the Mahony suggestion
20 was that if we were to launch a class action there needed to be a structured organisation in some form and that would need an anchor, if you like, and there were suggestions as to how that might be done and very reluctantly I put up my hand.

Right. Do you recall whether at that meeting Councillor Petch expressed a view about whether he should be seen to be part of this organisation that was to be formed?---No.

Do you not recall him suggesting that he should remain aloof from the
30 organisation?---Oh, I think he - that's - it was in that context that I was saying, no, Ivan had made it clear that he should, should remain aloof from the - sorry, it was in that context I was saying that.

I'm sorry, there's scope for misunderstanding in my question?---Yeah, sure, ambiguity there.

So do you recall him saying something to the effect of that he should remain distant from the community association?---Pretty much something to that effect.

40

Now, the purpose of going along to this meeting was to get some legal advice about a class action to try and prevent the Ryde Concerned Citizens' Association?---I think it was slightly broader than that, certainly the class action but to use legal means to delay or stop the, the - as you've heard, I had implacable opposition to this - to either delay or stop and certainly until 8 September.

Now, do you – I take it in the course of that meeting then you explained to Mr Mahony that's that what you wanted some advice with respect to?
---Yes.

Did Councillor Petch do much talking at the meeting?---You're asking, you're asking me to recall something a year ago. I have no recollection.

10 Well, I haven't asked you for the detail yet, I just want you to know – want to ask you whether you can recall him generally when you think about the meeting having a fair bit to say at it?---I think the only matter that I can recall Ivan having specific thoughts on was maybe some, maybe some publicity through Alan Jones. The other stuff I'm not sure about.

Well, what did he say about that?---Oh, he, he and Mahony both knew Jones and it could present an effective vehicle to ah, draw public attention and put pressure on the development.

20 But for who to speak on Mr Jones' show, was that for you on behalf of the association or Councillor Petch?---That was moot at that time.

What, that both of you could or- - -?---Yeah, and- - -

- - -that you could present together?---It, it, it might be ah, Ivan, me or, or, or more, including Councillors. I don't think – as I say, it was moot at that time.

30 Do you remember if Councillor Petch had much to say about what the association that might be formed would then do, bearing in mind that the intention was to launch some form of class action?---Not other than as I've outlined to you. It – we are talking here very much about a kneejerk reaction to a, to an overwhelming tsunami hitting us in all sorts of ways from the development and also from the community.

Well, the concern was, wasn't it, that as at June 2012 that Council might actually sign up to some deal to actually make the Ryde Civic Precinct redevelopment a reality?---Yes.

40 So what you were trying to do was take some step to prevent that occurring before the election?---That's correct.

Well, what I want to know is, did Councillor Petch at that meeting express some view about what action might be brought and how the community association, the Ryde Concerned Citizens' Association, might take action to prevent it happening?---Counsel, I again say to you that there was group discussion of a high order and it was quite animated and I don't recall anything specifically that Ivan said at that meeting.

Well, did Mr – for instance, did Councillor Petch say, I shouldn't get involved in this, I'll leave the room, or did he participate in the discussion?
---He sat mainly I think from memory.

You don't recall him having much to say?---I honestly cannot recall the ins and outs of that meeting, as I said I live a busy life Counsel, I don't recall everything that occurs in a meeting in a lawyers officer.

10 Well do you recall him being passive through the meeting or actually giving some direction or instruction to Mr Mahony about what might happen?
---The instructions I think primarily came from me.

Would you not agree with the proposition that Mr Petch for the purpose of that meeting provided a lot in terms of instructions to Mr Mahony?---No I would not agree with that.

20 Well can you tell me what role if any did Councillor Petch have in the activities of the Ryde Concerned Citizens Association from that first meeting through to the present time?---The only substantive matter that I can recall in relation to Ivan from that point that his appearance on the Alan Jones programme and I think that was twice from memory - - -

And was that him appearing, sorry?---But to finish the answer for you he was kept on advice guidance council basis – information basis from that point. His involvement was minimal.

Do you say what he simply had communications copied to him?---Pretty much.

30 For instance he wasn't making decisions about what communications would be sent by the lawyer on behalf of the Ryde Concerned Citizens Association?---Certainly that was my understanding at that time.

He wasn't drafting letters or settling letters that would be sent out?---I repeat, certainly that was my understanding at that time.

40 Do you recall there being any discussion at that first meeting about who would fund this community association including in respect of any legal costs?---That was the, the nub of the question and it was made clear by John Mahony that to launch a class action we would have to raise a minimum of 30,000 but probably closer to 50,000 and there were various suggestions as to how that might be done and again Mahony put the view that we should incorporate in some form or, or be registered in some form to enable this to occur.

Right. Well so he gave you an estimate about what the legal costs might be for a class action. Did he ask for some indication from those present about who would pay his legal fees?---No, he did not.

So do you say there was no discussion about that?---No, I'm saying there was very – considerable discussion about that, as in we asked him and he agreed that he would act pro bono.

Are you sure that's correct?---I am absolutely positive that was correct. We would not have proceeded, and when I signed that, later when I signed that cost agreement it was again with great reluctance and on the understanding with witnesses standing alongside me and him confirming that it was pro bono. There was perhaps a tattered understanding that if indeed we raised money he may, may well get reimbursed. But the understanding from the outset on the legal assistance to Ryde Concerned Citizens, dicative as it may be, was that Mahony Taren would provide pro bono services. As it occurs they did not.

You've been referring to it as Ryde Concerned Citizens, do you agree that at that meeting that, that Mr Mahony suggested that a form of association should be formed?---Yes.

20 And that he then corresponded with you including, for the purpose of cost agreements, et cetera on the basis that the client was the Ryde Concerned Citizens Association?---Yes. And he said to Council that the, the cost agreement was purely to enable the formation of the organisation to occur and to cover insurance.

And did he ask, did he indicate to you that he would want you to sign as the Acting President of the Ryde Concerned Citizens Association?---He did. As I said to you, (not transcribable) was very grateful (not transcribable).

30 Did Councillor Petch express any view at that first meeting about whether it would be appropriate that he not have any involvement in the affairs of the association from that point onwards?---Not that I can recall on a specific date, in specifically those terms but as I said to you earlier it was agreed, it was a sentiment that he, he remained aloof from the, the, the - - -

Now on 26 June 2012 - - -?---Yes.

- - - is it the case that you received some correspondence from Mr Mahony including a costs disclosure and a bill and I'd ask that you look at page 1231 of Exhibit 28 and again this should come up on the screen I hope. You'll see that's an email - - -?---Yeah.

- - - of 26 June to you from Mr Mahony?---Mmm.

- - - referring to a conversation that morning and attaching the costs agreement and then further down also a tax invoice for the work to date?
---Yes.

And it notes that you'll have it, you will attend to having it paid by the association as soon as possible. If you then - - -?---And I might add, Counsellor, that's a total contradiction of what he agreed at our meeting at the offices.

Did you send him an email that day telling him that?---I, I haven't got it here but I think I did.

10 All right. Well I'll take you to some further email correspondence in a moment but if I could ask you to look then at page 1232 and following and please tell us, it'll come up in a moment but there's a cost, a standard cost agreement from 1232 and we'll scroll through to 12.35. I just want you to confirm that you recall receiving - - -?---Yes, I do. Mmm, and I signed it at the bottom.

Well this version you'll see when we get to 1235 is the version you received so not yet signed. We'll get to 1235. You'll see there's the space for signature there. If we then skip ahead to 12.47 and you'll see that's a tax invoice again of the date 26 June?---Ah hmm.

20 In the sum of \$2777.43?---Yes.

And if you go to the next page 1248 this is a page that I took you to earlier which sets out a - - -?---Yeah.

- - - a narrative of events. So you recall receiving that bill on 26 June?---It's here so I assume I, I mean I have no recollection at this time but yes that, that's assumed.

30 And do you recall after receiving that what you did with it?---There was considerable anger on my part and I wrote back to Mahony saying basically what the hell do you think you're doing.

Is that a convenient time, Commissioner?

ASSISTANT COMMISSIONER: Yes. We will resume at 2.00pm.

40 **LUNCHEON ADJOURNMENT** **[1.02pm]**