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INDEPENDENT COMMISSION AGAINST CORRUPTION

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 22 JUNE, 2018

AT 2.00PM

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

MS MITCHELMORE: Mr Foster, can I take you to the final of the December reports that was provided by Mr Annand, which is in volume 14 at page 86.---Sorry, page 86, was it?

86, yes, Mr Foster. And just dealing with the key aspect of the final report. If I can take you to page 97, which is the urban design analysis. You will see that there is no significant change from the previous version of the December report to which I took you just before lunch. Do you see that?
10 ---Yes.

And just looking at building height on page 100, there's reference again to the similar content, as in the earlier version of the December report. Do you agree?---Yes.

And similarly with density, there is again the reference to 2.8:1 being possible if a reasonable and usable communal open space is provided as a roof garden, noting that it should be carefully designed. So again, the similar material to what was on the previous version of the report that I took you to, is that right?---Yes.
20

Can I take you, Mr Annand, back to your statement – I'm sorry, Mr Foster. It's Friday afternoon. Can I take you to paragraph 40 of your statement and you there set out a number of issues that you had with the report from a strategic planning perspective. Are the issues that you identify in that paragraph the ones that you would expect to be addressed in an urban design study?---Yes, and also in part, but other aspects of it relate to matters of strategic merit as such, in terms of how the proposal is a, is a policy fit for the area in question and whether from a policy perspective it is a worthwhile thing to allow.
30

So some of the matters you identify in paragraph 40 are the fact that the area or the site wasn't immediately within walking distance of a train station or a town centre?---Yes.

And you've indicated that introducing densities of development like this into an area that lacked those facilities creates less than ideal living conditions and pressure for further land-use change, is that right?---That's correct, yes.
40

And you also refer to the open space material in the report. Looking at point 5 halfway down your paragraph that, "The report noted that successful implementation of the proposed height and density would require additional communal open space but it was unclear that that could feasibly be delivered and provide sufficient amenity." So that is something that's resident specific, is that right, as opposed to - - -?---Yes. So there's, there's

a mix of things in there. Some are the, are the more strategic aspects, others are matters of site design and performance of the particular scheme. And it comes back to some of those points I mentioned earlier about floor space ratio and how, under certain building heights, floor space ratios simply don't fit. And I had formed an opinion, upon reviewing the report, that you could not physically, again, physically fit 2.8:1 worth of floor space into the, into the available site area of 25 metres, even, as, as the landowner's proponents were trying to achieve. So, so, and still end up with a building that would fit within the relevant development standards, whether it be under SEPP 65 or, or various aspects of the council controls as well. So, we're back to a sort of situation like the original proposal with too much FSR.

So, that wouldn't work within the existing planning controls?---No. Or even the planning controls that were, that were being proposed that a building of 25 metres, you would not be able to achieve floor plates that would give you an outcome of 2.8:1 worth of floor space and still meet your, your communal open space requirement, still meet all your setbacks, still meet all the other various amenity and density controls that are contained within the ADG. Regardless of whether you provided a rooftop garden, it was being touted as some kind of panacea for all, everything else that was wrong with the proposal.

THE COMMISSIONER: Sorry, can I just check. So 25 metres with the FSR that was being sought - - -?---Yes.

- - - your view was if you complied with, as you said, the community space requirements, the setbacks and other requirements, you just couldn't achieve it?---That's correct, yes.

30 And then your comment about the communal garden as the panacea, is that even if the communal garden was included, that still didn't allow - - -? ---Yes.

- - - sorry, compliance with all the various planning controls?---I didn't, my opinion was that it wouldn't be the case, so, and the way the recommendations in the report were structured to say, well, we're giving you this rooftop garden so everything's hunky-dory and that'll, that'll be a sufficient trade-off for, for the excessive bulk of the building scheme that was, that was being proposed, but I did not see that that had actually been established.

40 MS MITCHELMORE: And that level of detail that you've just identified and that exploration of whether or not there was sufficient communal open space, is that something you would have expected to see in this report? ---Yes. So, 'cause it goes back to the original terms of the engagement where we ask these things to be considered.

That's right. And this was ultimately a report that was going to be provided to the Department of Planning. Is that right?---That's correct, yes.

In support of justifying the departures from the controls - - -?---Yes.

- - - that were the subject of the, ultimately might be the subject of a Gateway Determination. Is that right?---Yes, that's correct.

10 So what you were looking for was a concrete opinion of Mr Annand addressing these types of issues.---Yes.

Is that right?---Correct, and in the context that the department had raised serious concerns about a proposal of 15 metres and 2.2:1 and now we have a proposal of 25 metres and 2.8:1, which is a significant intensification, and there wasn't enough meat in the recommendations to explain how we suddenly got to this point and it would have required a fresh resolution from council at the very least.

20 Yes.---But in terms of the sorts of tests that the department would apply to the planning proposal, there was nothing there proposed that was of special note that would change the overall policy situation.

Paragraph 38 of your statement you refer to Mr Annand's report and about halfway through the paragraph, "The statements regarding the appropriateness of the building heights are not supported by evidence presented in the report."---Yes.

30 "No reference is made to his previous views on the site and why such a radical departure from them was necessary or supported."---Mmm.

40 What aspects of the December report did you or were you considering to be a radical departure from the previous reports?---Well, when you go back to the original draft that we'd been provided back in March/April of the year, there was, there was a view that was, that was leaning towards something that was around the 15-metre height limit and suggesting taking maybe a little bit off, off the edges and putting it in the corner, and by this time we were considering a completely different scheme with a design by a different set of architects and that had little or no relation to the, to the original scheme under consideration, and in his first assessment of that original scheme he expressed reservations and yet here we had something that was promoting a much larger bulkier and significantly more dense scheme and some of those concerns appeared to have evaporated.

Yes. Noting the difference between the earlier reports to the later, the purpose of the report remained the same, did it not, namely an analysis of what was being proposed in a strategic planning context which could be provided to the Department of Planning. Is that correct?---It should have, but I think that intent had become lost as, as things were continually

amended and chopped and changed and it seemed to me this was in response to pressure in, in favour of the landowner and that, that the people who were exerting this pressure perhaps did not have an understanding of these issues and so the focus of the report was drifting away and more towards something that justified the particular building rather than how it sat within the, within the hierarchy of controls, because it was arguing in favours of variations to development standards to allow planning proposal, that's just not usual practice and I think we'd be given very short shrift it was tendered to the department.

10

You identified or referred to people in the context of your answer there, are you able to identify what people you are there thinking of?---I am thinking of the landowner and their, and their representatives and, and then via I believe Mr Stavis conveying their views to him about what should happen on, on their site and the report shifts in tone from being in its early draft something that's critical and suggesting changes to something that's being supportive of an even more intensive scheme than what was originally considered and what was within the bounds of the actual council resolution that we were seeking to implement.

20

You say in the last sentence of paragraph 38 that this does not follow the usual practice of urban design reports. What do you mean by "the usual practice of urban design reports", and in what way did the December report not follow the usual practice?---Well, I had reviewed several other urban design reports for my own information about how these matters were addressed on other sites that the council had requested them on to get an understanding about what was, what was usually to be required and the tones of these reports were usually much more removed and factual and they were generally not seeking to advocate a position in regard because it's, it's really part of a dry policy debate and as such so they would identify ways that a scheme could be amended to bring it into, into alignment with, with the policy position so as a planning proposal could be justified but in this case it seems to, to have switched to a point of advocating this newer more intensive scheme and, and a lot of the, the relativities to the existing policy position have kind of fallen away. So if I was, ultimately we were attempting to demonstrate that the, the planning proposal could meet the requirements of the relevant section 117(2) direction relating to residential development and there was little in the way of content here that would be of much service in prosecuting that argument, but if we were to make a submission back to the department to obtain the Gateway Determination I would have not expected that a further response would have come back from them seeking new information and that the case hadn't been made.

30

40

Paragraph 39 you say that you've known Mr Annand since 2002 and you'd always found his work to be a of professional standard and you agreed with his first report considering the controls for that area and future needs it was a good fit for the area.---Mmm.

Do I take it from the comment that you had always found his work to be of a professional standard and agreeing with his first report that you didn't consider his report of December 2015 to be of that standard?---It did not appear to be of the usual standard of work that I'd seen from him previous in other jobs in other times. So, and even some of the text in the report didn't read like it was written in his voice as such, that someone was perhaps supplying him with words to, to advocate a position, because the tone and, and the use of language shifted.

10 And that's something that your evidence is based on your own reading of the report as opposed to any - - -?---Yes.

- - - information that that was actually the case?---Yes. And having read other pieces of his, his work I sort of had a reasonable expectation of, of how he writes and, and this didn't necessarily appear to fit, which made me suspicious of where the source of the, of the material was coming from.

20 The way that you read the report, is that something that you raised with Mr Annand at this time or around this time?---I don't think I was having any direct interactions with him at this point, so it was all going through the higher echelons of the council, so, so I don't think I had the opportunity.

Did you consider ringing him independently and asking him the question? ---No, because I, I really wanted to keep some distance from what I could see unfolding in front of me.

30 What do you mean by that?---That I was becoming increasingly uncomfortable at the time with the direction things were taking and I didn't want to be seen to be overly facilitative towards this outcome.

I see. Can I take you to page – just give me a moment. Can I take you to page 72, Mr Foster, of volume 14.---Yes.

This is an email from Mr Stavis to Mr Demian and Mr Daniel but you are copied into that email. Do you see that?---Ah hmm.

Do you recall seeing this email at or around 8 January?---Yes, yes.

40 And there's a reference in the second paragraph to the fact that the reference to the council resolution which was rezoning of R4, height of 15 metres and an FSR increased to 2.2:1, and in the next paragraph, "Given that you are now proposing to rezone the land with a height of 25 metres and an FSR of 2.8 a new council resolution is required to allow us to amend the current planning proposal and advise the department accordingly." It's the case of course that there was no Gateway Determination at this point.---That's correct, yes.

But in order to put the revised proposal to the department you required a resolution of council.---That is correct, yes.

Because the council had not resolved upon the increase in either the height or the FSR of the proposal.---That's correct, yes.

10 And Mr Stavis goes on to say, "We'll be commencing our report to council (probably for the 17 March council meeting) however we require updated traffic and planning reports from you so that we can complete our report to council." And then there's a direction to you and to Warren at the end to "Please program accordingly."---Mmm.

Is it the case that you were then involved in the preparation of a report to council - - -?---Yes.

- - - in relation to this site and the increase in height and FSR that required a resolution of council?---Yes.

20 The reference in this email to 17 March council meeting, was that a realistic time frame to prepare the report and provide it to council?---What was the date? This, from 8 January?

Yes.---It would have been, would have been feasible to do that provided all the relevant information had been obtained in a, in a relatively expeditious manner.

30 So when you say that, you mean the additional or the updated traffic planning reports, et cetera, the provision of that material within a reasonable time frame, is that right?---Yes.

All right. Can I take you to page 153, Mr Foster, of volume 14. Actually, I might take you back, I'm sorry, to page 152. Is it the case that, just looking at, or the email at about point 5 on the page, that you provided the report to Mr Stavis on 29 February, 2016?---Yes. It appears to be the, the initial draft, yeah.

40 Yes. And he's asked, "Please print a hard copy for my review," in a responsive email to you. Can I take you to page 153, just ignoring the handwriting for the moment. Is this the initial draft of the report that you prepared for Mr Stavis' approval?---Yes.

Is it the case that you prepared the report? Where did it go from there? Did Mr Farleigh review it?---Yes. So, I, I, usual practice would be to, to take it to, to Mr Farleigh in the first instance, and then when we were satisfied with it in the Urban Planning Team that the report was as good as we could make it, then we would take it up the line, ordinarily to the manager of land use and environment planning, but that position, of course, was vacant at the time.

Yes. So, was Mr Farleigh, in effect, acting manager at this time or was he, was that vacant?---I don't recall what the exact arrangements were at the time but I don't think there was anyone in, acting in the position above him. So, whether he was formally delegated or not, I can't recall.

Yes. But between you and Mr Stavis at this time, there was only Mr Farleigh, is that right?---Essentially, yes.

10 Yes. All right. Can I ask you, just looking at the summary on page 153, you refer to, at bullet point 5, and this has got a line through it, but just reading the text, in March, 2015, "Peter Annand and Associates were engaged by council to prepare an urban design report of the draft report received in April-May." And then a reference in the next bullet point to a final report being received in June. And then in the next bullet point to receipt of a further urban plan design report from Annand Associates to evaluate the additional or alternative proposal that was put in September, 2015. Is that right?---Yes.

20 You were setting out the series of reports that you've received from Mr Annand.---That's correct.

And it's, I'm sorry, but the last of those is January 2015 in the last bullet point, that the new final urban design report was received but recommended an alternative design solution. Now, it was the case, Mr Foster, that the reports received by Mr Annand were an urban design report that council had commissioned from an independent consultant with the purpose of that consultant expressing an opinion about the merits of what was being proposed in relation to the site, is that right?---That's correct, yes.

30 And that was a request for a definitive opinion about the merits, is that right?---Yes. The one that we could then rely on and, and submit to the department in support of a Gateway Determination.

And that's what you understood Mr Annand was providing to you in each of these iterations, is that correct?---That's correct.

40 Now, if I can take you, or perhaps I can ask you that the red handwriting, if you look through the document you will see there's a series of red markings predominantly on page 153 but you will also see some on page 163 and page 166.---Yes.

Are you able to identify whose handwriting that is, Mr Foster?---Yes, that's Spiro's handwriting, Mr Stavis's.

There is some annotations that are in a different coloured ink. So if you look at, for example, page 156 there looks to be an amendment in black. 156. It might not have been picked up. I've got a circle with a line and a

question mark. Have you got that or am I - - -?---It's the same page. Sorry, I can't - - -

You might not have it. Maybe I'm - - -

THE COMMISSIONER: I've got it.

MS MITCHELMORE: There it is, yes. Just making sure. I wasn't responsible for the mark-up. And if I can take you also to page 165 you will see there's some mark-up in black. Do you see that, Mr Foster?---Yes.

Was anybody else marking up this report to your knowledge?---Not to my knowledge, no.

Can I take you to page 166. You have a heading there Details of Planning Proposal Options and you put forward based on the option that council prefers – sorry, perhaps I'll go back a paragraph. You indicated before that heading Details of Planning Proposal that there are two options that were being proposed, either adopting the amendments to the current proposal as recommended or adopting the alternative proposal and the full recommendations of the urban design report which had that additional height and FSR. Are you able to indicate to the Commission what your thinking was behind advancing these two options to council?---Yes. In relation to option 2, I'll address that first in that this was the position that Spiro was advocating to us and through the amendment, final amended version of Annand's report and I understood that if I was to put forward a report that did not at least contain reference to this, to this position it would be rejected out of hand.

Yes.---And so I was looking for a way to which to accommodate that and also because I was quite critical of the process that had taken us to this point and the fact that there was a problem with the original council resolution at 2.2:1 in that it could not actually be implemented with that height limit, I believe that it would have been appropriate to inform council formally of this issue which is what had set off this whole round of, of endless revisions and, and re-workings to give them the opportunity to perhaps make a different decision to what they had made originally at the meeting of 2 October, 2014.

So just looking at your first option, and I'm looking at the bullet points, perhaps under the heading Option 1 about point 5 on the page.---Yes.

So the option that you were there advancing was consistently with what council had adopted in October of 2014 rezoning the site from R3 to R4? ---Yes.

Increasing the maximum permissible building height to 15 metres. That was also consistent.---Yes.

But the difference was the FSR ratio.---Correct, yes.

So rather than 2.2:1 which is what the council had resolved - - -?---Yes.

- - - in October of 2014, you were taking the FSR back to 1.5:1. Is that right?---That's correct.

10 And that was back even further than the FSR of the council resolution of October of 2013. Is that right?---That's correct, yes.

That was 1.8:1.---Yes.

So you're taking it back almost to the recommendation of the councillors, sorry, recommendation of council officers before the October 2013 resolution. Is that right?---Yes.

And you can see from Mr Stavis's amendments that he deleted - - -?
---Yes.

20

- - - option 1 and left only option 2. Is that right?---That's correct, yes.

And can I take you to paragraph 47 of your statement. You state there that you disagree with the request to remove vital information as it only led the councillors to consider a limited version of that information.---Yes.

30 What aspects of or parts of your draft report that Mr Stavis removed did you consider to be vital information?---I, I think that related to the original findings of the first draft of the Annand report which indicated a, a, a position whereby if you were going to allow development to the height of 15 metres on the site then an FSR of 1.5 would give you a compliant outcome, and then the reference to, to that option in itself that, that I believed that council had made its first resolution in error in that it allowed a set of development standards that did not work together and that the councillors needed to be informed of that decision and give them the opportunity to, to consider it again, given that it had been rejected by the, by the department and, and asked for further justification and, and an amendment downwards is equally valid as seeking an amendment upwards.

40 Yes. I think, Mr Foster, you referred to the draft report of Mr Annand as recommending an FSR of 1.5:1. I think it might actually have been 1.8:1 in his original report.---Oh, it could, it could have been, but that 1.5 might have been my own deduction.

Yes. And you expressed the view that the removal of that information was misleading the councillors into making only one choice which favoured the proponent.---Mmm.

Why was it misleading the councillors?---Because again we were, we were, we were presented with an option that had an FSR that could not be accommodated within the, within the preferred height limit and there was no, nothing in the, there was nothing in, in the supporting report that would allow you to form an independent opinion that such height and FSR was warranted or justified in this, in this position. So there was a lack of, of I suppose independent analysis that, that got back up into that strategic planning helicopter and, and looked down and said it's okay if you want to build an eight-storey big bulky building is this the place that you should be doing it. So it was kind of being presented in my view as a, as a fait accompli that this should be just rubber-stamped and waved through and sent on its merry way.

You indicate in paragraph 48 of your statement that you spoke to Mr Farleigh about your report.---Yes.

And he agreed with you that your recommendation, he agreed with your recommendations and disagreed with the requests that were made. Is that right?---That's correct, yes.

But because they were, the amendments were instructions from your director, Mr Stavis, and of course to be put forward under his name, you made the amendments as instructed. Is that correct?---That's correct.

And of course, you had put your name or your position at least on the front of the report initially, on page 153, and Mr Stavis had crossed that out, of course, and put director (city planning). Can you see that?---Yes.

Did you speak to, when you got the amendments back from Mr Stavis, did you speak to him at all about your concerns?---When, when he made the amendments, he brought them around to me and, at my desk, and, and, and, and we had a, a discussion there. So, I reiterated my position as, as per the report that I thought this was the way to go and that, you know, the councillors needed to, to be given a choice in this matter and, and he overruled, he said, "No, this is," words to the effect that, that this is the way we're going and we want a positive outcome. So, and I interpreted positive outcome to mean a positive outcome in terms of what the landowner was seeking.

But you have a recollection of him saying, "We want a positive outcome," or words to that effect?---Yeah. That, that particular phrase does stick in my mind.

From that conversation?---From that conversation.

Did Mr Farleigh speak to Mr Stavis separately about the concerns that you both had?---I believe so, because immediately after Mr Stavis left my desk, I took, took the annotated report around to Mr Farleigh's desk and, and, and

reiterated to him what had just occurred and then after such, and I think he went and spoke directly with Mr Stavis himself.

Did Mr Farleigh tell you that he did that?---I believe he got up from his desk while I was still at his desk and walked around to his office.

All right. Now, at page 182 of volume 14, if I can take you to that, Mr Foster. This is the final version or the version of the report about this planning proposal that went to council.---182.

10

Did you prepare that version of the report?---Yes.

And did you prepare that version consistently with the amendments that Mr Stavis had marked up?---Essentially, yes.

When you say essentially, what didn't you adopt?---I may have made some minor corrections as the, as, as I went through and edited the report to keep them fairly consistent.

20

All right. Now, it's the case that you kept the annotated version that we see at page 153, is that right?---Yes.

And did you put it on the file?---No, I didn't.

Would you ordinarily put a document of that nature on the file?---Yes, I would.

30

Why didn't you put it on the file?---Because I had a suspicion that should I have done so, then it would subsequently disappear next time the file was out of my possession.

What was the basis for that suspicion?---Because during that conversation that I had with Mr Stavis about making the amendments to the, to the report, after he handed over the, the, the annotated draft, he said, "When you're finished with that, get rid of that, will you?"

So when he said, "Get rid of that," you understood that to mean the annotated version, is that right?---Yes.

40

All right. Just pardon me a moment, Mr Foster. Sorry, Commissioner. Mr Foster, can I just take you, we've still got the final report, page 182, the summary.---Yes.

Can I just take you to the second-last bullet point. You've described the amended scheme as having been assessed by our external urban design consultant who has recommended approval of this amended scheme from an urban design perspective. Can I just understand what you meant by

“recommended approval of this amended scheme”?---Just a moment. I’d like to just refer to the previous one.

Yes, I’m sorry. Page 182 of volume 14.---I’m not entirely sure that they’re my words actually.

If you take it from me that it’s, looking at page – actually I’ll just take you back to it, Mr Foster. Page 153 I think is your original draft.---Yes.

10 And you will see that the second-last bullet point on page 182 appears to have evolved from the last bullet point on page 153 that the final urban design report was received that recommended an alternative design solution.---Yes.

And specifically the FSR of 2.8:1. Did you consider that to reflect what Mr Annand had done in his report?---In the original version, yes. Sorry, I’ve lost the thread of the last - - -

20 So when you say the original version, you mean page 153?---153, yes.

But what about page 182?---Well, I have no recollection of ever writing that and as a council report goes up through the process after I submit it electronically to the approver it can be then subsequently edited so - - -

30 So you don’t have a recollection of saying or sorry, writing that the urban design consultant who has recommended approval of this amended scheme from an urban design perspective?---Yes. I don’t recall writing it. It may, may have been added to the report after it was submitted to approval because those further up the chain have further editing rights.

And who is further up the chain in that regard?---So Mr Stavis would have been the, the approving, the approver of the report. So after it reached a point where it was signed off between myself and Mr Farleigh within the team I would electronically submit it to Mr Stavis and then he had the ability to either approve it or he could edit it further and then send it on.

40 Do you agree with the characterisation of what the urban design consultant Annand & Associates was there doing, recommending approval?---It probably does reflect the recommendations of the final report. It seemed to be supportive of that position.

Thank you, Commissioner. I have no further questions.

THE COMMISSIONER: Can I just ask you, when you’d prepared the draft report and Mr Stavis came around to your desk with the annotations and you said you had a discussion with him where you reiterated your position and then you referred to Mr Stavis saying words to the effect no, this is the way we’re going. We want a positive outcome.---Yes.

Before he said that, when you were reiterating your position, was he saying anything to justify on the merits the annotations that he was suggesting?--- Not as far as I can recall, no. It was just, I've looked at it, these are my comments, this is what we're going to do.

Right. Mr Neil?

10 MR NEIL: No questions, thank you, Commissioner.

THE COMMISSIONER: Mr Andronos?

MR ANDRONOS: No questions, Commissioner.

THE COMMISSIONER: Mr O'Gorman-Hughes – who's not here.

MS BENNETT: No questions.

20 THE COMMISSIONER: Mr Wood?

MR WOODS: I have no questions, Commissioner.

THE COMMISSIONER: Mr Pararajasingham?

MR PARARAJASINGHAM: Just very briefly, Commissioner. Sir, can you hear me?---Yes.

I appear for Mr Stavis.---Ah hmm.

30 I just have a couple of questions for you. You recall you gave some evidence earlier about some written comments that you made in a draft version of the Annand urban design report?---Yes.

And you also gave some evidence about the permissible boundaries within which such comments can be made. Do you recall giving evidence to that effect?---Yes, yes.

40 I just want to ask you about a particular entry. Before I do that, I understand it's your position that the comments, the written comments in that draft report certainly fell within the permissible boundaries of acceptable comments. Correct?---Yes, and my comments were then reviewed by my team leader and my manager prior to issue.

So they were reviewed by, can you give me the names?---Mr Farleigh and Ms Dawson.

Okay. Can I just take you to page 45 of volume 12, if that could perhaps be put on the screen. Do you see, do you have that in front of you, sir?---On the screen I do now.

On the screen. Do you see that, that is part of Mr Annand's draft report?
---Yes.

10 And at the top it reads "Urban Design Analysis." Do you see that?---Yes.

And beneath that heading Mr Annand expresses an opinion that is essentially unfavourable to the proponent's planning proposal. Do you accept that?---Sorry, I just need to re-read it again.

THE COMMISSIONER: Sorry, what are we looking at in particular?

MR PARARAJASINGHAM: Sorry. If I can take you to - - -

20 THE WITNESS: So the first paragraph, is it?

MR PARARAJASINGHAM: If you just go to the first dot point.---Yeah.

Just the first sentence there really.---Yes.

Right. So the opinion expressed there is that the proposal as set out in the proponent's planning proposal report is generally not able to be supported. Do you see that?---Yes.

30 And it's the case that what follows in the remaining dot points are further reasons for that conclusion. Do you accept that?---Yes.

And these reasons are separate but related. Do you accept that?---Yes.

If you just go down to the fourth dot point and if you just look to the right.
---Yes.

40 Do you see that this handwritten comment appears, "Add in comment that proposed FSR 2.2:1 at height of 15 metres do not appear to be achievable given site constraints."---Yes.

Do you see that? Did you write that?---No, I did not.

Do you know who wrote that?---That appears to be Mr Farleigh's handwriting.

Okay. Certainly your position would be that that comment – I withdraw that. Your position would be that there is nothing inappropriate or improper in that comment appearing there?---No. There's – it basically follows on

and expands from the, the initial comment made further up the page by, by Mr Annand. Sorry, if we can just get that back up on the screen. So I think Mr Farleigh is suggesting how, how Mr Annand can fully flesh out his position.

And he's actually, he's recommending a form of words as well, isn't he?
---Yes. It's like I take the add a comment that, means that something like this. However you should choose to, to, to respond to it. And, and subsequent to this we would meet with Mr Annand and discuss them and these, these comments and whether he found them reasonable and whether he would, he would accept them or not.

Thank you, I have nothing further, Commissioner.

THE COMMISSIONER: And can I just confirm on that page, sorry, I wasn't quick enough. You made a comment that Mr Farleigh's handwritten notes followed on from something that Mr Annand said. Is that following on from the third dot point?---From, from the third dot point and also from the first as well. So, yeah, I think it was more of a prompt to suggest to him to, to flesh out your reasons as to why it's generally not able to be supported, then tie it back to, to specifics.

Oh, now I've, oh no, Mr Moses, I'm terribly sorry.

MR MOSES: No, not at all. So, just want to ask you a few questions if I could. Ms Mitchelmore asked you some questions in relation to this discussion concerning the version of the report that you had made some mark-ups on. Do you recall being asked some questions about that?---Yes.
30 And you said, I think, Mr Stavis told you to get rid of that version of the report?---Yes.

And you didn't. You kept it in a drawer, correct?---That's correct, yes.

Did you discuss this issue with Mr Farleigh?---I did as part of the discussion immediately after I had spoke with Mr Stavis.

And did you raise with Mr Farleigh your concerns about Mr Stavis' direction concerning the amendments to the report?---Yes, I did.

40 And did you tell Mr Fairleigh that you would be keeping a copy of the report?---That was a decision that we reached in, in, in discussion.

You both took that position?---We, we both took that position together because I was concerned about the nature of the, the instruction and whether that was within the, the bounds of my responsibilities under the Local Government Act and council's code of conduct and whether we should then seek to make a, make a disclosure about this particular matter of itself.

Did you consider that in terms of making a disclosure to either the Independent Commission Against Corruption or the general manager?---We did.

10 And what did you arrive at in terms of that discussion?---We were unsure as to whether we had sufficient grounds to, to proceed with that and we were concerned that if we, that if we raised it with the general manager that it might come, come back on us directly. So, so, we decided to, to keep the document and, and see what unfolded.

And from the evidence that you were giving earlier in relation to the questions asked with Ms Mitchelmore, your concern was that there wasn't a proper justification for ultimately the recommendation that was arrived at in the latest version of the Annand report?---That's correct, yes.

20 Just one final question. Did Mr Stavis inform you that he was keeping Councillor Hawatt and Councillor Azzi aware or updated as to where this particular matter was up to?---Not so far as I can recall, no.

And did he tell you at any stage that he was sending them emails in relation to this particular issue?---Not that I recall, no.

And did he tell you at any stage that he was receiving any pressure from either Councillor Hawatt or Councillor Azzi to deal with this matter?---Not directly.

30 When you say, "Not directly," was it indirectly or you just can't recall?---I was aware that there was pressure from above to deal with the matter expeditiously but I was not necessarily certain of what the ultimate source that that was coming from.

And you were shown a file note of a telephone call from a Mr Daniels that you took on 10 April, 2015. Mr Daniels was a consultant who worked with Mr Demian, correct?---Yes.

And you took that call by chance?---I think he in the end probably did dial me directly but I - - -

40 THE COMMISSIONER: That was the late Friday afternoon?---That was the late, the late Friday afternoon call so I've heard a couple of other phones go off around the office and then mine rang so - - -

MR MOSES: And I think you may have said that Mr Daniels, you consider that Mr Daniels had political influence in the office?---Yes, because it seemed that whenever a query came in from him or his company that I would see people moving with alacrity to answer the - - -

The query?--- - - - the query, yes.

Thank you. I have no further questions of the witness. Thank you, Commissioner. Thank you, Mr Foster.

THE COMMISSIONER: Ms Mitchelmore?

MS MITCHELMORE: I have no further questions, Commissioner, and perhaps if Mr Foster could be excused.

10

THE COMMISSIONER: Thank you, Mr Foster. You are excused.

THE WITNESS EXCUSED

[3.00pm]

MS MITCHELMORE: We are, Commissioner, moving to the evidence of Ms Kocak.

20 THE COMMISSIONER: Ms Kocak. An oath or an affirmation?

MS KOCAK: Affirmation, please.

MR MOSES: Yes, Commissioner, I have explained the effect of section 38 to the witness who would like a direction being given (not transcribable)

10 THE COMMISSIONER: I don't know how long you have been here today but before I give the direction I always emphasise the protection that the direction gives you has one very important exception, that is, if you give false or misleading evidence during this public inquiry you could be prosecuted for an offence against the ICAC Act. It's like a form of perjury. It's a very serious offence bringing with it a maximum penalty of a term of imprisonment.

20 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 this witness during the course of the witness's 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.

30 **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 THIS WITNESS DURING THE COURSE OF THE WITNESS'S 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.**

THE COMMISSIONER: Ms Mitchelmore?

MS MITCHELMORE: Yes. Thank you, Commissioner. Your name is Mine Kocak. Is that right?---Yes.

40 You are employed by Canterbury-Bankstown Council as a team leader of development assessment?---Yes.

You were previously employed or engaged on an independent contractor basis by Canterbury City Council. Is that right?---Yes.

Since approximately 2002?---Yes.

Ms Kocak, you have made a statement to investigators in this matter on 22 May, 2018?---Yes.

Just to qualify that. That was actually a statement made through your solicitors dated 22 May, 2018 as opposed to being made directly to investigators. Is that right?---That's correct.

Can I provide you with a copy of that statement. Ms Kocak, do you have that statement in front of you?---I do.

10

And feel free to refer to it if you need to. Can I take you back to 2015. At that time you were working part-time as a development assessment officer. Is that right?---That's correct.

And you had previously held more senior positions with the council including team leader (development assessment). Is that right?---Yes.

But on your return from maternity leave in 2012 you worked two to three days a week in a development assessment officer role. Is that correct?

20

---Correct.

To whom did you immediately report?---I reported to the team leader at the time.

And who was that in 2015?---In 2015. I don't remember exactly when Stephen Pratt left but there was a series of acting team leaders so there was Rita Nakhle and I believe she went on maternity leave and then Andrew Hargreaves was acting team leader.

30

And whoever that person was at the various times reported in turn to the manager. Is that Mr George Gouvatsos?--- Yes.

And he, in turn, reported to Mr Stavis as the director of city planning? ---Yes.

Can I take you to paragraph 11 of your statement. You say in the second sentence that Mr Stavis predominantly involved himself in the larger applications and at times reviewed amended plans himself before handing them to you, which was unusual for a director. Can I ask you to explain what you mean by, "Larger applications"?---Generally those applications that would be reported to IHAP and to council. So ones that were mixed-use developments of six storeys or higher.

40

You refer also to Mr Stavis, and looking at the last sentence, the main difference you observed between Mr Occhiuzzi – who held the position before Mr Stavis – and Mr Stavis was “an increased level of direct contact with applicants”. By “direct contact” do you mean email, phone, face to face or a combination of all of them?---A combination of all of those, really,

and I felt I just didn't have any contact with any applicants once the director had some interest in an application. I really played more of an administrative role.

So perhaps in Mr Occhiuzzi's time, was it the case that it was you as the responsible assessing officer who would have the direct contact with clients or their consultants?---That's correct, yes.

10 But that you noticed a change in that regard when Mr Stavis commenced, is that right?---That's correct, yes.

All right. Did Mr Stavis have direct contact with applicants for all types of development applications or was it only in relation to the larger ones that you've said he involved himself in?---The ones that I was looking after, it was mainly the larger applications.

And is it the case that he would attend meetings with clients and consultants as well as phone and email contact?---I believe so, yes.

20 Can I take you to paragraph 15 of your statement. You have given evidence about working on development applications for two particular sites on Canterbury Road, one at 538 Canterbury Road and one at 570 Canterbury Road. In relation to 538 Canterbury Road, is it the case that Mr Jimmy Maroun was associated with that site?---I believe he was marked as the applicant on the application form.

And was a company by the name of Jarek, J-a-r-e-k, Holdings Pty Ltd also associated with that site to your recollection?---I don't know.

30 And then in relation to 570 Canterbury Road, is it the case that Mr Demian was associated with that site?---I became aware of that later on. As far as I knew, I only knew owners or applicants by whoever was reflected in the application forms.

So, if it's the case that a consultant made the application – like Statewide, for example – that would be who you would associate with the site, is that right?---That's right. I would communicate with the applicant.

40 Now, paragraph 15, you indicate that Mr Stavis supervised you in respect of those applications and he was the primary contact for the applicant. So, is that consist with your earlier evidence that, upon him starting, he had the direct contact with applicants and you did not, is that right?---That's right.

And you say that you were generally not involved in the high level meetings. What did you mean by, "High level meetings"?---The information, when I did speak to my director about these applications, I got an understanding that there was some discussion or some relaying of

information to the applicant that I wasn't involved in. So, I could make out that there was some discussion but I don't know what that was.

But that was discussion between Mr Stavis as the director and the applicant, is that right?---I believe so.

So when you refer to high-level meetings, is that you're referring to contact between the director and the applicant, is that right?---It could be the, the owner or the representatives of the owners.

10

But in terms of council officer participation it was Mr Stavis. Is that right? ---For 538 I only know of Mr Stavis, I don't know any other communications that took place. For 570 Canterbury Road I know at one meeting, which there's some records of as well, Mr Stavis indicated to us that he was about to have a meeting with the general manager, some councillors and maybe the applicant and he needed to get some feedback about where the application was up to and what issues there was, so I knew there was some meeting that was going to take place afterwards in that situation.

20

And that similarly falls within your description of high-level meetings. Is that right?---That's right.

Did Mr Stavis say anything to you as to why you weren't being invited to meetings as between him and the applicant or the client or owner in relation to development applications for which you were responsible?---No.

I want to ask you some questions Ms Kocak, about 538 Canterbury Road. Could Ms Kocak be provided with volume 16 of Exhibit 52, and I wanted to take you to page – I'm sorry, Exhibit 69. And can I take you to page 35. And this is just to get an aerial fixing of the site. If we can zoom in a bit on figure 2. So the subject site is highlighted in yellow. Is that right, Ms Kocak, that's 538?---Yes.

30

And it's the case that there was on the site at that time a car wash.---Yes.

So if I can take you to page 37, there are two photographs showing the site, is that right, with the car wash on the premises. Is that correct?---Yes.

40

Now, as at June 2015 there was an existing development consent with respect to that site. Is that right?---Correct, yes.

And it was for a six-storey mixed-use development.---Yes.

Now, in June of 2015 there were two applications lodged, one was for the addition of two floors above the six storeys already approved. Is that right? ---Yes.

So what was a development application. Is that correct?---Correct.

And the second was a modification application of the existing development consent to make some design amendments to the building. Is that right?
---Correct, yeah.

So there was a modification application under section 96 and a development application. Is that right?---Yes.

10 At the same time were you aware that there was a process on foot to amend the Local Environment Plan with respect to this site and the site at 570 Canterbury Road so as to increase the height limit from 18 to 25 metres?
---I became aware of that when I took carriage of that application, yes.

I see. When you say you took carriage of that application, do you mean the applications in relation to 538 Canterbury Road?---That's correct, for the additional two floors and the section 96.

20 I see. Did you have any involvement in the planning proposal to amend the LEP?---No.

But when you took over carriage of these two applications you became aware that that was on foot in some way?---That's correct, yes.

Now, in relation to the development, the two development applications, you took over the assessment from Mr Sean Flahive. I'm not sure if I'm pronouncing his name correctly.---I don't know either.

30 All right. Let's go with my pronunciation, then. Was that in or about October of 2015?---I believe so, yes.

And it's the case that you sent a letter around that time following up with the proponent about his response to matters that Mr Flahive had raised back in August of 2015, is that right?---That's right.

So if I can take you to volume 17 at page 145. That's the letter, Ms Kocak, that you provided to Direct Holdings?---That's correct, yes.

40 And that was, in effect, a hurry-up letter, as it was?---It's a template that we have, yeah.

Yes. In effect saying, "If you don't give us what we've requested then that will have consequences for your application." Is that right?
---That's right. That we will finalise the assessment.

Yes. And shortly after you sent that letter, you received amended plans from Urban Link on behalf of Direct Holdings. Do you recall that?---Yes.

So if I can take you to page 148 of that same volume. You were provided with some plans.---Yes.

But otherwise no written response, is that right?---I believe so, yes.

Yes. And it's the case that on 29 October, 2015 you attended a meeting with – it's another name I'm not going to be able to pronounce – Mr Jreige, J-r-e-i-g-e.---Yes.

- 10 Who was an architect from Urban Link. And Mr Stavis, is that right?
---That's right.

And can I take you to page 169 of volume 17. Is that a file note that you prepared of that meeting?---Yes, it is.

And you refer in the second asterisked point that Mr Stavis advised they need to provide a written submission addressing the issues that were raised in council's letter, is that right?---That's correct.

- 20 So what they had provided by way of amended plans wasn't sufficient to address the issues that the council officers had raised, is that correct?
---That's correct.

Now, that response, the written submission, was provided in January of 2016, is that right?---I can't recall exactly. I think there was some amended plans provided in January.

- 30 Yes. If I could take you to page 175. Now, this is an email from Mr Stavis to you in relation to – it says 536-546 Canterbury Road. It's not quite the right address, but the section 96 and DA. And there's a reference to Mr Stavis having spoken to Mr Maroun and having indicated to him that Mr Stavis couldn't commit to a time frame for determination until he knew whether the changes were supportable. And you were asked to review the amended DA and section 96 package as a priority as soon as you returned from leave and see if the changes are supportable, is that right?---That's correct.

- 40 And this being Christmas/New Year, you were on leave for a period, is that right?---That's correct.

And it's the case that when you returned, well, by the time you returned Mr Stavis had already conducted an initial review of the plans, is that right?
---That's correct. That's my recollection.

Yes. Can I take you to page 186 and this is a memo to you, addressed to you on 6 January. Do you recognise that handwriting at the top of the page?---Yes, I do.

Whose handwriting is that?---It's Mr Stavis's writing.

And is it the case that with this memo he provided you a copy of the plans?
---Yes.

10 And he's indicated that he was asked to give his initial thoughts on the DA and section 96 and had marked up in red the changes he thought needed to be made and then asked, said that your thoughts would be appreciated. Did you know at that time by whom Mr Stavis was asked to give his initial thoughts?---No.

Have you come to know subsequently who asked Mr Stavis to carry out an initial review?---No.

Are the amended plans that Mr Stavis provided to you those that start on page 177?---Yes.

20 Now, are you able, Ms Kocak, to explain the changes that Mr Stavis proposed to the development?---There was, the recommendations included the deletion of some units which I think from my observations of the mark ups, and I think I note in my response to his handwritten note, that there's an increase in the communal open space, some of the setback areas so their positive in nature.

Are you able just to identify where on these plans we can see the deletion of apartments?---This is a black and white version but here we've got on the ground floor plan it says, "delete and replace with landscaping".

30 THE COMMISSIONER: Could you just hold on for a second.

MS MITCHELMORE: Yes, absolutely, Commissioner, yes. I'm just looking to see if I've marked mine at all and I could perhaps provide that to - I might just arrange for a colour copy of those pages to be provided.

THE COMMISSIONER: So these are pages?

MS MITCHELMORE: Pages 177 to 185, Commissioner, yes.

40 THE COMMISSIONER: Excellent. Thanks.

MS MITCHELMORE: Does that make it a bit easier, Ms Kocak - - -?---
Yes. Thank you.

- - - to see what the amendments were?---Yes.

Can I just take you back to page 177 and just ask what the amendments or what the nature of amendments is that has been made to the table on the right-hand side of that page? If you're able to see it.---The table. There's a

notation of a number 5 associated with cross ventilation and then single orientation. I think there's a change to the number of single orientation units as well.

Can you explain what a single orientation unit is?---Units that only orientate to one, one direction, so to the south or the north, et cetera, and that, so they're not a corner unit.

10 All right. And then if you just look, Ms Kocak, through the other pages it just involves a deletion. Is that right?---That's right. So there's a deletion on the ground floor to, and increased separation between buildings at that point.

THE COMMISSIONER: So we're looking at 178?---Yes, page 178. And there's, so these are commercial units being reduced in size and some communal open space and landscape areas being added to the building.

20 MS MITCHELMORE: Yes. Just before you leave that page, if you look at the right-hand side of the plan, there appears to be text, "Adding second lift." Do you see that?---Yes.

So was Mr Stavis proposing that a second lift go in?---It looks like the, yes, oh, actually it looks like the lift is already there or maybe, sorry, "Adding second lift." I think he's, he's noted that a second lift has already been added and put the tick in.

30 Okay. Thank you. And then looking at the subsequent page 179, is that just a consistent - - -?---Yes. So going up the page, that, that block appears to have units deleted coming up, so as to increase that building separation on the Canterbury Road elevation. And again there's some deletion of parts of units that were already approved or proposed at that three-metre setback, so an increase in setbacks along Canterbury Road as well.

And looking over at the following page, that change looks to have been consistently applied.---That's right.

40 Is that right through that level?---That's correct, yes, until there's no other building element left on that western wing and it continues up to delete and provide an additional setback along Canterbury Road.

And then looking at the different plans starting at page 184 there doesn't appear to be any amendments made to page 184 or 185. Is that right? ---That's correct.

Okay. In your experience is it the usual course for a director of city planning to engage at this level of detail in relation to amended plans in advance of a review by the responsible assessing officer?---No.

In your experience is it the usual course for the director of city planning to engage in this level of detail with amended plans at all?---No.

Did council assessing officers, so someone in your position, did they usually suggest changes of that nature?---No.

Did you consider it to be part of the role of assessing officers to make such changes?---No.

10 What about someone in the position of director (city planning), did you consider it to be part of their role?---No.

Was this the first time in your working with Mr Stavis that he provided you with marked-up plans?---It was probably the first time I'd seen it but it wasn't the last I'd seen it again.

In your experience working with directors of city planning was it usual for a director to mark-up plans in this way?---No.

20 Can I take you back to your, or sorry, to the memo that Mr Stavis sent to you on 6 January, page 186. So at the bottom, is that your handwriting at the bottom?---Yes, it is.

So this is 25 January, 2016. And you're indicating that the changes marked in red noted and agreed, that such changes will assist in clause 4.6 argument for additional floors. Is that right?---Yes.

30 The original DA changes including increased front setbacks and communal open space and increased landscaping, is that right?---That's correct.

So is it the case that you agreed with the changes that Mr Stavis was suggesting to the plans, is that right?---I indicated that they will assist in pretty much reducing the approved bulk on the site and work towards a 4.6 argument that it looks like they're trying to put together for increased heights along the corner which was, which was this DA.

So the DA to increase the height by two storeys, is that right?---That's right.

40 So, the changes that Mr Stavis made were relating to that development application, is that right?---That's right.

As opposed to the modification application, which was amending some design elements of the building, is that right?---The modification application would reduce what, or would redesign what's already been approved, so that that's improved therefore provided leverage for the 4.6.

So, they were working in tandem?---That's right.

All right. Can I take you to page 189 of volume 17. This is an email of 5 February from Mr Stavis to Mr Gouvatsos, so your manager, which is copied to Mr Hargreaves and to yourself, which says, the title is, "536 Canterbury Road." It's likely that he meant 538, is that right?---That's right.

10 And this is an instruction to him, for Mr Gouvatsos to give this one back to Mine to prepare the report. "Mine and I have spoken about the changes previously and we both agree that the proposal is supportable, given the improvements made in relation to the existing approval as well." Is that a statement with which you, does that fairly reflect your position about the proposal?---Fairly, yes.

20 Yes. And there's then in bold, "Must go to March meeting." So, at this stage it's 5 February. Did you consider that to be a feasible timeframe in which to prepare and submit a report?---No, and I, and I guess originally this one was marked, earmarked to be outsourced to an external consultant as well, but given the limited time we had to get three quotes and engage an external consultant, get all the information to them and for them to write the report, it was just not feasible. So, that was another element of me agreeing to assisting the, in the preparation of the report internally rather than externally sourcing an assessment officer or an external consultant.

Yes. So it's the case that, had you gone through that process, a March meeting deadline was not feasible, is that right?---Probably. That's correct.

Did Mr Stavis indicate or explain why their report had to go to the March meeting of council?---No.

30 Did he, to your knowledge, explain that to Mr Gouvatsos?---Not that I know of.

You didn't hear from Mr Gouvatsos as to why you'd have to go to the March meeting?---No. No. And it, it wasn't a new thing, it was a series of, there was always a timeline or a, a meeting date that things were targeted to, so, and this one was, was very imminent in terms of the internal deadlines we have to make the agenda. They're about three to four weeks in advance of the meeting date itself, so - - -

40 So, the council has its own, sorry, officers have their own internal processes in order to get a matter on the agenda for a council meeting, is that right? ---That's correct.

And they are procedures that need to be complied with, is that right? ---That's correct.

And they're not very flexible, is that correct?---That's right, yes.

Yes. There's then a reference, while I'm on this document, to 570-580 Canterbury Road, "DA can to April CDC meeting and I'd like an external planning consultant to do." So, is it the case that because that was going to the April meeting, there was a bit more time, so that an external consultant could be engaged?---Perhaps. Yeah.

Can I take you to page 190, the next page. You will see at point 5 Mr Gouvatsos has replied to Mr Stavis at about 12.59pm on 5 February, do you see that, and it says, "I hope we have all the referrals for this to happen.
10 Mine can advise you." Do you see that?---Yes.

In relation to all of the referrals for this to happen are you able to indicate what you understood that to mean?---All of the, when, when an application is received all of the stakeholders will receive a copy of the application and their feedback. We seek their feedback conditions or issues they might have. So in particular any external referrals we don't really have that much control over in terms of how quickly we can get them to come back so these are the referrals that George would be referring to.

20 So by external referrals it might be agencies like RMS for example?
---That's correct.

Or Transport for NSW or it could be state agencies. Is that right?---It could be state agencies, yes.

Or it could be persons with an interest in the development otherwise, so nearby residents for example, would they be characterised as stakeholders?
---That is normally dealt with during a notification period so that will open and close but the referrals are a different process.

30 So referrals are referring more to stakeholders in the nature of state agencies and that kind of agency?---That's right. So those are generally the external stakeholders but internally we have our own traffic engineers, landscape architects, stormwater engineers, that type of thing and we have to make sure that they're satisfied with the proposal.

THE COMMISSIONER: With the external agencies could you impose time limitations within which they had to respond?---We tried but if they don't respond we don't necessarily finalise the application. We still have to wait
40 for them.

You've really got to wait for them to respond?---Yes.

MS MITCHELMORE: And is the reason that you need to refer because they're concurrence authorities under the Act?---That's correct.

Just looking at Mr Stavis's response at the top of that same page. He says, "If not we will have to do what we did last time, delegate to GM to issue approval once received." What did you understand his response to mean? ---I guess at the time I probably didn't pay too much attention to it but I did note that at the neighbouring site at 548 a similar concurrence issue had arisen and, and I think a decision was, or the decision was delegated to the general manager so I'm assuming that that's what they would have been recommending in this instance as well had we not received the RMS concurrence.

10

So in relation to the last time you understood that to be a reference to the site that was adjoining 538. Is that right?---That's correct, yeah.

Did council commonly adopt that approach to your knowledge?---The site next door was the only time I saw it happen only because I was handling that file at that time.

Yes, that's 548 Canterbury Road, just to be clear?---Yes.

20 Ultimately however in relation to this development the application was approved having received all necessary approvals. Is that right?---Yes.

So all concurrences had been received in advance?---That's right.

Now, is it the case that the two applications, the development application for the extra floors or storeys and the modification application went to the Independent Hearing and Assessment Panel, the IHAP before being submitted to the City Development Committee of council?---Yes.

30 The DA seeking the two additional storeys had to go to IHAP. Is that right?---I believe so at that time, yes.

Because it sought a departure of more than 10 per cent from council's height controls. Is that right?---Yes, that would be correct.

So it was seeking a height of 26 metres in respect of those two extra storeys which was eight metres beyond or above the 18 metre height limit. Is that right?---That's right.

40 And so that's a kind of circumstance in which a matter has to go to IHAP, an application?---At that time, yes.

At this time, yes. Is it the case that the modification application standing alone wouldn't ordinarily be required to be submitted to IHAP?---I don't remember the exact IHAP criteria at this point in time because that changes over time as well and it's a different sort of set criteria now, but it could be that a section 96(1)(a) may not need to go to an IHAP, but I can't say for certain.

Okay. There was a meeting of IHAP on 26 February, 2016, so obviously that had to be in advance of it going to council, so that was another matter that had to be programmed into the time frame. Is that right?---That's correct, yes.

And it's the case that a report was prepared and submitted to IHAP in relation to the site?---Yes.

- 10 Ordinarily a report is submitted to IHAP in relation to the site, they then make a recommendation and that's all fed through into the council officers' report to the council?---To the council, yes.

And in relation to these DAs, the report was prepared by officers, it wasn't one that went to an external consultant. That's right?---That's correct, yes.

And is it the case that you prepared the report for IHAP?---I assisted in the preparation of the director's report, yes.

- 20 Who else was involved in the preparation of that report?---I would have drafted the report, we had some consultation with the Strategic Planning Team who were looking after the planning proposal on that site and they had an input into that section of the report and then it went through, I think to the manager and then to the director, so it was, it was essentially a group.

- 30 In relation to the director, what if any specific proportion of the report would you say he was responsible for drafting?---The reports were written for the director, so in terms of if we were writing these reports because they were under the name of the director they had to be in line with the director's views for the proposal, so in this case because the site that wraps around this particular site, which is 548 Canterbury Road, had already received approval for eight storeys and this was a six-storey building sitting in the foreground now of an eight-storey built form, that's essentially what was discussed as to what the, what the report needed to be based around, so that's the way it was drafted.

- 40 Can I take you to page 198 of volume 17. Is this the planning, sorry, the council officers' report to IHAP in relation to the – sorry, I think I said 26 February before, the 29 February meeting. Is that right?---Yes, this would be the summary, yeah.

Okay. This is the summary of the report. You'll see the last bullet point on page 198 in relation to the modification application, and over the page the last bullet point under item 2, which is the construction of the additional two residential floors was that the director (city planning) has recommended the application be approved subject to conditions. Do you see that?---Yes.

Was that a recommendation that you agreed with?---Not necessarily, because I didn't actually agree with the approval of the neighbouring site either, or the process involved in, in the approvals in that they relied on 4.6 when we, well I believe we should have waited for the Gateway Determinations to be finalised as to planning proposals and that's a much better-informed way of making a planning decision about what the heights on a particular site should be, rather than doing it under 4.6 on a site-by-site basis.

- 10 Yes, I understand. I might just unpack that a little bit. So, at this time, there's a planning proposal in relation to the height for 538 and 570, so the two properties either side of 548, is that right?---That's right.

And the planning proposal process is one by which a proposal is submitted to the department. Subject to the conditions being satisfied, it goes on public exhibition, people can comment on that, and then it comes back either to the council for approval under delegation of the Minister or it may have to go back to the Minister for approval, is that right?---I believe so, yes.

20

So that, that was a process that was under way, to your knowledge, in relation to 538 and 570 Canterbury Road?---That's correct. Yes.

And but they had not reached any kind of final position, is that right? ---That's right. It hadn't been concluded.

- 30 It hadn't been concluded. And in the meantime these two applications were submitted and the effect of the development application was to take the height beyond the 18-metre limit up to 25 metres. So, that's beyond the existing control, is that right?---That's right.

The planning proposal, the effect if that was approved would have been to take up that height, up to 25 metres?---Yes.

As a result of that particular process, is that correct?---That's correct, yes.

But what was being sought here was to do that without the planning proposal having been concluded, is that correct?---That's correct, yes.

- 40 And the mechanism by which that was sought to be done was relying on clause 4.6 of the LEP, is that right?---Yes.

And your evidence is, you didn't agree with that process, is that right? ---That's correct, yes.

In relation to the planning merits of the development application, seeking the two extra storeys, what was your view of the planning merits of that proposal?---In terms of this specific planning, there was definite

improvements to the base six storeys, which was being approved, and because this site was surrounded by now the eight storey built form, with 548 Canterbury being approved, there appears to be some planning merit on this particular site at that stage.

So, at this time, which is 29 February, 2016, your understanding was that 548 had been approved up to eight storeys, is that right?---Yes. I believe it was in December 2015.

10 All right. Now, just looking at page 199, so going back to the report to IHAP, at 199 you will see a reference at bullet point 3 to a condition of consent to reduce the apparent bulk of the building, which was, “In line with recent discussions between the applicant and our officers and director (city planning).” Now, your evidence is, as I understand it, that you weren’t in meetings with the applicant, is that right?---That’s correct. I would have had a line of communication probably with the architects.

20 Were you involved in, so you had discussions, did you, with the architects for 538, is that right?---That’s right. So, I would have contacted them to clarify balcony sizes or you know, finer details like that.

All right. Can I take you to page 272 of this same volume. This forms part of the report to the City Development Committee, but it extracts the IHAP assessment and recommendation, if you can see that on point 5 at page 272. And you will see that the panel, the second paragraph under the heading Panel Assessment, the panel was of the opinion that the application should be refused, and the issue of concern was the clause 4.6 variation that was submitted by the applicant, is that right?---That’s correct.

30 And the panel was concerned, indicating that they considered it may have some architectural merit in terms of the presence of the building in the streetscape. It was concerned about whether the clause 4.6 variation met the requirements of 4.6(3) (a) and (b). Is that right?---That’s right, yes.

40 And are you able to summarise what your understanding was of what the panel meant there insofar as what was it in clause 4.6(3) (a) and (b) about which the panel had a concern? Are you able to comment on that?---Just don’t want to get the (a) and (b) wrong. I think they were concerned about the height limit not being unnecessary and also a better planning outcome. I think they may be the two issues that they had, they had raised, yeah.

All right. So their concern was with those. Were they concerns that you shared?---Yes. I would, I would agree with their position that perhaps 4.6 is not the process that would, that would inform this height breach sufficiently to accede to the level that it was proposing.

Yes. So from 18 to 25.---That’s right.

Yes. At page 273, so just over the page, you'll see the recommendation was that it be refused on the grounds, first, that the 4.6 variation submission hadn't adequately addressed and demonstrated that compliance with the 18-metre height was unreasonable or unnecessary in the circumstances, and that there were sufficient environmental planning grounds to justify the contravention of the 18-metre height limit. And, secondly, that additional housing and lack of specific environmental harm did not address those specific requirements of clause 4.6, is that right?---Yes.

10 And did you agree with the recommendation of the IHAP in that regard?
---Yes, I did.

Do you recall having any discussions with Mr Stavis about the IHAP recommendation?---No, I don't.

Now, in relation to the modification application, if I can just take you to page 290. Right at the bottom of the page, Ms Kocak, you will see in relation to the modification that it was also considered on the 29th of February, and that the assessment was that it agreed, the panel agreed with
20 the recommendation of the council officers, noting that the reconfiguration is an improvement to the already approved development. So in respect of the modification application, IHAP recommended that that be approved, is that right?---That's correct, yes.

But that the development application for the two additional storeys be refused.---That's correct, yes.

Now, council approved both the modification application and the development application for the two additional storeys on 10 March, 2016.
30 Can I take you to page 244 of volume 17. So in the same volume to page 244. And it's the case that matters being submitted to the City Development Committee also need to be the subject of an officers' report, is that right?
---Yes.

This is the report for the two additional storeys. You can see item 13 at the top of the page. Do you see that?---Yes.

Did you prepare this report?---Yes, I assisted in the preparation of this report.

40 Yes. And as with the IHAP report, is it the same kind of process whereby it's prepared by an officer, an assessment officer, but it goes through the various persons who are senior to you, up to director level, and then submitted to the council?---That's correct. We actually don't see the report again, so when it gets to IHAP then there's an IHAP officer that will include all of IHAP's recommendations in this report. So it's essentially the same report with the IHAP, IHAP matters or their recommendations added to it, and it will go back onto the, to the CDC agenda.

So looking at page 244 for example, there's a bullet point in the summary. The last bullet point has been added, "The IHAP has recommended the application be refused." Is that something that an IHAP officer will have included. Is that right?---Yes.

So once you've taken it to the IHAP you don't see it again. Is that right?
---That's correct in most cases unless we get some supplementary information. If it's deferred for supplementary information then we will get that information. If we need to assess it we will and, but we will keep it separate to the report we've prepared and on the end we'll just add supplementary information so - - -

So you keep those two things separate. Can I ask, Ms Kocak, did you attend the IHAP meeting of 29 February?---I don't think so, no.

Would you ordinarily attend IHAP meetings as the assessing officer of an application?---Not at that time we didn't. The team leaders or the manager normally attended and assisted with all of the items.

You say at that you didn't. Has that changed in some respect?---Yes. Currently at Canterbury-Bankstown officers do attend. I think it really depends on how much information they feel they need to really on to the panel or a team leader, someone will attend that knows about that application.

And what about the City Development Committee meetings, would you as the assessing officer attend those meetings?---No.

And is that still the case now?---Yes.

Can I take you to page 256 which is the, you will see there's a heading Building Heights.---Yes.

At about point 6 on the page. So this was seeking a variation because the height of course was above the limit of 18 metres for the site.---That's correct.

And there was then the content of the report dealing with clause 4.6. So as I understand from what your evidence is that that material is the same as what was in the IHAP report. Is that right?---That's right.

There's been no change to that?---Yes, there's been no change.

Can I take you to page 273 which is the council resolution at the bottom of page, I think we've already been to this page for the IHAP recommendation but the approval resolution is at the second half of the page on 10 March and it's resolved, proposed by Councillor Hawatt and seconded by Councillor

Kebbe that the clause 4.6 submission be supported and that the development application be approved subject to a series of conditions. So it's the case that by reason of that resolution the approval proceeded of that development which was well above the 18 metre height limit. Is that right?---That's correct, yes.

10 Just to finish off this development can I take you to page 279 which is the report in relation to the modification and again at page 291 is that, that's the resolution on the second half of the page of 291 approving the modification of the, what was the pre-existing development consent. Is that right?---Yes.

I want to take now from 538 Canterbury Road to the adjoining properties 548-568 and 570-580. The first thing that might be useful is to place them visually. 548 Canterbury Road was also known as Harrison's, is that right, commonly known as Harrison's to your knowledge?---Yes.

20 Can I take you to volume 18, which is part of Exhibit 69, and the other folders can be returned. So, 18. All right, so can I take you to page 10 of volume 18. Now, this is identifying in red, along Canterbury Road, 548-568, is that right?---That's correct, yes.

And just referring to your earlier evidence that the 548 site wrapped around 538. Is it the case that one can see 538 to the right of the red outline? It has two sides marked in red, being the boundary, but is otherwise unmarked. So, heading along Canterbury Road towards the right hand side of the plan, is that right?---That's correct. It's where the cursor is at the moment.

30 Oh, okay, excellent. And then, if I can just then deal with 570-80, again, the cursor is pointing, is now hovering over where 570-80 Canterbury Road is located, is that right?---Generally, yes, that's the other corner.

Yes. So, they're the adjoining properties but 548 is the site that's outlined in red. And can I just take you back on page 11, just there's a photograph of the view of the site looking west. Is it the case that looking west that the first development we can see is the car wash site on 538 Canterbury Road, is that right?---Yes, that's right.

40 And then 548 is the site of the Harrison's hardware store, is that correct? ---That's correct, yes.

And then just looking over the page, again just a different view. So, Harrison's hardware store, so that extends over to 548-568, is that right? ---That's right.

And then there is an existing customer car park, so that's included on the site of 548, is that right?---I believe so, yes.

Yes. And then over the page at page 13 you can see there is the start of a carpet store to the far right if that photograph. That's 570, is that right?
---That's the beginning of 570.

The beginning of 570. And 570, of course, comprised the carpet store and also some residential properties, is that right?---Yes.

10 Yes. 570-580, I should say, that site.---I think the residential property was in the side street. There was one, there was one that was rezoned into a business zone, though.

And then just finally, 14 gives you an aerial photograph where you can see the site is marked in red, with the car wash to the right and the carpet sales to the left. And the red circle around – the left-hand side of that oval is crossing over a part of 570-80, is that right?---The oval, yes.

Yes. So, the red boundary around, it's marked on the photograph.---That's right. It's going into 570.

20 Now, this document that I've been taking you to, if I can take you back to page 1 of volume 18, was the statement of environment effects, SEE, for the original DA, which was lodged in 2013 and approved in November, 2014, for a six-storey mixed-use development. Is that right?---I believe so, yes.

There was then a modification application, if I can take you to page 292 in this volume, which was making modifications to the basement layer. Is that right? It was lodged in November of 2014.

---I believe it increased the basement car parking, yes.

30 Yes.---To accommodate the additional parking demand of the additional two-storey DA that was also lodged.

Yes. And that further DA for the additional two storeys was lodged in or around December 2014.---I don't know the exact dates but I believe that would be right.

Is that the application that you're referring to in paragraph 32 of your statement? Just taking you back to your statement.---Yes, it is, yes.

40 Yes. Is that right. Okay. Now, can I take you to volume 19 within Exhibit 69. Volume 18 can be returned. Just looking at page 1 of that volume, is it the case that you were involved in the assessment of the modification application, looking at this document?---It was originally allocated to me but I was advised that there was a planning proposal pending on the site and that we weren't to progress the DA, so it was allocated to me, I would have sent out the letters and then just put it on hold and, and when I went on leave later when I got back I was advised that the application had been sent

out to a planning consultant for assessment. So I actually didn't end up doing any of the assessment to do with the section 96 or the two floors.

Oh, I see. Okay. All right. Just pardon me a moment. Can I take you just in relation to the evidence you've just given, can I take you to page 76 of this same volume. This is a memorandum to you from Mr Farleigh. Mr Farleigh was a member of the Urban Planning Team. Is that right?---That's correct, yes.

10 He was the team leader of that team?---Yes.

And that's the team that deals with planning proposals. Is that right?
---That's right.

And Mr Farleigh's is dated 9 February, 2015, indicates that this proposal to add additional floors to the already approved development obviously significantly exceeds the LEP height limit, and Mr Farleigh there says that clause 4.6 should not be used to consider variations of the magnitude proposed, here it was some 38 per cent, and that council had resolved to
20 increase the maximum building height on this site to 25 metres, but it was caught up with the RMS matter and was subject to separate investigations. What did you understand by the RMS matter, do you have an understanding of that at all?---Not necessarily, and I don't know the details of the RDS I think they called it about the planning proposal that covered multiple sites, but I believe there was a cumulative impact related issue which the RMS had raised and that was being looked at.

And Mr Farleigh makes the point in the next paragraph that, "If RMS sign
30 off on these investigations any subsequent planning proposal would require a new resolution of council before it proceeds to Gateway and therefore any changes to the statutory height limits cannot be considered as either imminent or certain." And the further point that was made was that the height of the proposed development even exceeds the foreshadowed 25-metre height. So council had resolved to increase the height limit subject to a Gateway Determination but this proposal took it beyond even that height. Is that right?---That's right, yes.

And Mr Farleigh said at the end, "For these reasons, any form of merit
40 assessment of what is being actually proposed has not been carried out as it is considered premature to any proposed amendments to planning controls." Can you recall what prompted Mr Farleigh to write this memo to you?---It would have been a referral to him or to his team. As I said, when an application comes in we will refer a copy of it to all of the stakeholders. So the team leader at the time would have believed that Warren is a stakeholder because, or his team, because there's a planning proposal on the site. So we would have been seeking his feedback and this would be his response to that referral process.

Do you recall any discussions with Mr Farleigh about this issue around the time of this memorandum?---No, not necessarily.

Do you recall any subsequent discussion of the memo with other officers, such as Mr Gouvatsos or Mr Stavis?---There were always, there was always emails about feedback about the progress of applications. Where we would say it's waiting on the planning proposal to be finalised so we're not acting on the DA, that's essentially the form of which we communicated about the presence of this planning proposal.

10

Do you recall the council seeking any legal advice or receiving any legal advice in the context of this development or the neighbouring developments about the scope of clause 4.6 of the LEP?---I didn't see any of it, but having looked at some of the exhibits online it appears that there was, there was. But that was never forwarded to me because I didn't end up doing the assessment anyway.

Yes. So your knowledge of legal advice is only as a result of this inquiry, is that right?---Yes.

20

Now, you've indicated that an external planner was involved in the assessment of this DA ultimately, is that right?---That's correct.

That was Mr Stuart Harding, is that right, to your recollection?---It was his company. I remember forwarding the information to him and then Michael Brewer, I think, in his office ended up writing the report.

And the company is Willana, W-i-l-l-a-n-a, is that right?---That's correct, yes.---That's correct, yes.

30

Was that a firm that Mr Stavis retained regularly?---With the applications that I was involved in, they appeared to have regular conversations with the director, yes.

And did the members of your team have a good working relationship with the consultants at Willana?---Not necessarily. We essentially played a very administrative role of forwarding to them what the referral responses were or any objections that were received to facilitate them in writing their reports and putting together their recommendations.

40

So it wasn't a collaborative relationship as between council officers and Willana. They were the external consultant and they've just prepared the reports as directed.---That's right. And with the case of 548 Canterbury Road, there was very limited involvement by me. I wasn't even cc'd into any of the correspondence. That pretty much occurred between the director and the consultants.

When there was an external consultant involved, who within the DA team ordinarily liaised with them?---That process was very new to us in Development Assessment. We normally didn't go to external consultants historically. And, yes, we did, well, have up to 50 applications on but we still assessed them internally. So it was a very new process to us and in the, in the, in these sites that I've been involved in, once I referred the applications, a lot of the communication was between the consultant and the director.

- 10 So when you say it was new, was that from the time of Mr Stavis or earlier than that or are you able to pinpoint when that came into effect?---With the initiation of the new DCP and LEP, there was a, there was an influx of applications, and with the, the staffing levels and senior officers leaving, there was a need for senior officers to come in and assist. So it was, I don't know exactly when it started but there was external consultants, including myself at the time, so there to assist in development assessment.

So the DCP LEP was around 2012. Is that right?---That's right.

- 20 So this was something that developed from that point forward. Is that right?---That's right. There was with the increase in the number of DAs and the value of the applications as well and the size of them.

- So that may have been a process which was implemented in the time of Mr Occhiuzzi. Is that right?---Potentially, yes, but I don't remember liaising with external consultants. We normally, if it is, if there's an application lodged by someone that works at council, et cetera, we might send that application out for assessment by an external consultant but we have very minimal involvement in their report contents or their
30 recommendations so we try to isolate ourselves as much as possible from the process.

Now, it's the case I think you've identified in your statement at paragraph 33 that additional, the additional two storeys were approved in December of 2015, just looking at paragraph 33.---Yes.

- And in the course of the assessment process is it the case that the plans were amended for both the modification application and the additional two levels or is that not something that you were dealing with at the time?---That one I
40 did deal with. So after the, the application for the additional two floors and the section 96 for the basement were approved there was a further two section 96s which were lodged, one was to change the design of the basic storeys and the other one was to change the design of the top two floors. They had to lodge two separate section 96s because now the development was under two DAs. So with that there was insufficient information for us to even make out what the modifications were and, and I think the application was lodged under section 96(1)(A) and I didn't agree that it was (1)(A). It would probably be more suited to a section 96(2) application and

I put that to the applicant and we didn't receive any responses. We also put the other information that we required into that same letter. When we didn't receive a response we refused the application, or both applications I should say.

So that was after the approval of the two storeys in December of 2015. Is that right?---That's right.

10 Prior to December, 2015 what if any involvement did you have in terms of getting that proposal through the council, so that development application and the 96?---Very minimal. The only real involvement I would have had was a very administrative role at the end when the report came through. I think there were some mark-ups by the director and we're trying to make the deadline for the agenda so I made the changes which essentially his PA could have done anyway and then the bits where he was asking for additional information I highlighted and I sent to the, to Michael Brewer and said can you please amend the report as per the mark-ups and I think essentially that was it and we would have identified where the objectors are so a little bit of the housekeeping towards the end.

20

Just pardon me a moment. Can I take you, Ms Kocak, to volume 21 in Exhibit 69. And the folder that you have out can be returned. And I just want to take you to page 206. You'll see that this is an email, there's two emails on the page. The bottom email is an email from Mr Montague of 24 September, 2015 to Mr Stavis, "Spiro, any chance we can get the DA up to the October meeting of CDC." Do you see that?---(No Audible Reply)

30 Mr Stavis' response of the same day is copied to you and to Mr Harding of Willana, and there's a reference that Mr Stavis was aiming for November CDC or council and the deadline for October had closed and amended plans had been received and he was waiting on a peer review and he was also meeting with Charlie next Friday to go over the details. Was it usual for Mr Montague as the general manager to make programming requests of this nature?---I don't know.

How often can you personally recall him making such a request?---I can't recall of, I can't recall any specific occasion.

40 Now, can I ask you, was there an issue at some point in relation to a voluntary planning agreement in relation to this site that you can recall?---I don't know.

Do you have a recollection at all that fairly late in the assessment process Mr Brewer of Willana discovered a deficiency in the number of car parking spaces that were allocated for the development?---I recall there was a car parking discussion towards the end, and my recollection of it is if the section 96 plans are not implemented then there wouldn't be sufficient car

parking for the, the additional units that came about as a result of the DA. So, I think it was about linking the DA to the section 96, perhaps.

Can I just take you to page 296 of this volume, and I just wanted to focus on the bottom email, which is an email in relation to, well, it's from Mr Brewer to Mr Stavis and yourself, which was trying to deal with, well, Mr Brewer indicating in this first passage that he'd spent a considerable amount of time trying to sift between all of the information reports and plans for the 96 and the DA for the two additional levels, and what he'd only just been able to clarify was that there was a shortfall in the car park. So, that's at about halfway through the paragraph. And looking over the page at 297, after Mr Brewer sets out all of the, that detail and the non-compliances, so at page 297 there's a reference, he says in the text underneath the shaded table, "While this can be conditioned, finding an additional 15 spaces is no small ask." And in the next paragraph, "At this point, I think the applicant needs to be made aware of the issue. I'm happy to either brief Mine or liaise with the applicant or their planner directly." So, it was the case, or can you recall whether in fact the development consent was conditioned in relation to the additional 15 spaces?---I don't recall.

20

It's the case that the modification in the IHAP, sorry, went to an IHAP meeting, is that right, can you recall, on 13 November, 2015?---I believe so, yes.

And that IHAP raised a concern about the extent to which RMS had been consulted in relation to the modification application?---Yes.

And the decision of the IHAP was to defer the application until it had been referred to RMS. Do you recall that?---I recall that, yes.

30

And did that lead to you providing the modification application to RMS, can you recall?---I can't recall when we provided the – it probably did but unless it was already referred and they didn't get back to us or, yeah, it would have led to a referral.

Can I take you to volume 22. Can I take you to page 118. This is a letter that went to the applicant from, or the consultant, Statewide Planning, from the coordinator of governance of the council. Do you recall seeing this letter at or around the time it was written, 27 November, 2015?---Yes, I would have seen it on the file.

40

And it was the case that it was communicating the result of the panel and the panel's views about the need to consult with the RMS?---Yes.

And you'll see at page 119 there was reference to the fact that the matter would not be submitted to the City Development Committee on 3 December as previously advised, instead it would need to be considered at a future meeting of the panel and you'll be advised in advance of that meeting. And

it's the case, if I can take you to page 121, this is a letter signed by you, is that right, of 30 November, providing the 96 modification to RMS. Is that correct?---Yes.

And do you know whether the DAs, both the 96 and the additional two levels both went to the City Development Committee on 3 December, 2015? ---I don't, I believe so, yes, I do remember 3 December being the approval date of 548 Canterbury Road, yes.

- 10 Yes. Do you recall having any conversations with Mr Gouvatsos or Mr Stavris about whether the DAs had to go to the December meeting or why that had to go to the December meeting in view of the IHAP recommendation?---As I said before, we don't really have any control over the report once we report it to the Independent Hearing and Assessment Panel, beyond that the process is undertaken by the governance department, so if it needs to come back to us, so it looks like the IHAP coordinator had written out, so normally in that instance the file will be returned to us so that we can seek that additional information before we put it back up to a panel meeting, but in this case I don't think we received the file back for us to be
20 able to do that.

All right. Thank you. Commissioner, I note the time. I have yet to deal with 570-580 Canterbury Road. That may be a convenient time to finish up. I'm not quite sure how long I'm going to be.

THE COMMISSIONER: I was keen to finish. It is Friday afternoon.

MS MITCHELMORE: Yes, yes.

- 30 THE COMMISSIONER: Look, you can come back first thing Monday morning at 9.30?---Yes.

Thank you. Yes, well, that's what we'll do, we'll adjourn for today and then back first thing Monday morning. Is there anything we need to raise beforehand?

MR BUCHANAN: Just one administrative matter. Could we have leave to substitute the colour copies for the black and white copies of those plans at volume 17, pages 177 to 185 of Exhibit 69?

40

THE COMMISSIONER: Yes, thank you.

MR BUCHANAN: Thank you.

THE COMMISSIONER: Right. We'll adjourn and recommence 9.30 on – oh, I'm sorry, anything else anybody needed to raise? All right. We'll adjourn. 9.30 Monday morning.

THE WITNESS STOOD DOWN

[4.30pm]

AT 4.30PM THE MATTER WAS ADJOURNED ACCORDINGLY

[4.30pm]