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PATRICIA McDONALD SC
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PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 6 AUGUST 2018

AT 2.04PM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

MR BUCHANAN: Mr Stavis, if we could go back to page 176 of volume 12, we looked at this before lunch, but in the middle of the page there, the third dot point, Mr Olsson said in this second version of his first report:

10

An FSR increase from 0.5:1 to 2.2:1 does however represent an over-development of the site. Our investigations suggest a building height of 5-7 floors ... and a maximum FSR of 1.8:1 would be more appropriate, and would be more likely to gather a development outcome compliant with the primary development controls for the site.

20

?---It's Mr Annand.

Thank you very much. This is Mr Annand's words. So you would have registered that at the time that you read it, obviously?---It's likely I would have, yes. Yes.

Because it was certainly the bottom line of the report in terms of whether it would support the planning proposal?---Sorry, when you say "the bottom line"?

30

Well, if the maximum FSR - - -?---Oh, sorry, yes.

- - - that is supported by the consultant is 1.8, then that's a good deal less than 2.2, isn't it?---It is, yes.

40

And can I just also ask you to take in that on pages 181 and 182 in particular, a third of the way down the page on 181, there is a suggestion that there is a potential to alter development controls in the following manner, and then it talks about increasing the building height generally to 15 metres, perhaps with a corner tower to 21 metres, and some other suggestions. The author goes on to say in the middle of the page:

These increases are however dependent on the following ...

And the first dot point is:

The provision of the proposed street widening to Canterbury Road as required by RMS as well as that recommended in the Canterbury Road Masterplan and the DCP.

Then he goes on to indicate that he is going to discuss a number of matters, including compliance with RMS road widening requirements. On page 182 under that heading, he talks about the fact that:

10

The RMS requires dedication of 4-5m strip as indicated [across] the complete frontage of the site to Canterbury Road ...

That's in figure 9 on that page. Do you see that?---Yes, I do.

20

If I can take you, then, to page 279, please, on 22 June 2015, Ms Dawson emailed you indicating that the attached map shows land to be acquired by the RMS for road widening in the vicinity of 998 Punchbowl Road. The attachment is over the page on page 280. Can I just ask you to look at page 281. You promptly forwarded that email to Pierre Azzi?---Yes, I see that.

Why did you do that?---I don't recall exactly, but it's likely that he made some representations about this particular property.

30

What sort of representations?---As I said previously, he was - he had made previous representations on behalf of the applicant in regards to this property.

With a view to what, sir?---I'm not sure exactly in terms of the timing, but it was with a view to seeing where the application was at and what the likely timing would be.

40

Was there a chance that given the content of this copy of the - I'm sorry, the second version of Mr Annand's report, commencing at page 171, with its indications of a factor which affected the footprint available for development on the site having regard to RMS road widening requirements, that you had tried to explain that to Mr Azzi?---I think that's fair, yes.

And that when you then got a document from Ms Dawson which set that out in graphic form, you then thought, oh, well,

I'll send this to Pierre so that he can understand what I was trying to explain to him, Mr Annand was explaining, that is to say, there isn't as much land as Mr Demian thought there was on which to develop?---That's fair. That's fair, yes.

10 Can I take you, please, to page 289 in volume 12. This is an email conversation, the bottom part of the first email of which is on page 290, but it effectively commences on the bottom of page 289, and it is an exchange of emails between you and Mr Annand about 998 Punchbowl Road. The 7.48am email to you and Warren - that would be Warren Farleigh - on 26 June 2015 says:

20 *A heads-up...the new Design Guide setbacks as interpreted increase both side setbacks on Punchbowl Road job from 6 to 9m. This has the effect of dropping potential FSR from 1.8 to 1.3. Please discuss urgently before I alter all of the drawings (many) and text.*

You responded at 8.32am on 26 June:

30 *Please come and see me on Monday. We've already let the cat out of the bag to the applicant when we received your draft report. We need to get as close as possible to that FSR.*

Can I just pause there before we go further into that email conversation. What was it that caused you to say in that email, "We've already let the cat out of the bag to the applicant when we received your draft report"?---I just assume that the report at that point in time supported an FSR that was close, if not similar, to what the applicant was proposing.

40 Well, you saw, however, that what Mr Annand was proposing in the second version of his report was 1.8?---Yes.

And that in this email of 26 June, Mr Annand says that that would have the effect of dropping potential FSR from 1.8, and then he identified the new FSR as 1.3. Had you, when you had said to Mr Annand, "We've already let the cat out of the bag to the applicant when we received your draft report", was that a reference to a conversation that you

had had, either directly or indirectly with Mr Demian, indicating that, in Mr Annand's opinion, the achievable FSR was 1.8?---It's possible, but I really don't recall.

Well, it's likely, isn't it, having regard to the chronology that I've just given you?---Yeah.

And Mr Annand's own reference of dropping the potential FSR from not 2.2 but, instead, 1.8 to 1.3?---Yes, I do, yes.

10

You said, "We need to get as close as possible to that FSR" - that's a reference to 1.8, isn't it?---I'm really not sure what that refers to.

Well, it's likely to be 1.8, isn't it? "That FSR" is the FSR that he indicated he was prepared to support in his draft report?---Again, I'm not sure, but it's likely, yeah.

20

The first sentence was, "Please come and see me on Monday." Why did you want Mr Annand to come and see you?---To talk about his email, I would imagine, the email that he addressed to myself and Warren.

With a view to what outcome?---Just discuss his findings.

Yes, but with a view to any outcome?---Well, that I'm not sure about, but obviously to look at - to understand where he was coming from. It was more likely that that would be the case.

30

Didn't you identify the outcome in your email, "We need to get as close as possible to that FSR", namely, the FSR he indicated he was prepared to support in his draft report?---Yeah, that's fair, yeah.

So what you wanted to do was to try to persuade him or to see whether it was possible, at least, to come as close as possible to 1.8 rather than 1.3?---Yeah, to see - yeah.

40

Wasn't that an exercise, as far as you were concerned in what you intended to do, given your 26 June 2015 email, in trying to favour the development proponent?---No. It was - it was a case of trying to understand what he'd mentioned to me in that email, and that email just basically says - it's very general. So I wanted to get some clarity around that.

Do you accept that's not what you said. You said, "We need to get as close as possible to that FSR", being a reference to the FSR he indicated in his draft report he was prepared to support?---Yes.

If I can take you to page 291, chronologically in the email conversation, the email commencing a third of the way down page 291 in volume 12 is the next email. It's at 9.10am. It's from Peter Annand, and it says:

10

New guide adds to setback requirements ... seems unreasonable given likely future of adjacent sites (treated as low density transition therefore extra 3m side setbacks) ... Developer might make a case for leniency so maybe we keep FSR at 1.8:1 and let them work the setbacks?????

Do you see that?---I do, yes.

20

Had you by that stage had a face-to-face meeting with Mr Annand at all on this project?---At that stage, I'm not sure if I did.

So when you, in your email which is in the middle of page 289, said, "Please come and see me on Monday", had you previously seen him in relation to this matter?---As I said before, I'm not sure in terms of the timeline of when I - but I certainly did have meetings with him, yes.

30

You started having meetings with him, didn't you, when the opinions that he was indicating in his report and his emails were unfavourable to the applicant, to the proponent?---That I can't be sure of exactly, sorry.

Did you want to have meetings with him with a view to changing the opinions that he was expressing so that they favoured the proponent?---No.

40

What was the reason, then, that you wanted to have these meetings once he'd started producing a report?---As I said before, I mean, in relation to this email trail, it was primarily to get an understanding of what he was saying, so to provide some more detail about that.

So that email was at 9.10am from Mr Annand. If we can go back to page 289, at 9.40am - this is about the middle of

page 289 - there is an email from Mr Annand to you:

I have drawings under revision at the moment. Can dash across this morning if that helps ... and can then make any changes today.

Do you see that?---I do, yes.

10 Then you had to say that you were sorry, but you were headed off in the other direction, that's towards the top of page 289, at 9.59am, but you asked whether you and he could touch base on Monday morning.

THE COMMISSIONER: No, I think --

MR BUCHANAN: I'm sorry, my mistake.

20 Mr Annand indicated to you that he wanted to touch base with you on Monday morning and thought he knew how to fix it. Do you see that?---Yes, I do.

Did you find out what he meant by that?---I really don't recall, but it's probably a reference to the FSR and I guess his thoughts on the matter. I don't specifically remember what that email was in reference to.

30 Well, it's got to be in relation to the FSR because that's how he started off the conversation, by saying, "There's a problem with the effect of the new design guidelines and the setbacks in them"?---I accept that, yeah.

And is it the case that by 26 June at 9.59am, you had effectively recruited Mr Annand to trying to produce a report as favourable as possible to Mr Demian's interests in the matter?---No.

40 Then at page 291, at the top of the page, at 11.10am, you said, responding to the 9.59am email, I suggest:

Agreed but your report and drawing needs to argue that it is okay in this instance.

?---Yes, I see that.

Assuming that the word "agreed" in that email there is a response to the content of the 9.10 email rather than the

9.40am email, were you at this stage trying to indicate to Mr Annand what you wanted to see in his report?---Not that I can recall, no.

Can you tell us about what you intended by saying, "Agreed but your report and drawing needs to argue that it is okay in this instance"?---Look, in all honesty, at that point in time, I don't have a recollection of what I was referring to.

10

Well, if your email of 11.10am was a response to the email that's printed underneath at 9.10am from Mr Annand, which has in the second line, "Developer might make a case for leniency so maybe we can keep FSR at 1.8:1 and let them work the setbacks", were you effectively responding to Mr Annand by saying, "Okay, that needs to appear in your report"?---Again, it's likely, yes.

20

Can I ask you about the expression in Mr Annand's email of 9.10am "and let them work the setbacks"? What did you understand by that expression - or what do you now understand by that expression?---I presume he means the applicant or the applicant's representatives.

And "work the setbacks", what does that mean? What do you understand that to mean as you sit here now reading it? "Keep FSR at 1.8:1 and let the applicant work the setbacks" - what does that mean?---I guess trying to comply with the setbacks as best they could.

30

If I can just take you to page 285, on page 285 is an email from Mr Foster to Ms Ho, Mr Farleigh and Mr Annand and copying in Ms Dawson and yourself. Do you see that? It's on 24 June 2015.---Yes, I do.

It's in relation to technical issues in relation to setbacks so far as concerns the content about Punchbowl Road. Do you see that?---Yes, yeah.

40

Can I ask you about the conversation that's on pages 289 and 291. It seems to be between you and Mr Annand alone, that's to say, without your staff having been copied in. Was there a reason for that on your part?---Not that I - not that I can, you know, say with any certainty, to be honest with you. But it was one of these applications that I did take a more proactive approach, obviously, because of all the councillor inquiries and - - -

But it's also a more pro-proponent approach, isn't it?---No, I wouldn't say that.

Did you not copy in your staff into the conversation so far as your emails were concerned, because you knew that you were having a discussion about changing the opinion of Mr Annand as expressed in his report so as to advantage, so as to favour, the proponent?---No.

10

Can you give us any other explanation?---No.

Mr Foster was the file officer; you've agreed with that?---Yes.

You basically kept him out of the loop from this point on, I want to suggest to you, from late June until early January 2016 in your dealings with Mr Annand in his production of reports?---I don't recall that. I remember speaking to Mr Foster a number of times on this application.

20

Did you keep the file in your office?---Oh, it was mainly - no, I think - at some point in time I probably did, yes.

I want to suggest that you kept Mr Foster out of the loop until such time as Mr Annand had provided a draft report supporting an FSR of 2.8 and a 25 metre height?---No. That wasn't anything that I did consciously, no.

30

And would it be fair to say that you only allowed Mr Foster to work on the file in a piecemeal fashion?---No.

If that's not correct, then in what fashion did you allow Mr Foster access to the file?---Look, I don't recall the day-to-day, I guess, dealings with this particular application, but I do recall that I was speaking to Mr Foster about it, the progress of it, so to that extent I don't think I kept him out of the loop in that regard.

40

Is it fair to say that from late June 2015 until early January 2016 you reduced to a minimum the involvement in the file of your planning staff?---Again, I'm not sure of the timeline, but if I take that as being correct, then certainly I took a more proactive approach to applications, and this was one of them, yes.

The effect of reducing to a minimum the involvement in the file of your planning staff in that period was to prevent them from scrutinising what was happening?---No. I disagree with that.

10 How were they to know what was happening if you hung on to the hard copy file and you were having electronic communications with Mr Annand into which they were not copied?---Well, I'm not sure that this is the extent of the email communication that I had with my staff in relation to this application. But I distinctly remember talking to Tom in particular about the application. We had quite detailed discussions of it. So, I mean, to that extent I don't think I was excluding him from the process.

20 You had detailed discussions with Mr Foster at the point when it came to drafting the report to go to council, didn't you?---Look, again, I don't, in all honesty, recall - - -

That was when you had detailed discussions with Mr Foster about this matter, at the end of the process?---No, I - I mean, this is not a process that, you know, starts and finishes within a week. So it was - I distinctly remember having conversations with Mr Foster about this application.

You had meetings with Mr Annand, is that right, in council chambers?---I did, yes.

30 Your staff weren't present at those meetings, were they?---Not always, no.

You might be able to assist us. Can you tell us about any particular meeting with Mr Annand that you had at council chambers where your staff were present?---Not that I can recall, sorry.

40 You had multiple meetings with Mr Annand at council chambers, didn't you?---I did, yes.

About this matter, 998 Punchbowl Road?---I did, yes.

Again, is the reason that you didn't include staff in the meetings that you were having with Mr Annand that because you were cobbling together with Mr Annand a result, an outcome, so far as concerned his reports, which was as favourable as possible to Mr Demian?---No, no. If you know

Mr Annand, he's not a kind of person who would be, I guess, influenced in that way, so I don't agree with that.

But Mr Annand had already indicated to you that he had ideas about how to fix a problem, that is to say, an FSR that's less than the planning proposal proposed?---Yes.

10 So he indicated a willingness, an openness, to changing his opinions to assist the proponent, didn't he?---Mr Annand was an experienced consultant who had done previous work, particularly along Canterbury Road, so, you know, he obviously had some firm views about what he thought should be done on the site, yeah.

Can I take you to volume 13, page 17 in exhibit 52. This is an exchange with Ms Dawson in August 2015, do you see that, that starts, I think more accurately, on page 18?---Yes.

20 Halfway down page 18, do you see Ms Dawson wrote to you on 7 August 2015 at 1.42pm?---Yes.

And indicated scheduling for the 998 Punchbowl Road planning proposal?---Yes.

Then you responded to her at 9.22pm on 12 August 2015:

30 *I had a meeting with the GM and Charlie this afternoon re the Harrison's site and following this 998 was raised. Can you please see [me tomorrow] so I can brief you.*

Can you recall a meeting that you had with Mr Demian and Mr Montague at which the Harrison's site was discussed and then 998 Punchbowl Road was raised?---No, not - I can't, sorry.

40 The next email in this conversation is at the bottom of page 17 and is from Ms Dawson to you at 9.30am on 18 August 2015:

Can you please confirm what exactly we are being asked to consider for this site as we want to contact Peter Annand for a quote.

Does that suggest to you that you'd had a conversation in

between your email of 12 August to Ms Dawson and her email to you of 18 August in which you had indicated that a particular agenda had been given to you by Mr Montague and Mr Demian or Mr Demian in Mr Montague's presence or Mr Montague in Mr Demian's presence on 12 August 2015, and the question was how to advance the matter so far as a report from Mr Annand was concerned?---I don't recall, I'm sorry.

10 Well, can I take you to the next email?---Yes.

It's the same day as Ms Dawson's email. It's at 10.01am, and you say:

Pick up some of the "lost" FSR by increasing the height on the corner of Punchbowl and Canterbury Rds from 21m to 25m. Therefore bringing to be more in line with the Council resolution in terms of FSR.

20

Anyway, I'd like to be present at any meeting.

So just the first sentence there. What was it that you were conveying when you said, "Pick up some of the 'lost' FSR by increasing the height on the corner of the site"?---Again, I'm not sure.

30 Was it a reference to what you had been presented with or asked to advance at the meeting with Mr Montague and Mr Demian on 12 August 2015?---I'm not sure of that particular date, but I do recall that there was a meeting in Mr - in the GM's office where Mr Demian was present, and I simply don't recall whether - actually, I'm pretty certain that the two councillors were also present at that meeting, where there was a document that was presented to me, and I presume it was prepared by the proponent, I'm not sure, that had an FSR on there. So it might be in
40 reference to that.

I'm going to suggest to you that it wasn't.---Okay.

I'm not suggesting that you're wrong, that that didn't happen.---Sure.

I want to just cut to the chase on this. Could the witness

be shown, please, page 199 in volume 13. Do you see that diagram with handwriting on it?---Yes, I do.

It's on the screen. It'll be much easier to read on the screen, sir.---Sure.

Do you recognise it? I'm talking about the diagram with the handwriting on it.---Yes, I believe I've seen that before.

10

Is it what you were just talking about?---I think so, yes.

And is that because it has an FSR on it?---Yes.

2.8?---Yes.

20

I'm going to be coming back to it later, Mr Stavis, but if we go to page 197, the preceding page - sorry, two pages before, you can see that that's an email of 11 November 2015 in which Mr Demian sends you a marked-up plan and attaches it. The plan is an attachment called "Design Understanding Meeting 2015". And the diagram with the handwriting on it is shown at page 199. So it's for that reason in particular, although there are other reasons as well, why I'm going to be suggesting to you that whilst indeed you saw it, it was at a later time?---Okay.

30

That's just to put that to one side for a moment and we'll come to it chronologically.---Okay

40

All I'm doing at the moment is at page 17 going over to page 18, isn't it a reasonable reading of a combination of your email to Ms Dawson of 12 August 2015 at 9.22pm and then Ms Dawson's response on 18 August at 9.30am asking, "What is it exactly we're being asked to consider" and thinking she's going to have to ask Peter Annand to prepare a whole new report, and then your email to Ms Dawson of 18 August 2015 at 10.01am, where you respond to Ms Dawson saying, "Pick up some of the 'lost' FSR by increasing the height on the corner from 21 metres to 25 metres, therefore bringing to be more in line with the council resolution in terms of FSR"? Do you see what I mean?---I do, yes.

Is it a reasonable reading that you were at the meeting with Mr Montague and Mr Demian on 12 August 2015 presented with a proposal for recovering the FSR that Mr Demian had notionally lost of a reduction from 2.2 to 1.8, having

regard to Mr Annand's most recent report at that time, by this idea of putting up a tower on the corner?---That's probably a fair comment, yes.

The last paragraph, "Anyway, I'd like to be present at any meeting" - that's a reference, isn't it, to a meeting with Mr Annand?---Possibly, yes. I can't say with any certainty, though.

10 Certainly that's the way Ms Dawson read it in her email above that at 10.08am. "To address that issue as well", she's talking about:

... cannot see the site in isolation ... We were looking initially at getting a quote from Peter. Following that we can arrange a meeting.

And you said, "I concur"?---Yes.

20

So it would seem that you understood ultimately that the meeting was a meeting that was to be held in the future with Mr Annand?---I think that's fair, yes.

Can I take you, then, to page 1 in volume 13 and to page 2 of that, page 1 being "Urban Design Review of Planning Proposal". This time it's dated August 2015. The introduction - this is an Annand document. You can recognise it, can't you?---Yes.

30

It says:

This report is a supplementary report to a previous Urban Design Review of this site carried out in April 2015 by [Annand & Associates Urban Design]. In that report we recommended:

...

. A modified FSR in the order of 1.8:1.

40

. Modified height limits generally 15m perhaps with 21m corner element ...

Then in a box in the middle of the page:

Council has now asked us to review that document and to assess whether a building

height of 25m and an FSR of 2.2:1 might be acceptable on this site. This report looks at some options to test height, envelope and FSR controls.

So would it seem to you that this document is a draft, anyway, of a report to respond to the discussion that you'd had with Ms Dawson after that meeting with Mr Montague and Mr Demian on 12 August 2015?---I think that's fair.

10

And if I can take you, please, to page 23. This is an email from Mr Farleigh to Mr Annand dated 18 August 2015 at 11.05am, in which he says:

We have now been instructed to model the implications of a 25 metre building on this site, in terms of achieving an outcome that complies with SEPP 65 and the key controls in our DCP. Is this something you would be able to do for us?

20

If I can just pause there. The words, "We have now been instructed" would be a reference to instructions you had provided to your staff; would that be right?---I think that's fair, yes.

Now, if I can take you to page 31, which is the front page of the next version of the August 2015 supplementary report. If I can take you to page 30 first, because it's the email to which that report was attached, and it's dated 4 September 2015 at 10.09 from Lili Avval. Ms Avval was an associate of Mr Annand?---Yes.

30

And attached is the final draft of "Urban Design Review of 998 Punchbowl Road". "Please inform us if there are any inquiries". Do you see that?---Yes.

Can I take you, please, to page 34. In this report, Mr Annand, a bit above halfway down the page, talks about some history, which I would just like you to consider, just taking a step back from it, as to whether that refreshes your recollection as to the planning proposals that were coming in to or had been coming in to your office - when I say "your office", I mean your division - pursuant to what had happened to the residential development strategy. He says:

40

This site is proposed for medium density residential apartments or mixed-use in the Canterbury Road Corridor Masterplan.

Unfortunately, Council's zoning amendments have not caught up with Strategic Planning endeavours. This has led to an uncoordinated number of Planning Proposals along Canterbury Road (and elsewhere throughout Canterbury).

10 *These have been for varying heights and FSR's however in the absence of a Statutory Strategic framework all proposals are using precedence as major justification for height variation.*

It would generally, however, be acceptable to establish a building height of 6 storeys along Canterbury Road with occasional additional towers to 8 storeys to emphasise corners, vistas, etc.

20

Having read that, does that refresh your recollection at least that it was Mr Annand's opinion that that was what was happening with the outcome of the residential development strategy at Canterbury Council - you were getting this spray of individual planning proposals, individual site planning proposals, due to hold-ups with the general amending LEP planning proposal? Is that your memory?---From memory, I believe those planning proposals, or most of them, were on foot before I had started.

30

Certainly.---But I do remember Mr Annand expressing that view to me at some point in time, yes.

Had you discussed it with him?---Not that I can recall, no.

He goes on to say:

Thus, a 6 storey building with appropriate SEPP No 65 setbacks and with a 2 storey (to 8 storeys) tower on the corner would seem acceptable ...

40

And he refers to sketches attached. He then goes on to say:

Further apartment development can be expected east along Canterbury Road,

therefore side setbacks of 6m for 4 levels and 9m for the next two levels are acceptable. It is possible, that further apartment development may be considered north along Punchbowl Road in the future, but no Council documents (with the exception of the Canterbury Road Masterplan) suggest so, at this stage.

10 That part of the Canterbury Road Masterplan that related to the portion of Canterbury Road east of 998 Punchbowl Road had not been adopted by council, had it?---I'm not sure if it excluded this particular location or not, but there was a master plan that had been adopted.

But not the whole of the master plan as drafted had been adopted by council, had it?---I can't honestly say.

20 Then if I can take you to page 39, Mr Annand proceeded by what he called development testing of various options to determine the outcome by way of FSR with different setbacks. Is that how we should read this table, and having regard to the key at the bottom, A, B, C and D?---That, and the provision of open space, from what I can see.

Thank you. You can see that on page 40 there are options A and B, and then on page 41 options C and D. Option C, he says:

30

Only partially complies with SEPP No 65 setbacks. The eastern setback is 6m (which is technically non-compliant but acceptable given likely future development to the east). The northern setback is 50% compliant (15m with common open space, 6m in excess of required 9m) and 50% non-compliant (6m instead of 9m) but this section will minimise overlooking to rooftops to the north. FSR achievable is about 2:1. This is preferred option.

40

Do you see that?---Yes.

So the eastern setback was predicated on the assumption that there would be likely future development to the east?---I presume this is orientated the same way, north

being - - -

Yes.---Yes, okay. Yeah, I think that's fair, yes.

There wasn't in fact any proposal for development to the east of that site, was there?---Not that I can recall, no.

10 So looking at that preferred option, the FSR achievable within the parameters and on the premises identified, was, he said, about 2:1. Do you see that?---I do, yes.

Can I take you, then, back to page 36. Under the heading "Density", he identifies the permitted density currently being 0.5, but it precludes any future redevelopment. He goes on to say:

20 *The proponent sought 2.2:1 in his initial Planning Proposal which is not possible within the required setbacks and building height and particularly if a reasonable and useable communal open space is provided at ground level, unless the communal open space was provided on the rooftop of Level 6.*

Then he goes on to say that:

30 *Whilst acceptable in tight locations and particularly where mixed-use development is concerned a roof garden would establish an undesirable precedent for Canterbury Road (north side) of a density that can only be achieved with roof garden communal open space.*

Then at page 44, Mr Annand set out his conclusions, under the heading "FSR":

40 *A maximum FSR of 2:1 could be permitted based on the provision of a well landscaped communal open space in the NE corner of the site of approximately 375 square metres.*

Above that, under the heading "Building Height":

Generally 6 storeys (18m) but with a possible tower of about 260 square metres

in the SW corner of the site to a height of 8 storeys (25m) with capacity for a roof element above.

Do you remember having a disagreement with Ms Dawson about the conclusions of this report?---No, I'm sorry.

10 Can I take you to page 60. We shouldn't overlook your email at the bottom of the page on 4 September 2015 at 10.56, where you tell Warren:

... I suspect we will need to prepare a report to Council seeking a new resolution which reflects Peters preferred Option C? If so, can you advise when we can finalise?

Ms Dawson then chimed in at 10.57am and said:

20 *I have serious concerns regarding the preferred option.*

It presumes that the adjoining land on Canterbury Road will be rezoned to R4 High Density and as a consequence there can be a reduced setback to the boundary (6m instead of 9m required by SEPP 65).

30 *There is no plan at this stage to rezone that land and indeed this idea was canvassed by the Department as part of the structure planning process (Punchbowl Station) and then dropped as they did not think it appropriate.*

40 *As a consequence the setback should remain as 9m from the boundary and the FSR calculated accordingly. I am still of the view that a 25m building adjacent to single and 2 storey development is out of context.*

Can we please discuss.

You replied, but do you remember having a conversation with Ms Dawson face-to-face after that email?---No, sorry, I don't recall.

Could you have, then, a look at your next email at 11.36 at the top of page 60 to Ms Dawson, in which you say:

10 *I disagree about it being out of context on the corner and envisage our site map would reflect a built form that Peter is comfortable with. I do however agree with you that it must comply with the setback under SEPP 65 and should comply with SEPP 65 in its entirety. I will speak to Peter.*

Didn't Ms Dawson, around this time, have a conversation with you in which she indicated she felt discomfort with the urban planning work being done in the department being too development led as opposed to looking at it in a strategic way?---Not that I can recall.

20 You can see the sort of debate that might be envisaged in such a conversation, that a planner might say, "We need to look at this strategically and assess it having regard to strategic merit in the whole of the context of the site", but on the emails we've seen so far, it would appear that Mr Demian has been putting pressure on you, and perhaps assisted by Mr Montague, to ensure that he can maximise the FSR achievable on that site and that the planning proposal should be supported by expert reports accordingly? You can see that sort of debate emerging from the emails, can't you?---I can, based on those emails, yeah, yeah.

30 That reflected, didn't it, a conversation at least once that you had with Ms Dawson on that subject?---I honestly don't recall.

40 Did you not have a conversation with Ms Dawson in which it came down to her saying, "Look, if I disagree with a report, I'm not going to sign off on it. You will have to sign off on it"?---No, I don't recall having that conversation with her.

If we could go, then, to page 71, please. This is an email dated 9 September 2015 at 11.18am, in which Ms Avval sends to you, Warren Farleigh and Ms Dawson, as well as Mr Annand, the final draft of a report called "Urban Design Review of Planning Proposal" dated August 2015, if you go over the page to page 12?---Page 12 or 72?

I'm sorry, it's my eyesight, I apologise, 72. In this report, page 73 of volume 13 has the introductory material about it being a supplementary report. It summarised what the conclusions were of the previous report and then said that Annand & Associates has been asked to review that document and assess whether the building height of 25 metres and an FSR of 2.2 might be acceptable on the site. Can I take you to page 79?---Okay.

10 Again, it's in larger font on the screen, if that makes it easier to read. Under the heading "Density", Mr Annand said:

The proponent sought 2.2:1 in his initial Planning Proposal which is not possible within the required setbacks and building height and particularly if a reasonable and useable communal open space is provided at ground level.

20

This would thus require a significant common open space as roof gardens.

And it goes on to repeat that:

A reliance on roof gardens would establish an undesirable precedent for Canterbury Road north side.

30 If I can just take you to page 85, where you can see that Option C, although somewhat rejigged, the calculations are on page 82 under the heading "Development testing" - Option C remains the preferred option, but it only partially complies with SEPP 65 setbacks. Do you see that?---Yes, I do.

On that page, at that paragraph, in relation to Option C, Mr Annand says:

40

FSR achievable is about 2:1.

Do you see that?---Yes, yes.

Then if we can go to page 89, the conclusion of this report is generally 6 storeys in terms of building height - that is to say 18 metres - but with a possible tower of 260 square metres only in the south-west corner of the site to

a height of 8 storeys, that is to say, 25 metres. Under the heading "FSR":

A maximum FSR of 1.8:1-2:1 could be permitted based on the provision of a well landscaped communal open space in the N-E corner of the site ...

10 That was the outcome of this supplementary report. That conclusion, though, as identified by Mr Annand, wasn't compliant with apartment design guidelines, which required a 9 metre setback where adjacent to low-density residential property; is that fair to say?---That's what he says, yes.

20 So it didn't minimise impact on adjoining properties in terms of the required building separations?---Look, I can't be - it's been a while since I've actually had a look at SEPP 65, but I can't recall whether the requirement was if you were adjacent to a residential zone you could go to six metres for a certain height, and then go to three metres further once you reach another height. So I can't answer that question with any sort of certainty at this point in time, sorry.

The site was on a major intersection?---I - yes, yes.

30 But the Commission has received evidence that that and the fact that it was the entry to the Canterbury LGA wasn't an adequate strategic justification for development controls being loosened so as to permit a development on that site of the density and height which Mr Annand proposed could be supported in his August 2015 report. What would you say to that?---Again, I'm not sure if this site was identified as a key site in the LEP itself or in any of the body of work. But to - my way of thinking, if - any sort of gateway sites, especially corner sites, you look at bookending those sites, and that in most cases involves increasing height.

40 There were in fact no precedents anywhere near Punchbowl Road for eight storeys, were there?---Not that I'm aware of, but there was a site diagonally opposite, on the opposite side of Punchbowl Road, which I believe was a club of some sort.

But it didn't go to eight storeys?---I can't recall what the height was, but it was certainly higher than what the

existing building was.

The existing building had one storey, didn't it? It was a service station.---No, no, I'm talking about the site opposite on Punchbowl Road.

10 In terms of strategic merit, the Commission has heard evidence that the site was isolated in the sense that it had low-density residential development around it and that it was an awfully long way from major transport services. There might have been a bus that went past from time to time, but it was not within walking distance of Canterbury station, was it?

MR PARARAJASINGHAM: I object. I'm mindful not to say anything that leads the witness, but the effect of what my friend just said, in my submission, does not summarise the effect of the evidence on the question of public transport on that corridor.

20

THE COMMISSIONER: There were some buses?

MR PARARAJASINGHAM: There was evidence that it was more extensive than that, and I'm not going to repeat it, but, in my submission, the colour that counsel assisting is putting on it does not reflect the status of the evidence in this inquiry.

30 MR BUCHANAN: I press the question, Commissioner. I submit that it absolutely does and it comes from more than one expert witness.

THE COMMISSIONER: That was my recollection of the evidence.

MR PARARAJASINGHAM: I'm referring to what Mr Annand said. I'll just leave it at that.

40 MR BUCHANAN: I'm asking the witness to respond to expert evidence that the Commission has heard on this subject, and I have, in my submission, accurately characterised that part of the evidence in terms of isolation of the site and that development of it - or loosening of the development controls to the extent proposed in the Annand report was not justified in terms of strategic merit.

THE COMMISSIONER: Can you repeat the question with the

way you've characterised --

MR BUCHANAN: The site was isolated in that it was surrounded by low-density residential housing, wasn't it?---Not completely, I don't think. I believe that there were a couple of houses to the north and then a park, and then on the - and I don't have the aerial map in front of me, but I'm not sure whether adjacent to that on the eastern side, whether they were commercial properties.

10

It wasn't located within walking distance of a train station, was it?---I don't believe so, no.

It wasn't near shops, was it?---I can't recall now, I'm sorry.

It was just an isolated site that the proponent wanted rezoned so that he could put up a big, bulky building?---Look, I believe it was a gateway site on a major arterial road that is frequented by buses, bus services. Sure, it wasn't, from memory, within walking distance to a railway station. I'm not sure how far the shops were. I just don't recall at this point in time, but - yeah.

20

If people have to live in it and it's not near shops and it's not near major transport, then it would be fairly described as isolated, wouldn't it?---No.

30

And the - - -

THE COMMISSIONER: You don't agree with that?---No. I don't agree with that.

MR BUCHANAN: Why not?---Well, isolated from what perspective?

What do you mean by disagreeing with me that in the circumstances that it was not near shops and not near major transport, it was an isolated site? What do you mean by disagreeing with that proposition?---Look, I believe it was a site that was a gateway site entering our - well, the Canterbury LGA.

40

But people had to live there?---That's true, yeah. But there are many examples where, on similar arterial roads that are not frequented or in close proximity to railway

stations, where they've got very similar heights.

Wouldn't there be an argument that an eight-storey building should be permitted closer to shops and major transport than 998 Punchbowl Road was?---No, not necessarily. I don't believe so.

10 Wouldn't there be an argument that if you were going to permit the development of a site to the extent proposed in Mr Annand's supplementary report, then a better place to do it than 998 Punchbowl Road would be a site that was closer to shops and public transport and more dense residential and commercial development?---No. As I keep saying, I believe that site to be a gateway site and could take the extra height, particularly on the corner.

20 So the sole argument that is in favour, in your mind, that can justify or provide strategic merit to loosening development controls to the extent proposed in Mr Annand's supplementary report was that it would be a gateway site?---No.

You haven't provided any other justification?---Well, as I said before, it was on a major arterial road that's frequented by bus services, regular bus services - - -

THE COMMISSIONER: Sorry, where did the bus services go to?---Canterbury Road, along - - -

30 No, but where to?---East-west.

Where to?---So all along Canterbury Road.

Where was the nearest bus stop? What was the distance?---Look, I don't recall, Commissioner, exactly where it was, but - I don't recall, I'm sorry, exactly where it was.

40 MR BUCHANAN: Can I ask you, wasn't the purpose of the discipline of urban design working out the best way in which to promote development in an urban context?---Sorry, can you repeat that? Sorry.

Yes. What is the purpose of urban design analysis?---In broad terms or?

Yes.---Well, to look at the strategic merits of, I guess,

whether a proposal is satisfactory from a height, bulk, scale perspective.

10 Did you think that the appropriate way to approach it was by looking at the fact that this was what you and Mr Annand described as a gateway location and not giving, as it would seem, very much weight to proximity to the services that the residents of such a structure might need?---No. Look, from memory, the master plan that was - the body of work that was done behind this identified a number of properties along Canterbury Road for upzoning, I guess. Now, for whatever reason, the decision was made by - I'm not sure if it was staff or the council at the time, to exclude a number of those properties, and there's any number of properties along Canterbury Road in the LGA that just have single dwelling houses on them. So - - -

20 Does that mean you put an eight-storey dwelling, building on it?---No, it doesn't. No, you've got to look at it on its merit, obviously.

After receiving this report from Mr Annand - halfway down page 90, there was an email to you from Mr Annand on 9 September at 11.55am:

30 *Try this revision with further justification...
Option C is still my preferred.
However, if you all wish to stick with the letter of SEPP no65 ADG then I can wear Option B ...*

Then he goes on to discuss a revised Option B. Do you see that?---Yes.

Then you responded at 12.08pm on 9 September 2015:

40 *I'm in a conference back Friday. I noticed Lili sent a draft to Warren and Gil as well, contrary to what we agreed, I wanted to review first. Can you ask her to send an email saying it was sent in error and to disregard.*

Leaving aside the fact that you were advising that you were in a conference and back on Friday, why did you send that email to Mr Annand?---Because I wanted to review the report

personally.

Why did you want to review it before Mr Farleigh and Ms Dawson got a chance to review it?---Most probably because, at that point in time, I was in meetings and discussions with Peter about the site.

10 But how does that explain that you wanted to review it before Mr Farleigh and Ms Dawson got an opportunity to review it?---Because I'm not sure whether they were part of those meetings or discussions at that point in time.

We've pretty much established, haven't we, that you had your meetings with Mr Annand alone?---Sure.

And this email is certainly not copied to Mr Farleigh and Ms Dawson, is it?---No.

20 You had had a conversation, it seems, when you used the words "contrary to what we agreed" - you'd had had a conversation with Mr Annand about excluding Mr Farleigh and Ms Dawson at least - - -?---I don't recall. Sorry, sorry.

- - - from his communication of his draft reports to you?---I don't recall having such a conversation.

30 Why did you type the words "contrary to what we agreed"?---Well, that - he would forward the report to me for me to have a look at.

40 I want to suggest to you that the only reasonable meaning that can be attributed to that email is that you had had a prior conversation with Mr Annand in which you had asked that he not send draft reports to your staff but, instead, send them first to you, that he on this occasion sent it apparently to Ms Dawson and Mr Farleigh as well as you, and that was contrary to what you and Mr Annand had previously agreed. What do you say?---As I say, I don't recall that.

You were trying to keep your, in this case senior staff, out of the loop when it came to framing Mr Annand's recommendations and conclusions, weren't you?---No. I disagree with that.

You knew, didn't you, that Mr Farleigh and Ms Dawson didn't agree with what Mr Annand was saying in his reports and his

reasoning for what he was saying, because they'd told you so, hadn't they?---I don't remember any specific conversation or detail thereof, but, yeah, I think that's fair.

And what you wanted was to make sure that you didn't have to deal with Mr Farleigh or Ms Dawson in the framing of Mr Annand's recommendations and conclusions?---That was not a conscious decision that I made.

10

It was a very conscious decision that you not only said you did something that you agreed you wouldn't do, but then you said, "Can you ask her to send an email saying it was sent in error and to disregard"?---Because I wasn't satisfied - I hadn't had a chance to review the report.

But why did you want to review it before Ms Dawson and Mr Farleigh?---As I keep saying, sir, I was the one who was in discussions with Mr Annand and there were times - you know, there was certainly a period of time where staff weren't present, so I wanted to review the report in the context of those discussions.

20

But why were you having these dealings with Mr Annand, excluding your staff?---Primarily because, you know, I was under the, I guess, advice to expedite these as much as we could, all the planning proposals. So as I've said before, I took more of a proactive approach to things.

30

You were getting pressure, weren't you, from Mr Demian and Mr Montague, at the very least, if not also Mr Hawatt and Mr Azzi, to achieve the result that Mr Demian wanted achieved on this site?---I think that's a fair comment.

And you were getting pushback from your staff to the extent that you were obtaining reports from Mr Annand which satisfied that wish on Mr Demian's part?---That's probably a fair comment, yes.

40

And so you didn't want to be exposed to that pushback any more, and so you cut your staff out of the communications with Mr Annand?---No. It was - I made a conscious decision to take more of an active role in these things, because a lot of these applications got to a point where they were going nowhere.

But, Mr Stavis, taking an active role doesn't mean that you

have to exclude your staff from the process, does it?---No.
No.

If you go to page 91, you can see that Ms Avval at the top of the page sent an email at 12.29, shortly after your 12.08 email to Mr Annand, saying to you and to Mr Farleigh and Ms Dawson:

10 *Hi everyone, please disregard the previous email as it was sent by mistake.*

That was sent on your instructions, wasn't it?---Yeah, I think that's fair, yes. Commissioner?

THE COMMISSIONER: Yes?---May I have a break, if that's all right?

Yes, certainly. Is five minutes - - -?---Yes, that's fine.

20 THE COMMISSIONER: All right. We'll adjourn for five minutes.

SHORT ADJOURNMENT

[3.28pm]

MR BUCHANAN: Mr Stavis, if I can take you to page 93, please, this is an email from you to Mr Annand on 14 September at 10.54am. That's a Monday. You say:

30 *Hi Peter*

*I've proof read it and it sounds good.
Please send again as a separate email to Gil and me. Don't send as part of this email trail.*

40 Why did you ask Mr Annand to send it again as a separate email to Gil and you and not to send it as part of that email trail?---I'm sorry, that I can't answer. I'm not sure why.

Were you trying to have your staff think that they were copied in when you were sent the report for the first time when that was not in fact the case?---No, I'm sorry, I don't recall that, no.

You were being dishonest with your staff, weren't you?---No.

And the way you conducted yourself in respect of the handling of the draft of this report suggests that it was the contents of the report that you felt a sensitivity about your staff seeing it before you did?---I certainly wanted to proofread it before, yes.

10 But it's not just proofreading, is it? Anyone can proofread a document. It's the opinions in them, knowing as you did, I suggest, that Ms Dawson at the least did not agree with them?---No. As I said before, it was probably because I was party to a lot of the meetings by that point, and those meetings were largely between myself and Peter Annand, so in terms of the contents of that report I just wanted to actually read it and make sure that it was, I guess, in the spirit of those discussions that we're talking about.

20 But that isn't a reason why your staff couldn't have been cc'd in on the draft of the report, is it?---I believe so.

Why?---As I said, I was the one who was party to those meetings with - between Mr Annand and myself - - -

Does that mean you had something to hide?---No. Not at all.

30 What do you mean, then?---Just that, that I was the one - you know, giving someone a cold report to proofread doesn't - it doesn't put any context around those discussions.

This report, of course, had advanced conclusions which were not supported by the opinions that had been expressed by Mr Annand in his earlier report; that's fair to say, isn't it?---That is fair, yes.

40 Did you have some sensitivity to the fact that you were involved in Mr Annand changing his opinions in a way which favoured the development proponent?---No, not at all.

Is that the reason why you wanted to cut your staff out of the equation?---Not at all.

On page 94 is an email from Mr Annand to you cc'd to

Ms Dawson at 11.05 on 14 September, and it says:

*Spiro,
Final DRAFT.*

*Try this revision with further
justification ...*

Option C is still my preferred.

10

Did you tell Ms Dawson that you had already reviewed the report that was being sent?---That I can't recall, I'm sorry.

It's not likely that you did, is it?---Look, as I said, I don't recall.

20

Given that you tried to hide it from her, it's not likely that you turned around and told her, "This is what I've done behind your back", is it?---I don't agree that I tried to hide it from her. I was - - -

That you had reviewed it behind her back?---No. That wasn't a conscious thing that entered my mind.

That is what you did, though?---I reviewed it. I was - - -

Behind her back?---Okay, I accept that.

30

And was it the case that you wanted to have also the opportunity, by excluding Ms Dawson or Mr Farleigh from the process, of making changes to Mr Annand's draft report if you thought necessary?---No.

But without them knowing?---No.

40

That, of course, was the outcome, wasn't it, that you gave yourself that weekend to review the report and see whether there were any changes that you wanted to make without them knowing?---Not that I can recall, no.

Can I take you, please, to page 115. Towards the bottom of the page, an email dated 29 September 2015 at 10.16am from Matt Daniel of Statewide Planning:

*I'd like if possible to set a meeting with
you to discuss our emerging designs for our*

Project at Punchbowl.

If you could kindly provide us a time that works for you we will look forward to meeting with you.

In attendance will be John and me. We can provide you with preliminary plans prior to the meeting to assist with discussion.

10

Who was Mr Daniel, in this context?---I believe he was acting for Mr Demian, from memory, yeah.

And did he have any particular portfolio, as you understood it?---Sorry?

Was there any particular role that he played, as you understood it?---I would best describe him as an advocate and town planner, I guess.

20

At a higher strategic level perhaps than most town planners?---Yes.

Was that the sort of advocacy in which he engaged, in your experience, on Mr Demian's behalf on higher-level strategic advocacy?---Yes.

Was Mr Daniel a person you had dealt with before 29 September 2015?---It's quite possible, yes.

30

What sort of person was he to deal with where he was advocating a case to you?---Certainly very strong in his beliefs.

Forthright?---Very forthright and someone who did not like to take no for an answer. I remember that.

Could he be aggressive?---In a measured way, more measured way than, say, Mr Demian, yes.

40

And was it your experience that he would ring your planning staff from time to time in relation to matters that they were looking after?---Yes.

And advocate with them, if I can use this neutral term "advocate"?---Yes. I believe so, yes.

Did he ring you when he wasn't happy with your planning staff and tell you?---Yes.

Did you then approach those staff and take up with them Mr Daniel's complaint?---I certainly made inquiries, yes, of the staff to see what happened or where things were at, yes.

10 Did you tell them that they needed to comply with Mr Daniel?---No, I don't believe I said that at all. No.

Or indicate that at all?---No.

If I can take you to page 117, please, this is an email from you to yourself, I assume as some sort of reminder. You sent it at 6.26am on a Sunday, 4 October:

Send urban design sketches to Mat Daniel.

20 Is that the function of this email, as a reminder to yourself when you got to work the next day or later that day?---It probably was, yes, yes.

And was that in relation to 998 Punchbowl Road?---That I can't be certain of, I'm sorry.

30 Whose sketches was it that you had in mind when you wrote to yourself, "Send urban design sketches to Matt Daniel"?---Oh, sorry, I just saw the address on that email. So it was probably likely that it was in relation to Punchbowl Road. "Urban design sketches" - I can't recall what urban design sketches they were.

Well, we might be able to assist. If you can go to page 118, you emailed Mr Daniel on Wednesday, 7 October 2015 and copied in Mr Annand but no member of staff:

Hi Matt

40 *Attached are the schematics from Peter as discussed at our last meeting. I'm happy for us to meet to discuss. I think Peter and your own urban designer should attend as well.*

And there are attachments. You can see there's a JPG and a PDF identified as attachments. Then over the page, going

to page 122, there are sketches and a sheet of notes. Do you see that?---I do, yes.

Now, I'm not suggesting to you that the sheet of notes was necessarily part of the attachments I'm asking. Is that Mr Annand's handwriting?---That I can't tell you with any certainty, I'm sorry.

It's not yours, though, is it?---No, it's not mine.

10

So the sketches at pages 119 to 121, were they Mr Annand's sketches?---I believe so, yes.

Was there any particular reason why you were providing them to Matt Daniel?---I think, as I said in my email, it was an opportunity to get the two urban designers together.

Annand on the one hand and Matt Daniel on the other?---Yeah, or his representative, whoever that might be, yeah.

20

Can I ask, though, as far as you were concerned, the product from Mr Annand had been commissioned by council; is that right?---That's correct, yes.

And was it in order for you to provide it to the development proponent before council had dealt with it?---Sorry, are you saying - what was the question again, sorry?

30

Was it proper for you to provide it to the development proponent?---I don't think it was improper, no.

It seems like there had been a meeting between the time that Matt Daniel had said, "Can we talk on the phone" - no, I do apologise - he had said, "Can we have a meeting" - that's page 115 of volume 13, 29 September - and then page 118 of volume 13, the email of 7 October, a meeting between you and Mr Daniel? Is that a reasonable construction?---Most of those meetings that I had with Matt Daniel in relation to this property, from memory, had a consultant team with him as well.

40

Yes?---Yes. So the chances are that it was likely to have been some sort of meeting, yes.

But the email you send him on 7 October isn't cc'd in to

your staff? I'm not counting Ms Rahme. None of your professional staff?---Sure. That seems to be the case, yes.

So had you had a meeting with Mr Daniel and his designer, perhaps, but no designer from your planning division, planning team?--Well, we didn't have an urban designer in our planning team, yeah, so that's why Peter Annand would have been part of that process.

10

Can I take you to page 123. This is an email dated 8 October 2015 from Ms Nakhle to you:

Spiro,

You asked me to remind you this week to send Peter Annand's sketches on to Charlie Demian and Matt Daniel for 998 Canterbury Rd ...

20

Why were these being provided to Mr Demian?--Oh, because he was obviously, well, the proponent, I guess, yeah. That's probably it.

And was it with a view to allowing Mr Demian and Mr Daniel to have input into the process whereby Mr Annand provided his opinions to council on council's planning proposal?--No, not necessarily provide input but to be informed, I guess.

30

But why would they not be informed if they read the report which was provided to council by Mr Annand?--I'm not sure whether that was given to them at the time. I'm not sure, because those sketches, from what I saw, are largely very similar to the ones that were contained in the report. I stand to be corrected.

No, I'm not suggesting that you need to be corrected on that.---Yeah.

40

What I'm just trying to understand is what the purpose would be of sending data, such as the graphics that appear by way of the sketches and then the calculations that appear, I suggest, in Mr Annand's handwriting on page 122, given that Mr Annand was providing reports, unless it was with a view to the development proponent, and of course his high-level strategic adviser, with an opportunity to have

input into the framing of Mr Annand's work?---?---No, look, my recollection was that at that point in time there were meetings that had been held where Peter Annand was present and obviously we undertook to provide them with our thoughts, our feedback, in terms of the site.

Did Mr Annand meet with Mr Daniel?---I believe he was present, yes.

10 How many meetings took place between Mr Annand and Mr Daniel?---I can't tell you with any surety, to be honest with you.

Were you present at that meeting?---Yeah. I'm also aware that he had a meeting potentially off site with - I'm not sure who, but I assume it was their urban design expert, but I do recall having a meeting on site, where I was present, where certainly Mr Daniel was there and maybe one or two of his consultants and Peter Annand.

20 And was there any exchange that took place in your presence as to what should appear in Mr Annand's report?---No, no, not at that meeting.

So was the information going all one way, from Mr Annand to Mr Daniel?---Oh, no, there was pushback. There was - - -

30 Can you tell us what happened?---I can't recall exactly, but I remember that there was pushback in some of the findings that Mr Annand was putting forward, I guess.

From whom did the pushback come?---I believe it was Matt Daniel.

40 And did he argue with Mr Annand? Is that the right word to use?---Yeah, I'm just trying to think if it is, if I would term it as arguing. It was a disagreement, yes, on certain issues. But in terms of arguing, not - I guess not that forceful.

Was Mr Annand prepared to take on board Mr Daniel's thoughts?---Yeah, he was always very polite, yes.

This period of time, 7 October, 8 October, is shortly before you received a fresh proposal from Mr Demian's side for an increased FSR, do you recall that?---I do.

Can I take you to page 127 of volume 13. This is a submission to council dated 16 October 2015 from DDC Urban Planning, who acted for Statewide Planning. They referred to recent meetings with Canterbury City Council staff and further design development. If I can just take you to the signature on page 130, a Craig McGaffin signs the letter. Do you see that?---I do, yes.

10 Was he a person who accompanied Mr Daniel at the meeting, at least the one that you were at with Mr Annand and Mr Daniel?---No. It was normally another gentleman from that firm, who was the principal. I believe his name was Tim Stewart, from memory. Yes.

When you say "that firm", you mean Statewide Planning?---No, DDC, yeah.

20 Thank you. And if you go, please, to page 129, at the top of the page, it says:

As a result of further numerous meetings with Council Officers and significant design development, the project architects, Geoform, have prepared a Building Volume Study ... which demonstrates how the Site can accommodate an increased height limit and maximum floor space ratio.

30 *On this basis, we request that [Planning Proposal_2014] is amended to allow on the Site a:*

- maximum building height of 25 metres; and*
- maximum permissible floor space ratio of 2.7:1.*

40 It talks here about "further numerous meetings with Council Officers". They weren't held with Ms Dawson or Mr Farleigh or Mr Foster, were they? They were held with you?---I believe myself and Peter Annand, from memory.

Had you and/or Mr Annand indicated a willingness to consider a maximum permissible FSR of 2.7 in those meetings?---No, I don't believe so.

So did this proposal come out of the blue to you, or had

you had some forewarning of it?---There was a meeting that I was called up to attend in the general manager's office, where I believe Mr Hawatt, Mr Azzi, Charlie Demian and Jim Montague were already present, and there was a plan - I think we spoke about that plan before, earlier today - that showed an FSR of 2.8:1, from memory, and some other scribble notes. That's, I believe, when I first got wind of that.

10 Just to properly contextualise this, can I take you through - no, I can't. I'm sorry, I was answering a question as to whether I can do this in the time available, and there's no time available, and I certainly can't do it in minus 10 seconds, minus a minute.

THE COMMISSIONER: Okay, then. We'll finish up for today.

20 Just a couple of announcements before we finish. We are not sitting tomorrow or Wednesday. We will resume here Thursday morning at 9.30. I have been informed that the LECC is using this hearing room tomorrow and also Wednesday. We have been requested to clear completely the Bar tables, but I am informed that trolleys, if you don't want to take your trolley with you, if you can store it up against the wall or out of the way, they can remain in the hearing room.

30 And also I think we have to be out of here by 4.30. So we will adjourn now until Thursday morning at 9.30.

THE WITNESS STOOD DOWN [4.00pm]

AT 4.00PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.00pm]

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