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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION WITNEY

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 6 APRIL, 2021

AT 2.00PM

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THE COMMISSIONER: Yes, Mr Ranken.

MR RANKEN: Thank you, Commissioner. Now, Mr Megna, prior to the luncheon adjournment I was asking you some questions about this email from Mr Matthews to you and the other three Liberal councillors of the afternoon of 21 February, 2017. It was sent just less than three hours prior to the start of the council meeting on that day. And Mr Matthews, you've
10 told us, and his associate Mr Daniel were acting on behalf of, amongst others, the Sidoti family interests in the Waterview Street site. Correct?
---Correct.

And you told us that you'd had some previous, you had some additional contact with Mr Daniel principally in relation to another issue in which Pacific Planning had some involvement which concerned some development at Concord. Is that correct?---Concord Road, yes.

20 And that was not - - -?---Sorry, Burwood Road, Concord, sorry, yeah.

Burwood Road in Concord.---Yes.

But was that kind of shorthand referred to as Concord?---(No Audible Reply)

And that matter, that was not a matter that involved any interests on the part of the Sidoti family.---No, as far as I know, no.

30 And that was not a matter that Mr Sidoti had expressed any interest in at all to you?---No.

In relation to any aspects of the planning for that.---I'm sorry?

In relation to any aspects of the planning for that.---No, no.

Did that concern a specific development proposal that had been, that was before council or did it, did it also concern changes to an LEP of the kind of nature that was being considered by the Five Dock Town Centre Study?---I
40 really don't remember what it was all about. I'm not sure if it was before council or it was going to be going toward, for, towards council. I'm not sure now.

But as to whether or not it was actually – what my question was directed to is, is what, was Concord the same kind of issue as the Urban Design Study and planning proposal in the sense that it was quite a large undertaking?

---No, no, no.

Or was it a specific development proposal for a specific site?---Site specific, yes.

And a site which had no other significance to the community other than really the impact on the immediate landowners and the person who actually owned or wished to develop the site. Correct?---Correct.

And that certainly didn't include the Sidoti family or - - -?---No.

10 And it was not a matter that Mr Sidoti had expressed any views about one way or the other to you.---No, no.

Now, appreciating that you weren't able to participate in the decision concerning the matter that was before the council on 21 February, 2017, certainly in terms of the rescission motion, I just want to take you to what was in fact resolved by the council. So if we could perhaps bring up the council meetings which commence at page 1421 of Exhibit 24. And there you can see that's the first page of the minutes, and it has all the persons, the councillors who were present, and all were present. Correct?---Yes.

20

And if we go to page 1424, in respect of item 12, which if you'd accept from me is the notice of motion of rescission that was put forward by Councillors Kenzler, Parnaby and Tyrrell in relation to the Waterview Street exhibition outcomes, both yourself and Councillor Fasanella had declared your pecuniary interests, as was your practice, correct?---Yes.

And then if we could then go to page 1425, we see the notice of motion item on the agenda at 6.10pm.---Oh, right.

30 And you and Councillor Fasanella left.---Ah hmm. Yes.

And there's a list of the persons who addressed the meeting, which included Mr Durkin and included Mr Matthews as well. Do you see that?---Correct, yes.

Now, if we go to the next page, do you see that the motion was moved and that was the rescission motion, and by all means take the time to read the six paragraphs to yourself.---Right.

40 And you see that the rescission motion was put and lost on the casting vote of the mayor. Do you see that?---Yes.

So that's just – you didn't participate in that decision but just so that you can see, I can take you to what actually occurred, because you were in fact outside of the meeting. Now, did you have any communications with Mr Sidoti about the rescission motion either at or soon after this decision took place?---Not that I can recall, no.

Do you recall having communications with Ms Cestar in the form of text messages the following day, that is, on 22 February of 2017?---The following day? I can't recall, but there, it, it's, we could have, yes.

I wonder if we could bring up page 1851. Now, this is a Cellebrite report, an extraction of a particular instant message conversation between yourself and Ms Cestar, and you can see on the right-hand in green are Ms Cestar's messages, and the messages in blue on the left-hand side are yours.---Yes.

- 10 The first thing that Ms Cestar has said is, "Any blowback from last night?" Now, given the date that this was – and the time that this is 11.48am the day after the rescission motion, are you able to say what you understood Ms Cestar to be referring to in that message?---From the events of the council meeting last night.

Anything particular about that council meeting that - - -?---Well, I'm assuming it'd be the, by her second message, is to do with John, so I'm assuming it's to do with the rescission motion.

- 20 So she's indicating that she in fact spoke to Mr Sidoti at some time the previous night, and that he was actually happy.---I spoke to," yes, that's what she's saying, yes.

And your response is that "He must have taken his happy pills."---Mmm.

- 30 And Ms Cestar has said, "LOL. He seemed to be impressed by our loyalty, which I thought was interesting as it had nothing to do with loyalty, he was actually right, he was being screwed." And your response is, "He sent me this today. I didn't know if he was sarcastic, was trying to work it out, but if you said he's happy then maybe he's genuine." There was an attachment to that message. It looks like it's an image just by looking at the file type, which is a .PNG file type. Do you recall what it was that you attached to that message?---Nah. I have no idea. It's (not transcribable) "He sent me this today." I don't know what, what it was. It, it must have been that he was happy. I, I have no idea.

- 40 And then Ms Cestar says, "Yeah, he was. Apparently his sister in gallery and others were texting him while we were on the item. He was happy with all our performances. I think it's genuine." You know Mr Sidoti's sister, I take it?---Yes.

And have known her for some time, is that correct?---Yes.

Does seeing that message now prompt a recollection as to whether prior to you leaving the meeting on 21 February, 2017, you observed Ms – I think her name is Mrs Andersen, is it Lisa Andersen?---Correct, mmm.

Whether Lisa Andersen was in fact present in the council chamber at the time you left the meeting at least?---Well, it, well, do I say that it was her? I'm not sure. "Gary said there was a blonde female writing," I don't know. I don't know who it was.

Your response is, "I was texting him as it was going from the side corridor. So that was his sister, I didn't see her." So you didn't see her?---No.

10 Now, "I was texting him as it was going from the side corridor," what sort of text messages were you engaging with Mr Sidoti about whilst you were in the side corridor?---I don't know. I have no idea.

Was he relaying to you the substance of text messages that he was receiving from persons what happened were inside the chamber at the time?---He may have. I, I can't recall now.

20 Would that not be somewhat unusual, for him to be keeping you in the loop about what's going on inside the council chamber in relation to a matter that you were not having any involvement in because of your declared pecuniary interest?---Well, if it's to do with a, the, the matter before the council, I, I don't, I don't remember what it would have been about now.

You have no recollection?---No, "So that was his sister, I didn't see," mmm.

30 And you've gone on to say, "I didn't see her. Gary had said there was a blonde female writing furiously, he wasn't sure who she was. We thought she may be media." And now, I take it that that doesn't – 'a blonde female' is not a description that meets the description of Lisa Andersen, for your knowledge of Lisa Andersen, she's not blonde?---Oh, she has fair, well, she has fair hair, but I, I wouldn't, I wouldn't call her blonde, no.

And Ms Cestar said, "The blonde must have been media, his sister in back row. I glanced and thought it was her. John just confirmed it."---Mmm, I don't know.

And you just respond, if we go to the next page, 1853, "Okay."---Where's that, sorry? Oh, okay, yeah, okay.

40 So again you have no recollection as to whether or not the subject about which you were texting with Mr Sidoti, that you've referred to in this message exchange, was related to the Waterview Street site or not?---I, no, I can't confirm exactly what it was, no.

Now, I want to come to a slightly different topic now, Mr Megna, and that is – up to this point, we're at 22 February of 2017.---Right.

And it was the case, was it not, that in September of 2017 there were elections for local council, correct?---Yes.

And you were duly elected, correct?---Yes.

And Ms McCaffrey, she was not elected to council.---No.

Nor was Ms Cestar, is that right?---No. Ms McCaffrey, Mrs McCaffrey ran but was not elected.

10 THE COMMISSIONER: We're talking about preselections, is that right?
---Oh, preselection, I'm sorry. I thought you meant elections.

MR RANKEN: No, I'm talking about the actual elections.---The actual election, yeah, okay.

THE COMMISSIONER: The actual election. Right, yes. Proceed.

MR RANKEN: Yes.---Yeah, Ms McCaffrey was preselected but she didn't
20 get elected. Ms Cestar and Mr Ahmed didn't get, weren't nominated, I
don't think, so, no, they weren't on the ballot.

When you say weren't nominated, is that they did not make it through the
preselection process of the Liberal Party to be on the Liberal ticket to be
considered by the voters of the City of Canada Bay local area.---Yeah, Ms
Cestar wasn't. Mr Ahmed was on the ticket. I remember he was on the
ticket.

THE COMMISSIONER: Can I just clarify. The preselection we're talking,
30 for the elections in 2017, occurred, what, about two months before
September 2017?---Probably July.

July you think.---I think.

And that's when the preselections took place?---Yes.

And you were preselected on a ticket.---Yes. Yes.

I think it's true to say you expected that Ms McCaffrey would also be
preselected. That was your expectation.---Yes.

40 And you were also expecting and wanting Mirjana Cestar also to make it
through preselection.---Correct.

And do I take it that your wish to see them preselected in part, at least, was
because you had worked effectively with them.---Correct.

In respect of them.---Yes.

And they were highly experienced.---Yes.

But they were not preselected.---No.

And nor was - - -?---Well - - -

- - - Dr Ahmed?---Sorry, Mrs McCaffrey was preselected but she didn't get elected. She was, she was preselected as a candidate but she was not elected to the council.

10 I'm trying to distinguish preselection processes from the formal elections that are held in September.---Mmm.

And you think the preselection process took place in July?---About July, I think.

Of 2017?---Yes.

20 So the questions I just last put were all related to the July preselection process?---Preselection. And Mrs McCaffrey was preselected to be on the ticket.

She didn't make it on the ticket at the preselection?---Yeah, she made it, no, she made it on the ticket.

Did she?---Yeah, but she was not - - -

I'll leave Mr Ranken to take you through the steps.---Okay.

30 MR RANKEN: So the preselection process seeks to achieve a number of things. Firstly, to identify the person that the party will be put forward as a potential mayoral candidate, correct?---Correct.

And also to determine the persons that will be put forward on the party ticket for the number of positions that the party considers are realistically winnable positions on council, correct?---Well, yes and no. We need to run five candidates for a formal ticket. That's part of the Electoral Act. You have to run five out of your council of nine.

40 Yes.---So we preselected five.

But the preselection process is about identifying the five out of the number of persons who might put their names forward. Correct?---Indeed.

And also to select them in a particular order in which they will appear on the ticket. Is that correct?---Yes.

And is it the case that the order in which a person appears on the ticket is likely to increase or decrease the chances that a particular candidate might

have, where they are on the order of ticket?---Yeah. The higher up the more chance they have of being elected.

And why is that?---Well, each, the, each candidate, or sorry, there are nine councillors or eight councillors, one elected mayor. There is a quota, so each candidate, to be elected has to achieve an amount of votes, and if they don't, if they miss out, well then they don't get elected.

10 But why does it matter what order you appear on the ticket for the particular party, why does that have an effect?---Oh, I see. Well, if, if people follow a how-to-vote ticket, voters just go and vote, they'll follow the numbers on the how-to-vote card and vote in that order.

So the thinking about the position being important is based on an assumption that most people, that is most voters, will vote in accordance with a particular how-to-vote card that they are handed on the day possibly by someone representing - - -?---The volunteers.

20 - - - the party who they generally have an affinity to. Correct?---Indeed, yeah.

It doesn't account though for the possibility that a person may not vote at all in accordance with the order, either the order in which their preferred party proposes or at all?---Vote above the line, which is just put 1 in a box and that follows the ticket, or people can vote below the line and they can number as many squares, I'm not sure how many squares they have to number.

30 And if they vote the 1 above the line, then the distribution of those votes will follow down the ticket, the order of the ticket. Is that correct?---Until it's, until the vote is exhausted, the quota vote is exhausted, yes.

And again that's another reason why being up the top of the ticket increases one's chances. Correct?---Yes.

40 Now, when a person wishes to nominate for preselection by the Liberal Party for a local government election, is it the case that they are able to nominate the particular position on the ticket that they wish to be considered for?---Yes.

And do they pay a fee depending on the number of positions that they have nominated themselves for?---No, I think it's a – oh, the mayoral candidate pays a separate fee and then a councillor candidate pays a nomination fee, however much that was, I'm not sure now.

And that's just a flat nomination fee, it doesn't matter how many positions that they've nominated themselves.---No.

So a candidate can nominate themselves for the – if a candidate nominates themselves for a mayoral position, then ideally they would also need to nominate for one or other of the five positions that would be in the ticket. Is that the position?---Indeed.

And from time to time – sorry, I withdraw that. Is it your experience that it is rare for any need to have a contested preselection?---Oh, no, we have had a contested preselection. We probably had in the previous two.

10 THE COMMISSIONER: I think the question, rarity was the question.

MR RANKEN: Was it rare, yes.---Oh, rarity? In Canada Bay?

Yes.---It probably is rare, yes.

And is that because ordinarily there haven't in the past, there haven't in the past, that is prior to 2017, been more than five persons putting their name forward for consideration for preselection, in the first instance?---That, that could be right.

20

And then would there usually be discussions between the candidates as to which position they should be on the ticket?---Yes.

And so prior to 2017 the usual course was that this was all dealt with without any need for there to be any preselection process because each person would say, well, I'm going to go 1, you go 2, this person will go 3, 4 and 5, and that would be - - -?---Yeah, that would be about right.

That would be correct?---Mmm.

30

And is it the case that, in fact, I think in the previous election, the previous election was in two thousand and - - -?---'12.

'12 or '13? '12?---'12

That in that election there was a fellow by the name of Mr Nick Yap who had actually, had he put his name forward but not been successful at the election?---I don't think so. I don't, no, I don't – no, he wouldn't have nominated. He may have been on the ticket to fill up the number.

40

Yes.---But he wouldn't have been preselected because I don't think we had a preselection in 2012.

No, I understand that, but in that process of negotiating positions, he may have been the fifth position on the ticket and not successful?---I, I, yes, yeah.

But whether that was in fact the case, you don't recall presently?---No, I can't remember who the fifth candidate was, to tell you the truth.

That's fine. So, and so in 2017, though, for the first time in sometime, there were more persons nominating for positions on the ticket than there were positions on the ticket, correct?---I'm just trying to think how many there were. There may, there may have been five and it was just a case of working out the order. There may have been six. I, I can't remember now.

10 THE COMMISSIONER: Just put the question again, and would you answer the question.

MR RANKEN: In 2017, for the first time in a long time, there were more persons who were nominating for positions on the Liberal Party ticket than there were actual positions.---Well, I don't know. Until I sit and work it out, I don't know.

I'm saying there were more than five candidates for preselection.---There may have been five, there may have been six. I, until I sit and think about it,
20 I'm not sure.

Well, I think you told us that Mirjana Cestar missed out on preselection.---Yes.

So that's clearly someone who you recall she nominated for - - -?---Yes.

So there's someone who missed out on being on the ticket.---Yes.

So it must be that there were more than five.---Yes.

30 That just simply follows as - - -?---Yes.

- - - as maths, doesn't it?---Mmm.

THE COMMISSIONER: Sorry, you're nodding. It has to be recorded.---I'm sorry. I did say "yes", I'm sorry, yeah.

MR RANKEN: Perhaps if we could bring up page 1491. This is an email chain, but just you can see at the top, it says, "Canada Bay Local
40 Government Elections. Please read carefully and respond by due date." If we could go to page 1492. And you'll see this is the, it actually indicates that "Dear Candidate, the final list of nominations received."---Oh, right, yep.

And what we see is that there were in fact only four positions that the council was putting forward. Sorry, I withdraw that. There were only four positions on the ticket that the Liberal Party appears to have been putting forward for this election.---Correct.

I thought in your evidence earlier you said that there needed to be five in order to make up a proper ticket.---That's true. Four would have been the electable positions. We had four last time. So the party would have said you only have to preselect four, but to fill the ticket, we could ask anyone in the party if they wanted to be a, a filler number on the bottom.

But these nominations are really for the key four positions - - -?---Yes.

10 - - - that are seen to be potentially winnable, together with the position for mayor. Do you see that?---Yes, yes.

And as far as those positions, we see that, do you see that Helen McCaffrey and Stephanie Di Pasqua were the only two persons who nominated, who were nominated for the position of mayor?---Yes.

And then you see that Ms McCaffrey and Ms Di Pasqua also nominated or were nominated for each of positions 1, 2, 3 and 4.---I do.

20 You were nominated I think for only the position 1 on the ticket, is that correct?---Correct. Correct.

And was there any reason why you didn't put yourself forward for the possibility of being nominated for positions 2, 3 and 4, or 4?---I actually misread the form when I was filling it in. I thought if you nominate that you nominated - - -

For all positions.---For all positions. And you just get selected or not selected, depending on the number.

30 And without necessarily wishing to put words in your mouth at all, was that in part because this was the first time there'd had to be some preselection process for some time?---Well, I, yes, I think the rules had probably changed either that, that preselected, preselection or the one before that. Prior to that, you could just nominate and it was up to the party to choose.

And do you see that each of Tanveer Ahmed and Nicholas Yap also were nominated for each of positions 1, 2, 3, and 4?---I do.

40 But Ms Cestar only put herself forward for positions 2 and 3.---Right, yes.

Now, is it – given your experience with these sorts of processes, in terms of in the past where there were discussions between people, in a circumstance such as this, that is, where there were more persons who were nominating than there were places on the ticket, at least in terms of the four winnable spots - - -?---The winnable tickets, yeah.

- - - is it your experience that there can then be discussions between the candidates as to the possibility of forming tickets or groups between them?
---Sure, yes.

And have you ever been a party to such discussions?---Yes.

And were you a party to such discussions in the case of the 2017 election?
---Yes.

10 And with whom did you have those discussions?---With the then-sitting councillors on the ticket.

THE COMMISSIONER: I'm sorry, I can't hear you.---I'm sorry, with the then-sitting Liberal councillors.

MR RANKEN: And that is with - - -?---Cestar, McCaffrey, and Ahmed.

20 And was there some agreement between the four of you as to how you would go about getting the four of you re-elected?---Yes.

And what was the essence of that agreement?---That I'd be 1, Helen was 2, I think Mirjana was 3, and Tanveer, sorry, Dr Ahmed would have been 4.

And was there also some discussion between yourself and Ms – or between the four of you as to who would be put forward as the mayoral candidate?
---No, well, that was where the, the form wasn't filled in correctly. So by default, Ms, Mrs McCaffrey was the mayoral candidate.

30 How do you say that?---Well, I hadn't nominated particularly for the mayor.

So you had intended to nominate for mayor by reason of you being the number 1 position?---I was leaving that to the preselection panel to decide who they were going to nominate as the mayor. They, they vote for the mayoral candidate, then they vote for positions 1, 2, 3, and 4.

40 Okay. Did you have some understanding, or perhaps misunderstanding or misapprehension, that if you had the number 1 spot on the ticket then you would be the party's mayoral candidate by reason of that, or - - -?---Prior to knowing that the form was done incorrectly?

Yes.--- Yes, I thought that could have been a possibility, but it was up to the, the panel.

But so the discussion was that that's the order that you would put yourselves forward, but we see from that email that, contrary to that discussion, it appears that – an understanding Ms McCaffrey had herself nominated for position 1, in a sense competing with you for that position.---Mmm.

And so had Dr Ahmed. Correct?---Yes. Yes.

And Dr Ahmed had in fact competed also with Ms McCaffrey for position 2 as had Ms Cestar. Correct?---Yes.

And again, Ms McCaffrey and Dr Ahmed had competed with Ms Cestar for position 3?---Yes.

And Ms McCaffrey was competing with Dr Ahmed for position 4.---Yes.

10

So, how did you envisage that this arrangement or discussion – I withdraw that. How did you envisage this arrangement would work? Is it the case that on the day of the actual preselection that the various candidates would withdraw from particular positions to shore up the likelihood of votes going towards one or other of you in that – of the delegates, that is, votes for the delegates going towards one or other of the persons nominated?---Yeah, I suppose if we'd, if we hadn't come to an agreement on positions, then it would go to a, a selection.

20

But as I understand your evidence, you had come to an agreement on positions with - - -?---Yes.

Was that - - -?---Sorry, no, yeah, yes, we had come to an agreement, but that was before both Helen and I didn't fill in our forms correctly as far as nominating is concerned.

Right.---And you can see on that little bit on the bottom where it says is now includes Helen McCaffrey in positions 1 to 4 as she did not nominate a ticket position on her nomination.

30

And because she had put herself as a mayoral candidate she had to also, as we already covered, nominate herself for one or more of the other positions. ---Well, I, I think that they just put her down for all the positions.

So when you learned that, did that mean that all bets were off as far as your arrangement was concerned?---No, no, no, no.

Okay.---No.

40

So I just want to be clear. Was the arrangement that you had come to with the other sitting councillors one that you understood to be in effect right up to the point of the preselection events that occurred?---Yes.

Is that right?---Yes.

And the preselection event is one which is attended by a number of delegates of the party who actually choose the persons who will take the various positions. Is that correct?---Correct.

So I'm just talking about in 2017.---Ah hmm.

The position may well have changed since then, but I just want to focus on 2017. And is this the situation, that what happens is each of the candidates has an opportunity to address the delegates?---Correct.

And they address the delegates in the absence of the other candidates?
---Yes.

10

So the other candidates don't necessarily see what each of the candidates has said.---No.

And as far as the delegate's concerned, are you able to say how many delegates are involved in the process?---I think there were about 25 or I think 20 was a number but it was probably 25, 27, something like that I think.

20

And from where are the delegates selected?---From each branch in the Canada Bay Council area.

And what, how many branches are there in the Canada Bay area?
---Four I think.

So and one of those branches is the Drummoyne branch.---Yes.

Is there a Concord branch?---Yes, Concord West.

30

Is it Concord West or is it just Concord?---Concord West.

Concord West. Drummoyne. Is there a Five Dock branch?---There's a Five Dock branch and a Drummoyne Central branch.

And Drummoyne Central. So Drummoyne, Drummoyne Central, Five Dock, Concord West and Five Dock.---Correct.

And do they have an equal number of delegates?---No. It's to do with the number of members in each branch. So there's like a weighting.

40

Which of the branches has the most delegates?---Drummoyne and Concord West I think from memory.

Do they have an equal number of delegates between them?---I don't know if it's equal. I know they, I'm pretty sure they had more than the other two branches.

And significantly more?---No. We're talking, I think, I think each branch has five delegates automatically, doesn't matter how big you are, and then

you get an extra one per I think extra 10 members. So I think Drummoyne might have had seven and Concord West may have had the same. I'm not sure now.

And which branch were you associated with?---Drummoyne.

You're part of the Drummoyne branch.--- Yes.

10 That also happens to be Mr Sidoti's branch. Is that correct?---Yes.

And Ms McCaffrey, was she part of the Concord West branch?---West, yeah.

Which was the other branch that I think you said that was the most populous or had the most number of members.---I think so, yes.

20 And therefore most likely either about the same or a little bit less than Drummoyne as far as the number of delegates.---I think from memory it was equal but I may be wrong.

Now, and so you've told us a little bit about that process of preselection in terms of each of the candidates has an opportunity to address the delegates and if a candidate is not physically present are they able to do so by way of some sort of video, send in a video presentation or something of that nature? ---Yeah. Well, I wasn't aware at the time that they could but I understand that that was something afforded to Ms McCaffrey and she was away.

30 Ms McCaffrey wasn't in fact able to be present. Is that correct?---Yeah, exactly.

Ms Cestar had been overseas but she returned very shortly prior to the preselection event.---Correct.

And in any event the position is, is it not, that once the presentations have all been done, the delegates then go about the business of selecting each, the candidates for each position, is that correct?---Yes.

And do they start with the mayoral candidate?---Yes, they do.

40 And on this occasion, are you aware that ultimately Ms Di Pasqua, who had also nominated for mayor, she in fact withdrew her nomination?---Yes, she told us that while we were in the room where the candidates were.

And did you have any foreknowledge that she was going to withdraw - - -?
---No.

- - - from that position?---None at all.

Did she give an explanation as to why?---No, she just said, “Oh, I’m just letting you know, I’m not nominating for the mayoral position,” or “I’ve withdrawn from the mayoral position.”

Ms Di Pasqua, at that time, she was employed by Mr Sidoti, is that correct?
---I’m not sure if she was at that time. I know her mother was. She may have been employed at that time.

10 And she is, I think, currently employed by Mr Sidoti, to your knowledge?
---Yes, she still is, yes, as far as I know.

THE COMMISSIONER: What do you understand was her employment position with Mr Sidoti?---An electorate officer.

A - - -?---An, sorry, an electorate officer.

So was that a position which she discharged at the electoral office of Mr Sidoti?---Yes. Yes.

20 It could have been that she was working for Mr Sidoti at the time of this preselection, but you don’t have any clear knowledge or recollection?---I didn’t really know her at that time, to tell you the truth. I met her mum a few times but I didn’t know Stephanie at all.

Did you know anything about her background?---No. No.

30 When I say background, I’m talking about her political background.---Oh, I knew she was a member of the Liberal Party. Well, obviously she’d have to be a member of the Liberal Party to be running, so, yes.

But in terms of whether she held office before.---I don’t – no. I didn’t, I didn’t even think whether she held office or not. I, I wouldn’t have, I wouldn’t have put my mind to it, no.

MR RANKEN: Did you know how old she was at the time.---I think she was in her twenties, I think.

40 Would it surprise you if she was in fact about 21 years old at the time?
---Oh, no. That’d be about right, yeah. I knew she was in her twenties, yeah.

Given her relatively youthful age, it would be unlikely that she’d held any political office of - - -?---I’d say so, yeah.

- - - note prior to this, correct?---Ah hmm.

Did you have any understanding as to how it was that she came to nominate for any of the positions?---No, I, I found out when the nomination list came

out. And I think a few of us were asking each other, “Who’s Stephanie Di Pasqua?” Because we, I, we didn’t know her.

So when you say “a few of us”, who’s - - -?---Oh, the, the, the, my Liberal team, my team.

When you talk about “my team”, are you talking about Councillors McCaffrey, Cestar and Ahmed?---And Ahmed. Mmm.

10 And it’s the case, isn’t it, that then what happens, so in this instance there was no need for there to be a vote by the delegates for the mayoral candidate because Ms Di Pasqua had withdrawn her candidacy for that position, correct?---Yes.

But she, to your knowledge, had she maintained her candidacy for the remaining positions?---Well, she didn’t say she withdrew so I’m, I’m assuming she would have, yes. At the time, I would have assumed that.

20 So you have no knowledge as to whether or not in fact she may have actually withdrawn her candidacy for the number 1 position, which you were contesting?---No, I didn’t know.

And tell us this, perhaps, if after considering the mayoral candidate they then go to – that is, the delegates – then go on to vote for each of the positions, and it’s the case that it’s not that they vote some preferential order, they vote for each position in turn, is that correct?---Exactly.

30 So each delegate effectively would vote on four occasions for each of those, correct?---Yes.

And do they start with number 1 and move through down to number 4?
---Yes, yes.

And is this the position, that if a candidate is successful in securing number 1, well, then obviously they’re not considered for the remaining - - -?
---Exactly.

40 - - - positions. So, so for that reason, obviously when – you were successful in getting the number 1, correct?---Yes.

And you don’t recall whether or not in fact Ms Di Pasqua withdrew her nomination for the number 1 position?---I don’t know, to tell you the truth. I don’t remember.

Did you ever have any conversations with Ms Di Pasqua at any time about the possibility of her withdrawing from number 1?---No, no. I wouldn’t force anyone to withdraw from anything. If they wanted to run, it’s up to them to run.

I wasn't suggesting that you forced her.---No, no, I'm just saying no, I didn't, no.

But whether you or not you had any – because I think you told us that it was quite common for there to be – I withdraw that. I think you told us that it was something that occurred from time to time, that candidates would discuss withdrawing from different positions or only nominating for particular positions as part of a ticket. Correct?---Yes.

10

And in fact I think you even suggested that the arrangement you had come to with your sitting Liberal councillors was that you would be number 1, Helen McCaffrey would be number 2, Mirjana Cestar would be number 3 and Dr Ahmed would be number 4 on the ticket. Correct?---Yes, which were the positions that they were elected on last time.

And was the thinking behind that that on the day that if they were nominated for the number 1 position that they would withdraw from that? So, for example, Ms McCaffrey would not put herself forward for number 1 so as to enhance the ability for your candidacy to be successful in achieving that number 1?---I don't know what their thinking was to tell you the truth.

20

But I'm talking about your thinking. Was that your understanding as to how it would happen?---Well - - -

That Ms McCaffrey would withdraw from number 1, Ms Cestar would withdraw from number 2 and Dr Ahmed would withdraw from number 1, 2 and 3 and just contest the fourth - - -?---Well, if that was the arrangement that we had originally. I, I haven't even thought about it for four years. I don't know whether they withdrew or not to tell you the truth.

30

I'm not asking whether they actually did withdraw but whether or not that was your understanding of how the arrangement would work.---Yes.

That was your understanding of how the arrangement would work?---Yes.

And that that would be done on the day of the preselection not sometime prior?---Oh, it could be done prior. It could be done on, as long as it's done before the preselection itself.

40

Was it communicated to any other persons that the four of you were running as a ticket?---Yes. I know that I spoke to Dr Yap that that was the, I think I asked him if he wanted to run for number 5 position so he knew what the other positions were, yeah.

So you had a conversation with Nicholas Yap.---Yes.

And the conversation you had with him was that before he had nominated for preselection?---Yes.

So before this email that we see with the list of nominees. Is that the position?---I knew he was nominating, yes.

Well, to your knowledge, did he in fact nominate as a result of your approach to him?---I think so, yeah.

10 So it was you who suggested to Mr Yap that he should think about running?---Yes.

And just so we're clear, we're talking about the 2017 preselection.---Yes.

Not an earlier time. Was there an earlier time when you may have suggested to Mr Yap that he run for preselection?---I might have. I can't remember.

20 And how did you, firstly, how did you know Mr Yap or Dr Yap I think?
---Yeah. He's a member of the branch. I've known him for probably 10/15 years I think.

And what prompted you to approach Dr Yap about the prospect of nominating for preselection?---Oh, he, he was a local. A successful person. I thought he'd be a good person to have on council.

But in the number 5 position?---Yes. To get his feet wet, yes.

30 And given what we know about the way the preselection process works, it was unlikely that a person in the number 5 position would get voted onto council?---Well, not necessarily. I was about to add that if the mayor candidate gets up – we had four quotas last time. I thought we should maintain the four quotas, but if the mayor candidate gets up, you get an extra quota. That's the way the system works, which means we could have had five elected. If Helen was elected as mayor, we would have had our fifth councillor elected. So you'd want to pick someone who is not just a filler.

40 So just so we can make sure we understand that. If at the election a Liberal candidate who is, let's say, number 2 on the ticket, but is the mayoral candidate, if they are voted as the mayor, and they're successful, then, for example, if someone was voting above the line, the preferences of the votes would flow directly to the next candidate after that person.---Yes.

So there would be no need for them to get that.---That's right.

They'd get automatic position on the council by reason of being successful with the mayoral candidacy.---Yes.

So in a sense, when one nominates for mayor, nominating for another position on the ticket is really a kind of backup plan?---No, you still have to be on the, well, it is, yes, it, it is a backup because if you don't get elected as mayor, then you don't get elected, unless you've nominated as a councillor.

Unless you've nominated.---Yes.

10 And even though you might be the mayoral candidate, if you're not in positions 1 through to 4, then the likelihood of you being elected in the event that you are unsuccessful in your mayoral candidacy are pretty slim. Correct?---Exactly. Yes.

So this arrangement that you had with your sitting Liberal councillors, that was just a verbal arrangement was it?---Oh, yeah, yes.

20 And where and when was it formed?---Oh, specifically, I can't tell you when it was specifically formed. It would have been, would have been in discussions that we had prior to the preselection. I mean, we saw each other almost every week at a council meeting, so - - -

And the one person you say you did communicate this arrangement to or the fact of this arrangement to was Dr Yap?---Yes.

Because you approached him to be the fifth member on the ticket?---Yes. Yes.

30 And what about any other persons? Did you let any other persons know that you were running on this ticket with the other councillors, Cestar, McCaffrey, and Ahmed?---Not that I know of. I mean, it, it wasn't a secret, but I could have told other people.

But you don't recall telling anybody else?---No.

And did you have any discussions prior to the preselection event with Stephanie Di Pasqua and Nick Yap about an alternative ticket with them? ---An alternative?

40 Mmm.---No. I think the discussion I had with them was that this was a ticket that I was favouring, the 1, 2, 3, 4 of the existing councillors. I may have even discussed it once with Stephanie, I think I might have met her once prior to that.

And where was that that you met her?---I don't remember. I would have had a discussion with her.

But do you say, do you tell the Commission that the discussion that you had with Ms Di Pasqua was to the effect that the ticket that you were favouring

was you number 1, McCaffrey number 2, Cestar number 3, and Tanveer Ahmed number 4?---I'm pretty sure that was it, yep.

Did you say Nick Yap number 5?---Yes.

So, "No room on the ticket for you, Ms Di Pasqua, I'm afraid"?---Yeah, I, I can't recall any conversation or the outcome. There was a lot of discussion about positions, so I can't recall exactly what I, I had, I had discussed with Stephanie.

10

You just mentioned "a lot of discussions about positions". With whom did you have these discussions about positions?---With the councillors or the, and/or the candidates who were thinking of running.

Well, so how many discussions did there need to be in relation to your original arrangement with the existing sitting councillors?---Oh, oh, with the, the existing? I, I - - -

20

In terms of your favoured ticket.---Yeah, I, I think we, that was the discussion, the one, the one-off discussion, that was it.

That's one discussion?---Yeah.

So that's one discussion. You said there were lots of discussions. You had a discussion with Nick Yap where you approached him about being number 5 on the ticket. Were there any other discussions with Nick Yap about positions on the ticket?---I think he said he was looking at running, I think he was looking at running to win, to get in, and I told him what I preferred my preferred ticket to be.

30

Which would have him at number 5?---Yes.

Now, that was unlikely to be a position that would achieve what he was setting out to achieve, as he communicated to you.---Well, it wouldn't, it wouldn't guarantee him an election. There's a probability that he could be elected, but it wouldn't guarantee him election.

40

No, and there was no more discussion about possibly changing the order or having a different ticket?---I can't recall.

Did you have any discussions – sorry, we were dealing with, there was the one conversation with Dr Yap, I take it? So we've got two discussions, one with your original four, one with Dr Yap. You told us about a discussion with Stephanie Di Pasqua.---Mmm.

You said that was the only discussion you had with her.---I think so.

Well, that pretty much is all of the candidates, discussions you had with the candidates, so it's three discussions. Who else did you discuss preselection and the orders on the tickets with?---I don't know.

Well, did you discuss it with Mr Sidoti?---Oh, I could have. I'm not sure. I could have.

You don't recall any discussion you had with Mr Sidoti, just that you could have discussed it with him?---Yeah.

10

Other than those three discussions that we've already identified, you can't recall any particular discussions with anybody else about the ticket, the order which people might be on the preselection?---Not at this stage now, no, I can't remember.

No other persons within the Liberal Party you might have spoken about it with?---No, not that I can think of.

20

Now, so this was July, this was 7 July, or actually 6 July is the email that was sent to the candidates, or actually even earlier, 4 July, at 7.25pm, from Mr McInnes. Who is Mr McInnes, Simon McInnes?---Oh, McInnes. Yeah, he works in the head office of the Liberal Party. I'm not sure exactly what his title is.

That's on 4 July, 2017. I wonder if we could then go to page 1864 in Exhibit 24. This is another one of those Cellebrite extraction reports of an instant message conversation, this one involving yourself and Mr Matt Daniel.---Mmm.

30

Now, firstly you can see that Mr Daniel, his messages are in green on the right-hand side and yours are in blue on the left-hand side. And the first of his messages was sent at 6.27pm on 4 July, 2017.---I can see that.

And it refers to "Adding a point to allow the Gateway to consider. Can you add that point to allow the Gateway to consider? M." Now, do you know what Mr Daniel was referring to in relation to a point being added to allow the Gateway to consider?---No, I don't know the specifics of the, of the application now.

40

But this was Mr Daniel reaching out to you, not anyone else.---Mmm. Mmm.

It's not a part of a group conversation. Reaching directly out to you.---Oh, I'm sorry.

Something to do with a Gateway - - -?---That, well, I'm, I'm thinking it was to do with the Burwood Road - - -

The Concord.---The Concord one, yes.

So as I, as I understand it, a Gateway – and correct me if I’m wrong – a Gateway Determination is something that is undertaken by the Secretary of the Department of Planning or his or her delegate in relation to planning proposals, correct?---Right.

10 And so was there likely to be a Gateway Determination that was required for the Concord proposal?---There could have been. I’m not, I’m not aware now.

And was there, was there a laneway associated with the Concord proposal? ---I’m not aware. Of the specifics of the application, I, I, it’s not in my memory.

You’ve got no recollection of it?---No.

20 But it was, this was a matter that you were entitled to vote about, right? ---Oh, yes.

And entitled to consider.---Yes.

And appreciating it’s some time now since the events, is that the reason why you say you don’t have a recollection of it?---Yeah, well, it wasn’t preying on my mind. I think I was happy with the council recommendation and I left it at that, really.

30 And just you can see that the next message from Mr Daniel says, “It is actually the Secretary that deals with the issues, not council. The Department asked that to be included, a simple note.” So obviously asking something to be added to whatever’s going to the Secretary for the purposes of the Gateway Determination.---Yes.

40 And your response says, “Mirjana and Helen aren’t prepared to amend the recommendation. I’ve texted them both if they will. Labor won’t amend, Labor’s Fasanella may have supported it if Libs were all on board, the recommendation will succeed as Green will vote against anything.” Now, just pausing there. The fact that there is a reference there to “Labor’s Fasanella may have supported it if Libs were all on board,” does that give you some comfort that in fact this message exchange did not have anything to do with Waterview Street, correct?---100 per cent.

And most likely had to do with Concord.---Concord.

Because like yourself, Councillor Fasanella had declared his pecuniary interest and absented himself from the chamber whenever the Waterview Street site or the Urban Design Study and associated planning proposals were ever before the council. Correct?---Correct.

Now, if we could then go to the next page, and Mr Daniel's response is, "That is disappointing. It is one line in addition. How does the council think they are going to get the laneway? M." So M I assume is Matt, for Matt Daniel.---Oh, yes. Okay.

And your response says, "I know. Speak to Sidoti about Mirjana and Helen's astuteness in planning matters and his moves to remedy this at the coming preselection."---Mmm.

10

"Tanveer has no idea at all on planning and goes with the flow."---Mmm.

Now, to what were you referring when you said, "Speak to Sidoti about Mirjana and Helen's astuteness in planning matters and his moves to remedy this at the coming preselection"?---Well, Mr Daniel was wanting me to have the Liberal councillors support whatever he wanted there at Burwood and I was getting quite frustrated with him and I said, "Look, speak to Sidoti about it." John has always said that Mirjana and Helen had no idea about planning matters.

20

And what about, "His moves to remedy this at the coming preselection"? ---Well, he did say that there were other people interested in running for council.

THE COMMISSIONER: You'd had a discussion with Mr Sidoti about the coming preselection and his moves to remedy this at the coming preselection. What did Mr Sidoti say to you about his moves, doing the best you can on your oath?---Yes. I'm quite happy to say that he, he was looking at getting other candidates to run for preselection.

30

Why?---Why? Well - - -

What did he say, what was his reasoning?---The other three Liberals had no idea about planning matters.

That didn't accord with your knowledge of at least Ms McCaffrey or Ms Cestar, did it?---No.

40 So what was his plan as related to you, again to the best of your knowledge, on your oath?---Well, he was probably looking for other candidates, and by the looks of it, Stephanie Di Pasqua was someone that he would have nominated or she, she declared an interest. When I spoke to her she said she's always been interested in running for, for office.

Had she any local government experience at all - - -?---No.

- - - prior to the preselection?---Not that I, no, no.

MR RANKEN: Did she tell you, that is did Ms Di Pasqua tell you that it was Mr Sidoti who suggested that she run for council?---No. From my recollection, no.

So what was it that Mr Sidoti said to you about how he proposed to remedy it at the coming preselection?---In words, I can't tell you. As far as I know it was he didn't think that they, they were up to it and he was looking for other candidates.

10 I asked you a moment ago about any other discussions you'd had with anybody and specifically with Mr Sidoti.---Mmm.

You didn't seem to have any recollection of any particular discussion with him about the tickets or orders on the tickets. Correct?---I don't know if I discussed tickets with him.

Well, plainly in order to remedy it at the coming selection there would need to be some process by which there was persons nominated for particular positions on the ticket.---Not necessarily for positions on a ticket. Anyone
20 can nominate for whatever positions they want to nominate, and I don't think we knew until that email where you showed me who was nominating for what position, who was running.

That email was on the same day as this exchange between yourself and Mr Daniel, correct?---Was it? Okay, all right. I, I, I'm not aware of the date. Probably, yes.

And, I mean, the effect of what he did tell you, though, can you say whether or not this is the case, was that he certainly was not supporting either
30 Mirjana or Helen in terms of their bid to be re-elected, correct?---Correct.

Nor Dr Ahmed.---I'd say so, yes.

And those four persons were the persons with whom you had come to an arrangement to have a ticket with, correct?---Yes.

And not only that, the reason that you understood he was not supporting their preselection was because of his perceived or his view that they did not, they weren't particularly astute when it came to planning matters, correct?
40 ---Correct.

And that's a matter that you disagreed with.---Yes.

And did you express to Mr Sidoti, "Well, you've got it all wrong. They know what they're doing"?---In conversation, I probably did.

And did you tell him that - - -?---If it was in - - -

- - - that in fact you are on a ticket with the other three and that's your preferred ticket?---Well, yes, I think it was, it would have been assumed that that was the ticket that we were going to the election with, yes.

THE COMMISSIONER: Mr Megna, after the matter concerning the town centre was at last resolved by council, which was back on - - -

MR RANKEN: February 2017.

10 THE COMMISSIONER: 21 February, I think. No, 22nd of – what was it?

MR RANKEN: 21st.

THE COMMISSIONER: 21st, thank you. 21 February, 2017. Same year we're talking about.---Mmm.

You became aware, of course, that the end result of it by council resolution passed on that day was that, firstly, Mr Sidoti had not got what he had been seeking to obtain.---Mmm. Yes.

20

Such as rezoning and the other matters he was pushing for.---Yes.

And he had been, notwithstanding that he had had support from the Liberal councillors along the way, at the end of the day, the Liberal councillors voted with other councillors on the 21st of February, which resulted in the passing of that resolution.---Yes.

30 Is it the case that, given that result, passing of the resolution on 21 February, Mr Sidoti was not, do you say, impressed by the councillors?---Well, I actually thought that there was a, a meeting of the, there was a, a – what's the word – a recommendation that suited what Mr Sidoti was after. That was my impression.

But was it the case that he was disenchanted in some way with the councillors following - - -?---Oh, yes, you could say that, yes.

And what was that about? His disenchantment.---Just they didn't understand planning matters.

40 I see. In the end, voting with the others to get the council resolution on the 21st of February, in his view, in some way displayed a lack of planning capacity, if you like, or - - -?---Yes.

- - - or knowledge in planning matters.---Yeah, but I thought that may have been resolved because I did think that that final resolution, which I can't remember what it was now, accommodated all the parties. So everyone was either, all sides were happy or they were unhappy equally. That was my, that was my understanding.

MR RANKEN: Yet as at the date of this message exchange with Mr Daniel, which is after everything had been finalised, as far as the Waterview Street site was concerned, and the Urban Design Study and associated planning proposals, you're expressing here to Mr Daniel the fact that Mr Sidoti had plans or moves to remedy what he perceived as being Ms Cestar and Ms McCaffrey and Dr Tanveer's lack of astuteness in planning matters at the upcoming preselection.--- Yes.

10 So it was plainly a view that to your mind he still held at that time notwithstanding the outcome of the Waterview Street site proposals. Correct?---Yes.

THE COMMISSIONER: Do I understand though, looking at it objectively, this assertion of a lack of astuteness in planning matters by Mr Sidoti in Ms McCaffrey. Ms Cestar, Dr Ahmed objectively that did not accord with your view as you've stated, that is to say - - -?---Oh, without being rude to Tanveer I don't think he understood planning matters at all.

20 Simply in relation - - -?---But the other two had - - -

Leaving him, yes.---I'm sorry. The other two would have had experience over eight years or 16 years, however long Helen was on council.

And you've earlier - - -?---And earlier on Concord Council, yes.

You've earlier said in evidence that they were conscientious. I'm talking about Ms McCaffrey in particular and Ms Cestar, conscientious councillors who demonstrated a capacity to act as councillors.---Yes.

30 So if objectively what Mr Sidoti was saying, that is to say that he was looking to get in effect other candidates to run for the preselection because of their lack of astuteness in planning capacity, and that there was in fact no lack of astuteness in planning matters as they had demonstrated to you, then what was his real motive, as you saw it, for seeking to, as it were, dislodge them from the office they held as councillors and run other candidates? ---Well, now it looks like he wasn't happy with the, the resolution, which I thought he was happy at the time. Hence my comment that, you know, he was happy, everyone was happy in the, in the email exchange or the text
40 exchange with Councillor Cestar.

But he wasn't happy, as I think you've said, that he didn't get the rezoning that he sought from the outset.---Yeah, well, I still don't know exactly what he got out of it because I know that there was some change to the final resolution in February and what the specifics of that was I'm not sure.

All right.

MR RANKEN: Now, do you though reject the proposition or the suggestion that there was ever any arrangement between yourself, Ms Di Pasqua and Dr Yap regarding the preselection process?---An arrangement.

An arrangement as to you being number 1 and Ms De Pasqua perhaps withdrawing her candidacy for number 1 and pursuing number 2 and number 3 and Dr Yap be number - - -?---We might have had the discussion. I, I can't tell you, can't tell you at this stage.

10 So there is a possibility that you had - - -?---I could have.

- - - a discussion with each of those - - -?---Yeah. I know we spoke to each other, yeah. We're trying to organise a, a palatable ticket I suppose.

So when did this discussion happen because - - -?---I don't remember.

Well, you told us a moment ago or earlier on in your evidence this afternoon that the ticket that you had in mind was yourself and the three other existing councillors. Correct?---Yes.

20

And that that was an arrangement that you considered was in place right up to the date of the preselection process, the preselection event. Correct?---(No Audible Reply)

Now you're saying that there was some discussion between yourself, Ms Di Pasqua and Mr Yap about putting together a palatable ticket. Now, when did that discussion occur and palatable to whom?---Well, I remember that Helen McCaffrey and I spoke to both of them I think at one stage to try and work out a numbering order.

30

So are you saying this is a discussion that the two of you, that is you and Ms McCaffrey, had with Ms Di Pasqua and Dr Yap?---Yes.

Were they both present at the time or were they separate conversations with each of them?---Yeah, I'm not sure if they were both at the same time. I seem to remember we were at a, not at a function, we were at a conference, a party conference somewhere and we ran into Stephanie at one stage and Nick at another stage.

40 So separate conversations with each of them, but at the same function.---Yes, from memory, yes.

Although different times at the same function.---Mmm.

But on each occasion, do you say that you were in the presence of Ms McCaffrey?---Yes.

And what was the conversation that you had with, let's take it one at a time, with Ms Di Pasqua?---Well, it would have been that Helen has a higher position because she was the mayoral candidate.

So were you suggesting to Ms Di Pasqua that she should perhaps withdraw from the number 1 and number 2 positions, and shoot for number 3?
---Probably.

10 That would put in jeopardy Ms Cestar. Is that the position?---Mmm, yeah, oh, the numbering I, I can't tell you.

But was there a discussion between you and Ms McCaffrey about setting up an alternative ticket that would not include either Ms Cestar or Dr Ahmed?
---No. No, it was trying to accommodate as many as we could into the five.

But it was impossible to accommodate everybody into the five, correct?
---Mmm, that's right, and at that stage, Dr Ahmed may or may not be nominating at that stage. That's - - -

20 You were sure whether or not he was nominated?---No, that's why I think I asked Nick to nominate 4 and 5, just in case Dr Ahmed wasn't nominating.

And do you say that you suggested to Ms Di Pasqua that she nominate for position 5 as well?---I can't recall the number. I don't know. I may have. I'm not sure.

But are you saying that the discussion you had with Ms Di Pasqua was about bringing her into the ticket as well with you and the other four councillors?---Yes.

30 Sorry, the other three existing councillors.---Yeah. I'd say so, yes.

Plus – so that would mean that you would have a total of six persons that you were trying to accommodate on a five-person ticket.---No, that, well, that depends on what Dr Ahmed was doing. And at that stage, I don't think he indicated if he was running again.

40 But your evidence that you gave initially was that you had come to an arrangement with the other three councillors that the four of you were going to be a ticket. Correct?---Mmm. Yes.

Now, that necessarily means that your understanding was that Dr Ahmed was renominating.---Yes. When we, when we put our nominations in, yes, Dr Ahmed was nominating.

And that didn't change.---No.

So, what is this nonsense about Dr Ahmed not nominating?---Well, that's prior to him nominating. We would have these discussions with the, with Nick Yap and Stephanie Di Pasqua prior to the nominations.

I thought you didn't know that Ms Di Pasqua had nominated until she turned up in this email as being one of, someone on that list.---Oh. Well, it must have been after.

And you can see plainly Dr Ahmed is on that list.---Yep. Yes.

10

So why do you keep on giving this nonsense about the order in which these conversations happened?---Well, you are asking me to think of something that happened four years ago and the order in which it happened.

Mr Megna, this was not a common occurrence, a preselection process like this. Correct?---Right, yes.

You have told this Commission that you had come to an arrangement with the three other existing councillors on the City of Canada Bay Council - - -? ---Yes.

20

- - - that you believe that was in place until the date of the preselection process. Correct?---Yes.

And you're now suggesting that you had other discussions with each of Mr Yap and Ms Di Pasqua, and specifically with Ms Di Pasqua, prior to even knowing that she was nominating.---Yeah, well, I must have known she was nominating.

30

Okay, so how did you know she was nominating?---Oh, I don't remember.

Had Mr Sidoti suggested to you that you should think about forming an alternative ticket with Ms Di Pasqua and Dr Yap?---No.

You had no discussion with Mr Sidoti of that nature?---Nah, no.

That wasn't the suggestion – that's not what you were referring to when you referred to his moves to remedy this at the coming preselection?---Well, as far as I knew, they were shopkeepers and businesspeople that he was talking about.

40

Are you basing that on the email that we took you to early on in your evidence from April of 2014?---Yes. Yes.

(not transcribable) that position has stayed the same from April 2014 right through till July and September 2017, is that the position?---It's up to, up to anyone to nominate whenever they want to. I didn't know what discussions he had with, with alternate people until the nominations come up.

And then you didn't have any conversations with Ms Di Pasqua following her nomination?---Following?

Mmm.---Yes, I would have discussed it with her, yes.

10 And what you discussed with her, wasn't it, was the possibility of being on a ticket with her and Mr Yap. Was that the position?---No, I don't think there was a ticket formed. I think I was asking her to withdraw as mayoral candidate because Helen's the mayor and she'd be the ideal person to be running as mayor.

Okay, so that was a - - -?---As opposed to a 20-year-old.

So that was a suggestion that you in fact made to Ms Di Pasqua.---Yes. Yeah.

20 Because before, when you gave you your evidence, you said that Ms Di Pasqua just announced that to you all - - -?---She did.

- - - in the room on the date of the selection. You had no prior knowledge that that was going to happen?---I didn't know she was going to withdraw, no.

You didn't choose to tell us then that, in fact, that was something that you'd suggested to her?---Well, you didn't ask that question, I'm sorry.

30 Now, okay, well, what other discussions and conversations did you have with Ms Di Pasqua about positions on the ticket?---I can't recall any.

Well, you, well, you - - -?---I can't recall, I can't recall any exact discussions I had with her. We were trying to formulate a ticket that would accommodate as many people as possible, and if that couldn't happen, it was in the hands of the preselection panel.

And when you mean accommodate as many people as possible, you mean accommodate as many of the candidates as possible.---Yes.

40 Not accommodate persons such as Mr Sidoti.---No.

Just want to be clear about that.---Yeah, no. Sorry, and I actually said to Nick Yap, "Why don't you just give it a miss this time and run next time?"

Right. I thought your evidence before to this Commission was that in fact it was you who approached Nick Yap and suggested that he put his hat in the ring.---I did. I did.

Are you saying that then once you saw the nominations you went back to him and said, "Actually, now that we've got the number that there are, perhaps you should give it a miss this time."---Yes. Yes.

Is that – okay. And when did you have that conversation with Mr Yap?---It may have been at that conference that I was referring to earlier.

10 So was it at that conference as well that you had this discussion with Ms Di Pasqua about her withdrawing her candidacy for the mayor?---It could have been.

And that was a conversation that you and Helen McCaffrey were having with her, correct?---Yes. Yes.

And do you say that you didn't have a conversation with her at that time about her withdrawing her candidacy for the number 1 position?---I don't know. It could have been then.

20 It could have been, okay. So you - - -?---Well - - -

Do you accept that there was, was there such a conversation at some point? ---No, I don't think, I'm sorry, no, I don't think I mentioned the number 1 at all with her.

Never mentioned that?---No.

30 Never discussed what position - - -?---It would have been, no, it would have been the mayoral, the mayoral position would have been any discussion, or a position for her on the ticket. That's all we would have discussed.

Well, what about the position for her on the ticket? What about that? Was it about a particular position on the ticket?---We may have been, we may have been discussing position numbers.

And in that context, was it suggested to her that perhaps she should give up the candidacy for the number 1 position and shoot for one of the other positions?---No. I - - -

40 To ensure that you had an easier run at the number 1 position?---No. No. No.

No?---I wasn't worried that I was going to be contested. I'm happy to go to a preselection and happy for my record to stand in the eyes of the preselectors and see what they want to do. It's up to them. If they don't want me, fine.

Now, going to the actual local government elections and the actual outcome of the preselection process, it was the case, was it not, that obviously Ms

McCaffrey was successful in the mayor candidacy as being - - -?
---Candidacy.

- - - for the preselection, correct?---Yes.

But ultimately unsuccessful at the election.---Indeed.

As far as the order was concerned, you were successful in securing the
number 1 spot, correct?---Yes.

10

Ms Di Pasqua was successful in securing the number 2 spot.---Correct.

And Mr Yap, or Dr Yap, was the number 3 spot, correct?---Correct.

And then Ms McCaffrey, did she get the number 4 spot or did someone
else?---Ms, yes, number 4, Helen got number 4.

20

And who got the number 5 spot?---That wasn't voted on because I think
they stopped voting at that stage. They only needed 4 for the winnable
spots, and then we asked Tanveer if he wanted to run for 5, Dr Ahmed.

Not Ms Cestar?---No, I don't think she wanted to nominate, no. She wasn't
interested in number 5.

30

THE COMMISSIONER: What was the reality of Ms McCaffrey only
securing the number 4 spot?---The reality of her election? Oh, she had
every chance of being elected at number 4. We had 4 last time the election
before that. I think we had 4 and a little bit in quotas. There was no reason
why the party was going backwards at that stage, so I was quite comfortable
that we would get four up.

MR RANKEN: Were you not surprised to see Ms Di Pasqua, as you say, a
20-something first-time candidate - - -?---Yes.

- - - to secure the number 2 spot?---Yes, I was surprised, yeah.

40

What did you think when you saw that, when you saw that result?---Well, I
really hoped that Helen would get number 3, 'cause she was a mayoral
candidate and she had to be up there to be part of the campaign.

You knew at this stage, though, that Ms Di Pasqua, did you not, know that
she was associated with Mr Sidoti's office?---Yes, I knew she worked for
him, yes.

THE COMMISSIONER: Up to the time of the preselection.---I'm sorry?

On the day of the preselection, you thought Helen or Ms Cestar would have
got - - -?---2 and 3.

2 and 3, yes. They didn't. And then as this was occurring, is it true to say you were puzzled about how this was playing out?---Well, more, yeah, well, puzzled, I suppose, and more - - -

Certainly not - - -?---A bit, no - - -

Sorry, you - - -?---More, yeah. Sorry. More downhearted that the campaign that I had worked out in my head had to be completely changed.

10

Yes. And I think did you reflect afterwards upon what had, what did transpire and contemplate how this had come about and who was behind it? ---Well, probably a long time after because the next - - -

But you did nonetheless?---Oh, yes, yeah.

20

Yes. And what did you conclude from having thought about it, as to what had happened?---Well, when I discussed it, firstly I discussed it with Stephanie and I said, "What made you want to run?" And she said, "I've been interested in running." She's got politics that she's interested in - - -

Don't worry about what Stephanie said at the moment.---Okay.

I'm talking about post the preselection process, after it didn't go according to what you had anticipated. You were surprised that it hadn't.---Mmm, yes.

30

And whether you reflected upon what you thought was the explanation as to this unexpected outcome, I want you to tell the Commission, on your oath, what you concluded had happened and the explanation for what had happened.---All right. Well, as I said, Stephanie was interested in running. She either discussed it with John or - - -

Yes, yes.--- - - - or John discussed it with her, but she wanted to run and she ran and she got up.

40

Yes. You considered, did you not, subsequently, the question of whether there had been somebody, as it were, who had masterminded the outcome that day.---Mmm.

You did, did you not?---Well, yes.

Yes.---That it was, yeah.

It may not have occurred to you as it was happening - - -?---No.

- - - but later when you thought about it, and you did draw some conclusions, did you not?---Well, yes, and my conclusion was that either John asked her to run - - -

No, no, don't keep talking about her. I'm talking about the concept of what you believe had happened and who was responsible for it.---Yes.

10 Yes. Now you tell me, please, what you concluded.---Well, that, I've got to say it again, that John asked her to run or she asked John that she wanted to run. It was the connection between the two of them, in my view.

Yes, that's one position. That's one position.---In my – yes. And, what, Dr Yap is the other position?

How did that come about and who was responsible for that?---Well, I felt that I was responsible for it because I asked him to run. But he was popular in the branches. People knew him. He wasn't just some blow-in that came from nowhere.

20 Right.---So as I said, it was up to the preselectors where they numbered them.

Well, let me ask you directly. Did you conclude Mr Sidoti was behind the surprise outcome that occurred during the preselection?---Of Stephanie Di Pasqua, yes, but not of Dr Yap, no, I just thought it was his years in the party and his popularity.

It's a matter for you as to whether you take that any further.

30 MR RANKEN: I just want to take it one bit further.---Yeah.

So in the case of Ms Di Pasqua, it would take more than simply him suggesting that she nominate for the position, wouldn't it?---Oh, yes, it's - - -

Given her age, correct?---Yes.

So did you come to the conclusion that there were other steps that Mr Sidoti must have taken in order to secure support for Ms Di Pasqua's candidacy?

40 MR NEIL: Well, I object. In my submission at some stage in this questioning there has to be questions anchored in the evidence, not - - -

THE COMMISSIONER: I'm going to not allow it, Mr Neil. Yes.

MR RANKEN: Did you come to the view that there were other steps that Mr Sidoti must have taken in order to secure support for Ms Di Pasqua's

candidacy for preselection?---As in speaking to other, being the preselectors?

Speaking to delegates for example.---Oh, yeah, well, it's open to anyone to do that, yes. He probably would have or she did it herself. I certainly did. I spoke to all the delegates.

You spoke to the delegates about yourself?---About myself, about myself.

10 Not for, not about Ms Di Pasqua?---No, no.

Not about Mr Yap?---No.

THE COMMISSIONER: Do you remember, how did Ms McCaffrey and Ms Cestar react to the outcome that afternoon or that evening?---Well, Ms McCaffrey wasn't, she either wasn't in the country or wasn't in the state, I know she was away.

20 Well, whenever she returned.---Well, she was concerned, obviously she was disappointed and I - - -

Was she upset?---Oh, yes, yeah.

What about Ms Cestar?---Yeah, she was upset as well, yes.

30 Did either one of them say anything to you about how this preselection had played itself out, the outcome?---Oh, not in so many words, no. Helen I didn't speak to until I think the next day, Mirjana left that night, I didn't speak to her then after that for a little while.

Yes.

40 MR RANKEN: Given what you'd said to Mr Daniel back in July of 2017 about referring to Mr Sidoti's moves to remedy this at the coming preselection, did you put two and two together in relation to Ms Di Pasqua's successful candidacy and consider that that was part of his moves to remedy what he saw as Ms Cestar and Ms McCaffrey's lack of astuteness in planning matters?---Yeah, I didn't actually think that what he's mentioned about shopkeepers are lining up to run eventuated because there was no other people that nominated, there were no other people that nominated, well, certainly for the party, they could be running as independents.

THE COMMISSIONER: You might care to answer the question.---I'm sorry?

Put it again, please. Just listen to the question.---Yes, I'm sorry.

Please answer the point of the question.---Okay.

MR RANKEN: Given what you said to Mr Daniel back in July of 2017 regarding Mr Sidoti's moves to remedy this at the coming preselection, did you put two and two together that Ms Di Pasqua's successful candidacy is what, was part of those moves to remedy what Mr Sidoti saw as Ms Cestar and Ms McCaffrey's lack of astuteness in planning matters?---Well, I didn't think, no, I didn't think that she was the silver bullet, so to speak, because she had no experience in planning matters herself.

10 Well, that's precisely the point.---Mmm. So I didn't think that she was the person that he would have put there, I took it on face value that she said that she was interested in running and I left it at that. I didn't think that she was the one that would overturn the preselection, so to speak.

Did you consider that his support for Ms Di Pasqua's candidacy was retribution against Ms Cestar and Ms McCaffrey for their failure to deliver in relation to planning matters?---Well, no.

20 You didn't think that?---No. Because he did say that he wanted someone in his office after the event, wanted someone from his office to handle all the local government issues that he gets.

THE COMMISSIONER: No, you're going off on a tangent again. Would you put the question?---Okay.

Just confine yourself to the question.---Sure, okay, ah hmm.

Put it again.

30 MR RANKEN: Did you think that his support for Ms Di Pasqua's candidacy was retribution against Ms Cestar and Ms McCaffrey for their failure to deliver in respect of planning matters that were in his interests? ---No.

Commissioner, would you just excuse me for one moment. Commissioner, they're my only questions for Mr Megna.

THE COMMISSIONER: Mr Megna, in relation to that last matter.---Yes.

40 That is, any role Mr Sidoti may have played in relation to the preselection outcome. Do you consider that the matter of his intention or his plan to deal with Mirjana and Helen's astuteness in planning matters was associated with their role in relation to the Five Dock Town Centre issues, be they planning issues or otherwise?---Yes, I think his, his view that they didn't understand planning matters came from their lack of understanding of his point of view.

I don't think you're following my question.---Okay, sorry.

I'll put it again in fairness to you so that you can - - -?---Okay, no worries.

You've seen the email which referred back to his plan to deal with this question of their alleged – that is, Ms McCaffrey's and Ms Cestar's – alleged lack of astuteness in planning matters. Did you understand from Mr Sidoti that that plan to deal with their lack of astuteness was related to their role associated with the Five Dock Town Centre plan or issues associated with it?---Yes.

10

Thank you. Nothing else?

MR RANKEN: No, nothing arising.

THE COMMISSIONER: Yes, now, any application for cross-examination?

MR NEIL: Yes, I'd make an application, Commissioner.

20

THE COMMISSIONER: Yes, Mr Neil. I grant leave.

MR NEIL: Thank you. Thank you, Commissioner. Commissioner, could the witness be shown page 1410. Now, just want you to have a look at this page. Oh, Mr Megna, I act for Mr Sidoti, if you'd understand.---Yes, yes, yes, understand that.

30

That is a page of part of the minutes of the meeting of the council of City of Canada Bay of 7 February, 2017, which commenced at page 1405, and it contains, on both page 1409 and 1410, five recommendations of the council staff, and a sixth recommendation based upon a proposal of Mr McNamara. Do you understand that?---Right, yes.

And it incorporates some amendments, which I think are conveniently referred to as option 2, being some amendments to the original urban planning study prepared by Studio GL, is that right?---Oh, I, I, I can't say yes or no.

Oh, you don't know, you didn't vote for - - -?---I don't know what, what was, what was included or not included.

40

But if you accept for the moment that the first five of the matters on pages 1409 and 1410 are staff council recommendations, do we see that Councillors Ahmed, Cestar, and McCaffrey, Liberal, voted for those staff recommendations, do you see that?---I do.

And they were carried on the casting vote of the mayor, Councillor McCaffrey, correct?---Yes.

Now, could the witness, Commissioner, be shown page 1426?

THE COMMISSIONER: Yes.

MR NEIL: And I just want you to have a look at page 1426, which is a page of minutes of the meeting of the council which commenced on 21 February, 2017, and there I'd ask you to accept that items 1 to 5 are the same staff recommendations as were voted on at the meeting of 7 February, 2017, could you accept that for a moment?---I'll take that, yes.

10 This was a rescission motion to rescind those, but the three Liberal councillors voted against that rescission as shown, Councillors Ahmed, Cestar, and McCaffrey. Do you see that?---I do.

And the casting vote of the mayor determined the matter. Do you see that?
---I, yes, I can see that.

Did you ever have a discussion with Mr Sidoti in which he ever complained to you about the result of those resolutions on 7 February or 21 February, 2017?---Not that comes to memory, no.

20

Did Mr Sidoti ever pressure you in relation to any of your duties as councillor?---No.

Did you ever perceive him to be in any way attempting to pressure you in relation to your duties as a councillor?---No.

Did you ever see Mr Sidoti pressure any other councillors in your presence?
---Not in my presence, no.

30 Well, did you ever see him attempt to pressure any other councillors in your presence?---No.

Did you ever see Mr Sidoti pressure or attempt to pressure any council staff in your presence?---No.

And over the years as a councillor, as I understand your evidence early, albeit there may not have been a written code, you became aware of the obligations of reporting matters which appeared to raise integrity issues, is that right?---Yes.

40

And later on that was reinforced by the codes of conduct, correct?---Correct.

Now, I just want to ask you this in very short, because I think you've given some answers about this, is it your evidence that from the commencement of a proposal for a council Local Environment Plan to the end of the process can take a substantial period of time?---Correct.

Could it be measured in months or years?---Indeed.

And does each separate time that there may be some substantial amendment require further exhibition?---Yes.

And after a LEP proposal goes to the Gateway, is it usually returned to the council with a requirement for further exhibition?---Yes.

And does each exhibition involve an opportunity for such persons as see fit to make such submissions as they wish?---It does.

10

Now, I just want to ask you, Commissioner, could the witness be shown page 1308.

THE COMMISSIONER: Yes, 1308.

MR NEIL: Thank you. Now, this is Mr Durkin's letter, which you described as an excellent letter but which you've agreed with the Commissioner was a poor letter. Do you understand that?---Yes.

20

But were there any matters in for example the fourth paragraph commencing, "The reluctant decision to commission," do you see that? ---Right.

And talking about, "No developments in Five Dock without basement parking and modelling of a three-storey walk-up with on-grade parking, an FSR of 1:1 seems to have been suggested to make development non-viable, even if approved by council." Did you form any view as to whether or not there was any merit in what Mr Durkin put in that paragraph?---Yes, I thought – that was one of the points that I thought made sense.

30

If you just take a moment to have a look at the letter, are there any other points in the letter that you considered to have made sense?---Well, the, the next one, the next paragraph, "Long history of animosity," and the one after that.

And I think you've agreed with the Commissioner, though, that those were, as I understand it, based upon some general understanding of some, in the main, I think you said, political toing and froing between Councillor Kenzler and Mr Sidoti. Is that right?---Yes.

40

Now, in the paragraph starting, "I'm an intelligent and lateral-thinking person," et cetera, is there anything in there that you thought was of merit? ---As I said earlier, he, he, he made his point quite well.

All right. And did the last sentence of that paragraph, "My view is shared by my planners and numerous other professional people I have consulted," make any impression on you?---Oh, yes and no. I mean people ask planners

for, for a decision and usually it favours what they want, well, then they're happy with it. So in this case I took that as a grain of salt.

Could I ask if the witness, Commissioner, might now be show page 1313.

THE COMMISSIONER: Yes.

MR NEIL: If you look at the third line of that email, Mr Matthews states,
10 "As you would be aware from my submission to the exhibition of the Five
Dock Town Centre additional sites planning proposal," he then goes on to
say who he's representing, have you at any time seen the submission to
which he is there referring?---No, not that I can recall, no.

All right. Commissioner, could Mr Megna be shown page 1846.

THE COMMISSIONER: Yes.

MR NEIL: Do you see there there's a reference by Councillor Cestar to a
20 Bay Run. Firstly, briefly, is the Bay Run a geographic set of pathways or - -
-?---Yes.

- - - runways that goes, I think, about six or seven kilometres in the general
area of Canada Bay, which is a well-known place for people to jog or run or
walk.---Yes, it's a seven-kilometre cycle-walking-running track around Iron
Cove, pretty much.

Thank you. Now, there Councillor Cestar's saying of Mr Sidoti, "He is
exploding, making threats, et cetera, et cetera." Is it your evidence that at
30 the time he received that, you took that as what I think you described as Mr
Sidoti venting?---Yes.

And what do you mean by that, hot air?---Oh, getting things off his chest,
yeah.

And you didn't, can I ask you this, if you'd have seen even those words
"exploding" and when you even saw the words "threat", "making threats, et
cetera, et cetera", do we understand it, you did not see that that required you
to make any complaint to any integrity body?---No.

40 Now, the question of preselection. Commissioner, could I indicate I'm
going on a different topic and I would like to take some instructions on
matters this afternoon. It would probably help me shorten my cross-
examination.

THE COMMISSIONER: Yes, very well, Mr Neil. How long do you think
it might be? I know it's hard to judge.

MR NEIL: Look, I - - -

THE COMMISSIONER: We've just got other witnesses to program.

MR NEIL: Of course. I would think a half an hour should see me out.

THE COMMISSIONER: All right. Very good. Well, Mr Megna, we'll need you back tomorrow.---Oh, okay.

10 Does that occasion any problem for you?---Oh, well, yes and no.

Bit of juggling, was it?---Oh, it's a juggling act but I'll sort it out.

Okay, thank you. We'll see you back here.---Good, thank you.

Thank you. And I'll adjourn till 10.00am tomorrow.

THE WITNESS STOOD DOWN **[3.57pm]**

20

AT 3.57PM THE MATTER WAS ADJOURNED ACCORDINGLY
[3.57pm]