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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 WEDNESDAY 7 APRIL, 2021

AT 10.00AM

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

THE COMMISSIONER: Yes, Mr Ranken.

MR RANKEN: Yes. Commissioner, I wonder if Mr Megna could be recalled to the stand. I think Mr Neil had some further questions.

THE COMMISSIONER: Yes, thank you. Thank you, Mr Megna. I'll just have the oath administered. Thank you.

THE COMMISSIONER: The declaration I made under section 38 of the Independent Commission Against Corruption Act previously made in respect of Mr Megna will continue to operate and apply to today's evidence. Yes, Mr Neil.

10 MR NEIL: Thank you, Commissioner. Mr Megna, the preselection panel included, as I think you have said, representatives of four branches. Is that correct?---Yes.

Did it also include either the State President of the Liberal Party or the nominee of the State President?---Yes. There are extra delegates from, from the state council and the head office, yes.

20 And did that also include three members of the state executive drawn by lot?---There are members of the state executive drawn by lot. I'm not sure how many.

Thank you. And the preselection process, was it all completed in July or what's your best memory?---My memory is that we were running around that night and the next morning filling in the nomination forms because nominations had to be in to the Electoral Office. So if that's five weeks before or whatever. I know there was a lot of running around that was done the next day. It could have been early August, it could have been late July.

30 So, is it fair to say that the preselection process was completed only a very short time before the nominations closed for the actual council election?---A very short time, yes.

Now, was that usual?---No.

In what way?---Well, we usually have months, or quite a few months' run up to an election from a preselection.

And if you've got less time in this run up, does that have any effect on the campaigning of the Liberal Party?---Oh, yes. Indeed.

40 In what way?---Well, you need to get your, your campaign sorted, which, which tack you're going to take in the campaign. We'd probably already started getting people sorted for polling day but as far as the campaign itself is concerned, and campaigning itself and getting things printed, photographs taken, that takes time.

And does that have a good or a bad or an indifferent effect on the prospects of the Liberal Party at the council election?---Oh, very bad.

All right. Now, I think you've given evidence that you spoke to the preselectors, that is the delegates, on the preselection panel. Is that right?
---Yes. I wrote to each one and I spoke to some of them, whoever I could get on the phone or, or met in passing.

Thank you. And why did you do that?---Oh, to garner support from, for, for my candidacy.

You had been on the council a long - - -

10

THE COMMISSIONER: Just on that, also to garner support for those on the ticket, your ticket?---No, not necessarily.

Well, could it have (not transcribable) them as well as yourself?---Yes, it could have, it could have, yes. Yes.

Because, as I understand it, you wanted on your ticket in particular Ms McCaffrey and Ms Cestar?---My existing team. And Mr, and Dr Ahmed, yes, yeah.

20

MR NEIL: Now, you'd been on the council for how long by that time?---At that time, well take four away, 25 years.

And did I understand you to say that you've been on a previous council as well?---Oh, yes. The Drummoyne Council.

Thank you.---Which was part of Canada Bay now.

30

And how old were you when you were first elected as a councillor of any council?---Elected. I was 31.

How old were you when you first ran as a councillor for any council election?---I think it was '83. 25/26 probably.

THE COMMISSIONER: What experience in politics had you had up to then?---Apart from being a party member, none.

40

MR NEIL: Now, although you'd been a councillor for a long time did you consider it was important that you should speak to and/or write to the preselectors?---Oh, yes, indeed. I don't take it for granted.

Did you consider it important not to be complacent?---Indeed.

One of the councillors, Ms McCaffrey or Ms Cestar, could you just remind us, one of them appeared by video but not in person. Is that right?---Helen McCaffrey by video, yes.

And do you know if she had been in the Sydney area in the weeks prior to the preselection?---I'm not sure when she went away. I know that because the preselection was called at whatever date it was called she'd already had some, a booking out of Sydney. I'm not sure if it was overseas or interstate.

And did you have any understanding as to the extent to which she had spoken to or lobbied preselectors?---No, I don't.

10 THE COMMISSIONER: Would she have been well-known to the selectors, preselectors?---Would I?

No, she.---She. Oh, yes, she would be. Certainly to her own branch. Some in our branch. I'm not sure about the state council or state executive contingent though.

MR NEIL: Now, you also said in your evidence that you were happy to go to the preselection and leave it up to them. What did you mean by that?
---Well, I'll take their, their verdict so to speak. Whatever the outcome is on the ticket that, that they choose is the ticket we take to the election.
20

Now, you also said, this is page 403, Commissioner, that "It was up to the preselectors where they numbered them." What does that mean?---Where they, I can't remember that question at the time so where they numbered the candidates?

You were asked a question about Dr Yap and the question was, "How did that come about and who was responsible?"

30 THE COMMISSIONER: Could you give me a page reference, Mr Neil.

MR NEIL: Yes. 403, Commissioner, line - - -

THE COMMISSIONER: 403?

MR NEIL: Yes. Line 15.

THE COMMISSIONER: Thank you.

40 MR NEIL: "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." The next question was, "Right." And then you said, "So as I said, it was up to the preselectors where they numbered them." I just wanted to ask what does that answer mean?---Well, it was up to the preselectors where they put any candidate running for a position in what position they put them in, in which numerical position.

Now, in terms of the number 2 position, might the witness, Commissioner, be shown page 1492. Do you see that page?---Yes.

Now, would you be able to, tell us if you are, do you know that in terms of the voting for that position, that Ms McCaffrey on the first ballot obtained 9 votes, Ms Pasqua 11, Ms Cestar, 2. Do you have a memory of that?---I think we were told on the night what the numbers were but I have no memory of it now, of what the numbers were, are now.

10 Was there a requirement for a further ballot at which Ms Cestar's votes were then redistributed?---Well, not being in the room where the votes were taken, all we get is a result at the end. There could have been multiple ballots in there, I don't know. We were just told the outcome.

Is it not unusual that a candidate who has the largest number of votes on a first ballot might not ultimately succeed because it's an exhaustive ballot, and as candidates drop out, their votes have to be applied to a further ballot? ---That does happen, yes.

20 Now, the process is a democratic process, is it not, the preselection process? ---Yes, yes.

And the preselectors are from both branches and the state executive and/or the State President or his nominee. Correct?---Yes, the four branches, yes.

And it is the preselectors who make the decisions. Correct?---Correct.

And does the Liberal Party have an internal appeal process available to candidates if they wish to challenge a preselection outcome?---I'm sure they do. I can't recall if they would but I would, I would be surprised if they didn't.

30

Do they have what's called a disputes panel?---Yes, that's right, it's called a disputes panel, yeah.

40

Now, the – do you know whether or not Mr Sidoti – I withdraw that. Do the preselectors get provided with some information about each of the candidates?---Yes, there's a dossier sent to each preselector and each candidate fills in their name, their address, their community activities, length in the party, that sort of thing, and that goes out to each preselector.

And does the dossier include any information that the candidates may wish to provide to the preselectors?---Yes.

Does it tell the preselectors about their background, including experiences such as in the Liberal Party or on a council?---Indeed, yes.

And is it commonplace for the dossier to include references that candidates have obtained from persons to support them?---Yes.

Are you aware of Mr Sidoti providing a reference for the preselection for Ms McCaffrey?---Yes, I do remember that he provided a reference for her, yes.

Are you aware of him providing a reference for Ms Pasqua?---I can't recall that one now, no, I can't recall.

10

Were you present at any of the – I withdraw that. Are candidates entitled if they wish to provide a video presentation to the panel?---I understand that they are, yes.

And they could take that opportunity or not as they see fit, is that right? ---Yes.

Were you present during any of the speeches of other candidates?---No, we're not allowed to.

20

All right, thank you. How long had you known Ms Di Pasqua before this election?---Probably a few months, I think.

Had you known her from working for Mr Sidoti for some period of time before the preselection?---I understand now that she had. I don't think I knew at the time that she worked for him, for a period of time anyway.

Well, do you understand now that she started working for him in 2014?---If that's the date, yes.

30

And did you understand that as of 2017 she was working as an electoral officer for Mr Sidoti?---Yes.

Now, are you aware of her then continuing to work for Mr Sidoti as an electoral officer after she became elected to the council?---Yes.

Are you aware of a Parliament of NSW policy series document dated February 2019 that states, amongst other things, in paragraph 4.3, "There are no legislative requirements relating to employees who intend to stand for election to local government. Staff who are successfully elected as a councillor need not resign but may continue in employment, subject to ensuring they comply with the appropriate staff code of conduct and all other relevant legislation, regulations and policies, including in the case of members' staff, a parliament policy titled Members' Staff and Local Government"?---Yes, I'm aware of that.

40

So, are you aware of state members of parliament other than Mr Sidoti

employing in their office persons who are also members of local councils?
---I have known over the years that local councillors have worked for members of parliament, state and federal.

Are you able to identify any of them?---Oh, now? I remember Anthony Roberts, when he was a councillor on Lane Cove, worked for John Howard in his electoral office. That's one in particular. Off the top of my head, I can't think of anymore.

10 Do you know a gentleman called Darcy Byrne?---Oh, sorry, Darcy. Yes, Darcy is still - - -

Who is he?---I think he still works for Anthony Albanese.

And who is he?---Oh, he's the Mayor of Inner West Council.

And do you know a Councillor Jordan Lane from Ryde Council?---No.

20 All right. Do you know a Councillor Zamprogno of Hawkesbury Shire Council?---No.

Now, in your experience, is it quite usual for the state member for, let us say, Drummoyne, being Mr Sidoti or previous members, to make representations to the local council, Canada Bay or its predecessor, about local government matters that had been brought to the local member by local constituents?---Oh, yes. It's happened for years.

30 And is it normal for the state member to write to, or email, to the council on behalf of a constituent that comes in about a local government matter?
---Yes.

And to whom would they usually address the letter or email?---If they're writing directly to the council, it's usually to the general manager.

And would it, in your experience, be of assistance to a state member of parliament who receives requests from constituents about local government matters to have working in his office an employee who was also a councillor?---Yes.

40 Now, did – I just want to ask, I'll just ask you this. Do you know – pardon me, Commissioner. Do you know a councillor called Zac Miles?---Yes, Hunters Hill.

And is he from the Liberal Party?---Yes.

Was he elected first to council at the age of about 19 years?---Oh - - -

THE COMMISSIONER: Do you know?

MR NEIL: Do you know?---Well, I'm just working backwards. He just turned 30, I know that, and he's done two terms, so 30, he was probably 19 or 20. 20 probably. 19 or 20.

Is he a good councillor in your opinion?---Yes, he's, he's very, yeah, in my opinion he's very astute. He almost became mayor by popular vote four years ago.

10 How close did he come?---Well, very close, it was all over the papers that he'd be Sydney's youngest mayor or New South Wales' youngest mayor.

Is election to a local council often seen by staff members of parliament of all political persuasions as a desirable political advancement?---Oh, indeed.

Can it lead to becoming, for example, later on a state member of parliament?---Yes.

20 And have there been many such persons who've held both offices successively?---Yes.

And can it lead also, either straight from council or via being a state member, to becoming a federal member of parliament?---Oh, yes. Any sphere of government, yeah.

And is it a commonplace in both Liberal and Labor parties that young staff members can often be very ambitious and very keen to enter council? ---Yes.

30 And are they encouraged?---Well, I don't know if they're encouraged but I know that they, they do move on from a staff position to a council position to a federal or state position, yes.

And I think you've given some evidence that Ms Pasqua indicated to you that she was interested in running for council.---That's what she told me, yeah.

40 Can you recall when she told you that?---Oh, exactly, no, I'm not sure. It would have been before the election.

All right. Now, Ms Pasqua's been on the council now for two and a half or more years.---It's nearly four now.

Thank you. And is she a diligent councillor in your opinion?---Yes, she's very good.

What are the - - -?---She's got a strong policy knowledge, she grasps the bait very well. I'm, I'm, I'm pleasantly surprised.

Now, has she had to deal much with planning matters?---Well, there have been some from time to time, we don't do as many planning matters now on council, all councils don't handle planning matters as much as we used to.

THE COMMISSIONER: That's because a new system's been introduced.
---Yes, yes.

10 MR NEIL: Yes. And the new system has substantially restricted the requirement for councillors to make decisions about planning matters. Correct?---Correct, yes.

Is it correct that they, for example, don't anymore decide on development applications?---Exactly, they don't.

And when did that stop, do you know?---Hmm, probably just on four years ago probably, three or four years ago.

20 THE COMMISSIONER: Does that apply to all development applications? ---All DAs, we don't handle development applications at all.

MR NEIL: Is there some system, we won't go into the details, whereby at a low level they're handled by council staff, at a next level of say value, 5 million or something, they go to panels, and over 20 million they go to regional panels, something like that?---Exactly, exactly.

30 And in terms of planning proposals such as an LEP or amendments to it they are required, are they not, to be forwarded by council to the New South Wales Planning Department for a key decision to be made called a Gateway Determination. Is that right?---Correct.

So is it fair to say that even with LEPs there's a substantial limitation upon the overall capacity of councils to make ultimate decisions?---Yes.

Does the same apply to DCPs?---I think so, yes.

Thank you. Now, those are my questions. Thank you, Commissioner.

40 THE COMMISSIONER: Yes, thank you, Mr Neil. Just one matter generally. I think Mr Sidoti had been elected to New South Wales Parliament in 2011 or thereabouts.---'11 I think was the year. Yes, it was '11.

And he had been a member of the Liberal Party prior to then of course.
---Yes. Oh, yes, for some years.

So as at the period say 2013 to '17 would he have been regarded as a senior member of the Liberal Party?---Oh, certainly, yes.

Now, Mr Ranken, do you have any questions?

MR RANKEN: No, Commissioner. I have no further questioning.

THE COMMISSIONER: Mr Megna, thank you for your attendance.
---Good.

You're excused.---Thank you, Commissioner.

10

THE WITNESS EXCUSED

[10.32am]

MR NEIL: Commissioner, could I just ask if – I'm trying to recall the procedures but I did refer to two documents not in evidence. Is it envisaged that I should have my instructing solicitor send those to Counsel Assisting?

20 THE COMMISSIONER: Yes. Perhaps if you'd let Mr Ranken know what documents if you do want documents tendered perhaps in the morning tea adjournment.

MR NEIL: Thank you.

MR RANKEN: Commissioner, the next witness I call is Mirjana Cestar.

THE COMMISSIONER: Yes, thank you. Good morning, Ms Cestar.

MS CESTAR: Good morning.

30

THE COMMISSIONER: Do you take an oath or an affirmation?

MS CESTAR: I'll take an oath, please.

THE COMMISSIONER: Yes, thank you. Just take a seat. Ms Cestar, just for the record what's your full name?---Mirjana Cestar.

Ms Cestar, you are not legally represented at these proceedings.---That's correct.

10 As a witness there's provision under the Independent Commission Against
Corruption Act whereby a witness can object to giving evidence and answer
the questions or to produce documents or other items. The rationale behind
the taking of objection is that the evidence then can't be used in other
proceedings in the future with one exception and that will be any
proceedings for an offence under the Independent Commission Against
Corruption Act itself such as, for example, if the witness gives perjured
evidence or misleading evidence then that could be an offence under the
Act. But aside from that exception, the taking of an objection gives you that
20 protection against the evidence being used against you. You don't have to
object but you're entitled to object if you wish, and I can make a declaration
that your evidence is to be regarded as given on objection. Do you wish to
avail yourself of the - - -?---Yes, I do.

Very well.---Section 38, I understand. Thank you.

Pursuant to section 38 of the Independent Commission Against Corruption
Act I declare that all answers given by the witness, Ms Cestar, and all
documents and things produced, if any, by her during the course of her
evidence at this public inquiry shall be regarded as having been given or
30 produced on objection. Accordingly there is no need for Ms Cestar to make
objection in respect of any particular answer given or document or thing
produced.

**DIRECTION AS TO OBJECTIONS BY WITNESS: PURSUANT TO
SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST
CORRUPTION ACT I DECLARE THAT ALL ANSWERS GIVEN
BY THE WITNESS, MS CESTAR, AND ALL DOCUMENTS AND
THINGS PRODUCED, IF ANY, BY HER DURING THE COURSE
40 OF HER EVIDENCE AT THIS PUBLIC INQUIRY SHALL BE
REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON
OBJECTION. ACCORDINGLY THERE IS NO NEED FOR MS
CESTAR TO MAKE OBJECTION IN RESPECT OF ANY
PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING
PRODUCED.**

THE COMMISSIONER: Ms Cestar, Mr Ranken appears here as Counsel Assisting. He will ask you some questions. Yes, Mr Ranken.

MR RANKEN: Ms Cestar, you gave us your full name as Mirjana Cestar, is that correct?---That's correct.

And Mirjana is spelt M-i-r-j-a-n-a, is that correct?---That's correct.

10 And the pronunciation of your surname is with a soft C, is that correct?
---Yes, that's right. Yeah.

Now, what is your occupation?---I am an account manager.

THE COMMISSIONER: Sorry, just to interrupt, if you wouldn't mind speaking into the microphone. It helps magnify your voice so those in the room can hear you. So if you just be conscious of that, if you would, and speak up---Okay, is that better? Sure.

20 Thank you.

MR RANKEN: You're an account manager?---I am an account manager, yes.

And what sort of accounts? Banking accounts or - - -?---No. I work in financial services and I manage a small team of account managers and I have some key accounts that I manage myself. They're business accounts for the company that I work for.

30 Now, prior to 2017, you were a council on the City of Canada Bay Council, is that correct?---That's correct.

When were you first elected to that council?---2008.

And does that mean that you served more than one term with that council?
---Correct.

And you were elected as a Liberal councillor, is that correct?---That's right, yes.

40 When did you first join the Liberal Party?---In 2001.

And what branch of the Liberal Party did you join in 2001?---Drummoyne.

Are you still a member of the Drummoyne branch of the Liberal Party?
---No, I'm not.

What branch of the Liberal Party are you member of now, if you are still a member?---I am still a member. I've been a member for 20 consecutive years and I'm a member of Concord West branch.

THE COMMISSIONER: Just again, keep your voice up.---Sorry.

Just slow it down a bit as well.---Yes.

Thank you.

10

MR RANKEN: And when did you become a member of the Concord West branch?---Just recently actually. Last year I transferred over.

And did you transfer over from Drummoyne to the Concord West branch or was there another branch that you were at?---I, I did move briefly to the Strathfield Women's branch but felt that that was too out of area and not, not really, I didn't think it was a good fit, so I moved back over to the Drummoyne electorate.

20

And when was it that you moved from the Drummoyne branch to the Strathfield Women's branch?---Oh, I think it was 2019.

2019?---Yeah. I'm just going on memory. It would have been around then.

Going back to 2008, when you were first elected to the City of Canada Bay Council, there were other Liberal councillors on the council at that time. is that correct?---Yes.

30

And who were those other Liberal councillors, to the best of your recollection?---It was Michael Megna and Helen McCaffrey were the only two Liberals at that time, if memory serves.

And then was there subsequently an election in about 2012 or 2013?---Yes. The, the cycle is every four years.

So, was it 2012 that there was an - - -?---Yeah. Yes.

40

And at that election, did the number of Liberal councillors increase to four? ---No. It went to three. There was only Michael, Helen and myself on council as Liberals.

In 2012?---Yes.

At some stage did Dr Ahmed, was he elected to the council?---Yes. That was the following election. I've probably got my cycles out of, out of whack here but Tanveer was elected not in 2017 but the prior election to that.

So that's the election I was asking about.---Yes.

The 2012/2013, around that period?---Yeah, yes, yes. Sorry, yep.

At that point the number of Liberal councillors increased from three to four, is that correct?---Yes, that's right. Yeah.

Now, again going back to 2008 when you were first elected to council, did you know Mr John Sidoti?---Yes.

10

Was he a member of parliament at that stage?---Sorry, what year was that, 2012?

2008.---2008. No.

Was he a member of a council, a councillor on a council at that stage?---Oh, look, I can't remember. I, I know he, he was on Burwood council prior to becoming a state member but I just can't remember that timeline.

20 And in 2008, the local member for Drummoyne, was that a Liberal or a Labor member?---It was Labor.

And had it been Labor for some time?---Yes.

And as far as the federal seat that encompasses the City of Canada Bay local government area, is that the electorate of Lowe?---It was the electorate of Lowe, that's correct, and then it was changed to the electorate of Reid.

30

And it's now the electorate of Reid.---That's correct.

And in 2008 when you were first elected to council, was the federal member for Lowe, was that a Labor person or a Liberal?---It was Labor. It was a Labor-held seat, that's right.

In 2011 Mr Sidoti was elected to parliament at that state election. Correct? ---Yes.

40

And was that the first time for a long time that there had been a state member for the seat of Drummoyne who was a Labor – sorry, a Liberal member?---Yes, that's correct, yes.

And did that, at that time Mr Sidoti had already spent some time on a council. Correct?---Yes.

And was there a certain amount of kudos within the party as a result of that victory?---Oh, yes, it was a wonderful victory. I mean we'd taken the seat from the Labor Party, it was, it was a really good time in the party, yes.

And Mr Sidoti was a candidate who had some strong family ties to the electorate. Is that correct?---Yes.

And so was that seen as a great victory on the part of Mr Sidoti to have secured the seat of Drummoyne?---Are you asking me if he thought it was a victory?

Well, no, from your position as member of the Liberal Party in the local electorate, is that how the members of the party within that electorate
10 viewed the victory, as a great victory for Mr Sidoti?---Yes, yes.

And did it increase his standing, as you could see it, within the Liberal Party?---Absolutely, yes.

And are you able to assist us, just when was it that the federal seat of Lowe became the seat of Reid?---Sorry. I'm sure we could Google it but I don't know.

Was that something that – prior to it becoming the seat of Reid was it
20 continually held by Labor right up to the point where it became the seat of Reid or was there an election at which a Liberal member was elected?
---Craig Laundry won that seat from John Murphy. I can't remember what year that was. I think Craig held two terms of Federal Parliament and, and I, I don't know, I can't remember those timelines.

But certainly as at 2008 both the state seat and the federal seat were held by Labor members.---That's correct.

And was it also the case that the City of Canada Bay Council up to that
30 point was dominated by Labor councillors?---That's correct, yes.

And as a result of the election, the council election in 2012 at which Dr Ahmed was elected to council, in addition to yourself, Councillors McCaffrey and Councillor Megna, was it the case that the City of Canada Bay Council was, notwithstanding the addition of Dr Ahmed, still dominated by Labor politics, the Labor side?---Well, yes, it was. It still had a Labor mayor and Labor councillors and Green as well.

So there was one Green councillor, and when one includes the Labor mayor,
40 who was Angelo Tsirekas - - -?---Correct.

- - - there were four Labor councillors in total.---Yes.

Is that correct?---Yes.

But a much closer balance of power than previously held.---Yes, that's right.

Now, I want to ask you some questions about – turn to the Urban Design Study that was undertaken in respect of the Five Dock Town Centre. Now, given that you were a member of the council prior to 2012, was that something that had been in the pipeline for some time at the council level? ---Look, it seems to, yeah, my memory is that it's been, it was around for a while, yeah.

10 And in fact there was some business analysis or economic analysis that was conducted prior to engaging expert town planners. Is that correct?---Yes, that's my memory, yeah.

And that that economic analysis was conducted by HillPDA. Do you recall that?---Yes.

And that one of the recommendations that came out of that study was that there would be an integrated design study undertaken by town planners. Is that correct?---Yes.

20 And that was endorsed by the council.---Yes.

And ultimately the matter was put in the hands in the first instance of independent experts to conduct a study to determine what kind of town centre could be achieved that would best meet the community of Five Dock. Was that the objective?---Yes, I think so, yeah.

30 And were you aware of the kinds of community engagement that was undertaken through the course of the study?---I think it would have been the normal process of community engagement and exhibition I would have thought. I can't remember the detail of every step of the process.

Do we take it then that you didn't directly participate in the community engagement process yourself?---No. Not that I remember, no.

In terms of whilst you are a resident of the City of Canada Bay are you not a resident of the Five Dock area itself?---I live in Concord, which is the next suburb down.

40 So the town centre in terms of your, the town centre of Five Dock was not necessarily something that was in your immediate purview as a resident of Concord?---Not really, no.

But insofar as being a member of council you were content, were you, that the matter was being undertaken by council staff in conjunction with some independent experts to prepare the study?---Yes.

And it's correct, is it not, that as far as your ability to consider matters arising from the Five Dock Town Centre Urban Design Study and vote on

those matters at council meetings you weren't precluded from doing so by any pecuniary or non-pecuniary interests?---No, I wasn't precluded.

But you were aware, were you not, that one of the Liberal councillors, Councillor Megna, did have a pecuniary interest in the matter?---Yes.

And that he had declared a pecuniary interest?---Yes.

10 And Councillor Megna, would you agree that he was a councillor of considerable experience?---Yes. He'd been on council for a number of years before, before me, that's right.

And you had worked with him obviously at least since 2008. Correct?---Correct, yeah.

And the other councillor who had been on council when you first joined in 2008 was Helen McCaffrey. Correct?---That's right.

20 And did you understand her to be a councillor of considerable years' experience in council matters?---Yes.

And from what you could observe of Councillor McCaffrey did she seem to have a grasp of issues relating to planning matters when they came before council?---Oh, definitely a better grasp and I did, yes.

Is that as you did when you first joined the council?---Yes.

30 Over the period of time that you were a councillor, let's just say between 2008 and 2012/2013, were there planning matters that regularly came before the council that you had to turn your mind to?---Yes.

And are you able to express a view as to the extent to which you feel you were able to pick up any skill in relation to understanding the issues at play with planning matters?---Yes. I mean you learn as you go and I got across what I needed to get across. The information that I needed to understand I made sure I understood it.

40 And in order to get across those matters, planning matters that is in particular, was it the case that before a planning-type matter was before the council, council staff from the Environment and Planning Department would often prepare reports about the matter?---Yes, that's right.

And those reports would be provided to councillors such as yourself and made available to the public on the council website as part of the agenda papers for meetings at which the particular matter was to be discussed and decided upon.---Yes, that's right.

And from time to time did those reports in fact summarise the detail of what might have been prepared in more detailed expert reports and the like?

---Yes, yes.

And did they also include recommendations, once there had been a summary of the detail of the independent experts or the issues by the council staff, did they include recommendations to council as to how they saw the matter should be progressed?---Yes, they did.

- 10 And in addition to that, those reports, were you also, as a councillor, offered the opportunity to attend councillor workshops?---Yes.

And at those councillor workshops, did council staff – let’s just deal with planning matters because councillor workshops would often deal with a range of matters that were coming before council, correct?---That’s right, that’s right.

Not just council planning matters, is that - - -?---That’s right.

- 20 But were planning matters the matters that perhaps had the greatest technical difficulties or technical aspects to them?---Absolutely, yes.

And were they the kinds of matters that, as a councillor, were the most challenging to make sure you were across the issues?---Yes, definitely.

- 30 And the reason why they were – well, was one of the reasons why they were challenging was because it was often the case that you were trying to assess what was in the best interests of the community when assessing the various planning-related matters coming before council?---Yes. There’s a lot of things to consider but absolutely, yes.

And would you agree that on occasion there might be competing interests that were at play in a particular planning proposal that might be before the council or for consideration?---There was often competing interests, yes.

And they might sometimes be competing interests between those of the owners or persons who propose to develop particular land, correct?---Yes.

- 40 And what was perceived to be of greatest benefit to the community?---Yes, yes.

And was that part of the challenge in understanding the technical aspects of planning matters so that you could see how that worked or how you could deal with those issues to accommodate as many interests as possible? ---Well, yes. The challenge in my mind was community interest, the applicant and also compliance issues, yeah.

And by compliance issues, do you mean compliance with Local Environment Plans and the like?---Yes, that's right.

And so going back to the councillor workshops, they were opportunities, were they not, for council staff to present to the councillors in some greater detail, aspects about planning matters?---Yes.

And did you regularly attend council workshops?---Yes.

10 And when it came to planning matters, are you able to say whether or not it was your practice to attend all such council workshops in relation to planning matters?---I attended every one I could, yes.

Does that mean that the only – if there was some prior more pressing engagement or you were not physically present within the jurisdiction as it were, but for those two aspects, you would attend all councillor workshops?---Yes, yes.

20 And in your experience, were other councillors fairly diligent about attending those workshops as well?---Yes. They were very informative.

And from time to time councillors have pecuniary or non-pecuniary interests that they are required to declare in relation to matters, correct? ---That's right.

30 And in your experience, as far as the workshops were concerned, were there occasions when councillors who had a pecuniary interest in a matter might nevertheless attend and participate in a workshop where that item was discussed?---Oh, I couldn't remember every single workshop.

Well, let's just perhaps deal with the Urban Design Study in respect of the Five Dock Town Centre insofar as that matter was the subject firstly of a report that was prepared by the independent experts engaged by council, that is being a group of town planners called ARUP and offshoot of that called Studio GL. Do you recall that?---Okay, yes.

40 As well as the economic or the firm that conducted the economic analysis, being HillPDA. And do you recall that matter coming before, that matter being the subject of a report by those entities in October of 2013, would that accord with your general recollection?---Roughly, yes.

And do you recall the overall effect of what the report was suggesting as far as what should be done with the town centre?---Look, if, if I'm relying on memory I don't recall in detail, but I think there was some recommendations for some uplift and some changes.

When you refer to uplift, do you mean increase in the heights for buildings that might be constructed in the town centre, is that - - -?---Yes, depending

on the size of the envelope, I think it just depended on how, on how far. There was some, I think if memory serves it was based on size of, of land, if landowners were to amalgamate that there was potential to go a little bit higher.

Is that something – in your recollection that's something that came out of the study itself?---Yes.

10 Or was that something that came about a little bit later?---I can't remember which study they came through, I'm sorry.

Do you recall that one of the aspects of the, or one of the recommendations of the study was to increase the area of the Five Dock town that was to be zoned as mixed-use or B4 zoning?---Yeah, in detail, no, I can't, sorry.

But you do recall that there was to be an increase in height limits within the envelope.---Yes.

20 The pre-existing envelope that there was under the LEPs.---Yes.

Now, the matter came before the City of Canada Bay Council in November 2013 and specifically 26 November, 2013 meeting, and at that meeting each of Councillor Megna and a Labor councillor by the name of Fasanella, declared that they had pecuniary interests in the matter. Do you recall that? ---I don't recall that particular meeting but they would have because that was what they did.

30 And that was something that continued throughout the course on each occasion that this matter came before the council for consideration. ---That's right.

Was it the case that they always declared their pecuniary interest and they would leave the council meeting when the matter was being discussed? ---That's my recollection, yes.

40 And did they also attend councillor workshops and when the matter was discussed at those councillor workshops did they leave those workshops, to the best of your recollection?---I, I, I would say they would have but I cannot remember in detail, the workshop's a little bit more sketchy.

When you say the workshops are a little bit more sketchy, one of the aspects of the workshop, as opposed to council meetings, is there's no records kept. Is that correct?---Well, that's right, there's no records, it's an open conversation and, and presentations from the staff to, to councillors.

Whereas insofar as what has occurred at council meetings, you always have the ability to go back and read the minutes and see what occurred and also

to read the reports that were prepared as part of the agenda papers. Is that right?---Correct, yes.

And that's one way you can always refresh your memory about what's come before council in the past.---That's right, exactly.

Now, in 2013 at the meeting on 26 November, do you recall that the council unanimously endorsed the Five Dock Town Centre Urban Design Study for public exhibition throughout December and January of 2014, December 10 2013 and January 2014?---I don't recall it specifically but if it's on record, that's how it, yeah.

And in fact you were one of the councillors that voted in favour of that resolution. But together with the report which, which comprised the Five Dock Town Centre Study, that there were some changes or a draft Development Control Plan that had been prepared to give effect to some of the recommendations in the study. Do you recall that?---Vaguely, yes, sorry.

20 And that was also to be the subject of public exhibition? Does that again - - -?---That, that would make sense in terms of process, yes.

And again there was also a Development Control Plan that had been prepared and an LEP that had been prepared to reflect the practical implementation of what was being recommended in the study?---That, that would be right, yes.

And then consistent with that resolution, the study and the corresponding planning proposals were publicly exhibited between December 2013 and 30 January 2014? Again, you accept - - -?---Oh. I accept that that's, that's correct, yes.

And what did you understand the purpose of having the study and the corresponding planning proposals publicly exhibited?---Oh, to see what sort of feedback and if there was any submissions.

And when you talk about submissions, do you mean submissions on behalf of the public?---From the public. Yes, that's right.

40 And possibly on behalf of – and in terms of the public, that just doesn't simply include residents of Five Dock?---Oh, it would be – I mean, it's the Canada Bay Council area, yes.

So that could include residents living in and adjacent to the town centres but also residents living further afield, correct?---Correct, yes.

And it also would include business owners or operators within the town centre? Is that - - -?---Yes. Oh, yes.

And other landowners within the town centre who may not be residents but own properties?---Sure. Yes.

Is that right?---Yes.

All of those persons might have an interest in expressing a view about the study and the corresponding planning proposals?---That's right.

- 10 And did you – sorry. And then prior to the matter coming back before council, do you recall attending a councillor workshop in about April of 2014?---Oh, I, I, I probably did but I, I, I don't have a diary in front of me, I'm sorry.

- 20 Given your answer that to the best of your recollection you attended all councillor workshops in relation to planning matters unless you were unavailable, if I was to suggest to you that there was a councillor workshop that was held in respect of the Five Dock Town Centre Urban Study and the associated planning proposals on 8 April, 2014, is it likely that you attended that councillor workshop?---It's, it's likely. Yeah, it's likely, yes.

You don't know whether there were any records kept as to who actually attended those meetings?---No. There was, there was no formal agenda or anything like that.

Do you have an independent recollection now of every attending a council workshop where perhaps someone from Studio GL presented to the councillors?---Sorry, I, I don't have a recollection, sorry.

- 30 You referred a short while ago in your evidence to remembering that there was to be some – you had a recollection that there was to be some uplift, including on sites of a certain size, correct?---Yes, yes.

Do you recall any discussion at a councillor workshop involving councillors where that issue was raised about the need to encourage, or a perceived need, to encourage amalgamation of sites?---My memory is there was a general view that that would be of benefit to the, to the whole town centre area, yes. That was the - - -

- 40 And when you said there was a general view, was that a general view that was expressed by the councillors?---I think by the staff as well. I think there was a, a, a, my memory is that they wanted to do something with Great North Road, Five Dock, because it was kind of a little but, it didn't have, I guess, the, the vibrancy that it should have and there was some empty, vacant shops et cetera. So I think there was a general view that something needed to be done to reactivate that, that strip.

Okay. And do you have a recollection as to what the existing LEP for the Five Dock Town Centre area provided as far as floor space ratio?---No. Sorry.

If I was to suggest to you that the existing LEP, that is prior to the Urban Design Study, had a floor space ratio for that part of the town centre that was zoned as B4 mixed use of 2.5:1 does that sit with your recollection?
---Yeah. Yes.

10 And do you recall whether or not the study itself actually recommended that that 2.5 floor space ratio be retained?---I can't remember now, sorry.

Well, what do you recall of the discussion amongst the councillors about the increase in terms of, or the need to encourage amalgamation between blocks of land or sites?---What the councillors discussed?

Yes, at that - - -?---At the workshop?

- - - that council workshop.---I don't think there was a view expressed about
20 FSR. My recollection was or is that there was a general view that something needed to be done there and we were looking at options as to how to achieve that.

And what were the kinds of options that you were looking at as far as councillors, this is again at the councillor workshop, in terms of being able to achieve a kind of amalgamation of sites?---My memory is that it was kind of shopfronts with some residential over the top of it. That type of idea to reactivate, yeah.

30 So that is the kind of concept that the councillors were seeking to achieve, was it?---That's right, yeah.

Was one where you might have retail at a street level coupled with residential development above street level.---That's right.

But in terms of that's a concept, the goal that you were trying to achieve, what about the incentives to achieve that goal you have, do you not have a recollection?---I can't recall, sorry.

40 Do you recall anything that Councillor Neil Kenzler might have suggested at a council workshop regarding amalgamations?---Not, not really. No, not from Neil, no.

You don't have any recollection as to any particular view he expressed in relation to the need or otherwise of encouraging amalgamation of sites?
---Not from him particularly. Just generally I think there was a view that we needed to do something and encourage, conceptually we needed to do it. I

don't recall him making particular comments or any particular comments from him.

What about your own personal view in terms of what you thought was needed as a councillor in order to achieve amalgamations? Firstly, do I take it that you were one of the councillors who was in favour of encouraging amalgamation of sites?---Yes. I thought that if that was a way to achieve some sort of reactivation of, of Great North Road I thought that was, that was something to consider definitely.

10

But what about how that could be achieved and considered? Did you have a view as to what needed to be done as far as the Local Environment Plan to encourage owners of sites to amalgamate sites so that they could be developed?---No, because I felt that that was the role of the staff to prepare the, you know, the, the detail of that and put that to the councillors. In my mind it was about the concept and then for the, for the professionals to, to come back with how to, how to do that.

20

So do you not have any, or is it your recollection – I withdraw that. You don't have any recollection, do you, of councillors suggesting particular controls that might be included in the draft LEP to staff with a view to encouraging amalgamation?---No.

Now, the Five Dock Town Centre Study and the associated planning controls, would you consider that that was a fairly significant matter as far as the local community was concerned?---Yes.

30

It was likely to have or lead to changes in the LEP and development controls that could have a long-lasting effect on the area. Would you agree with that?---Yes, yes.

THE COMMISSIONER: Did you see this as a major project that the council was taking on?---Yes.

MR RANKEN: And insofar as this particular term of office that you held between 2012 and 2017, was this the most significant planning matter that was coming before the council, to your recollection?---No, it wasn't. It was one-of.

40

So there were a number of other significant matters or was there only one or two?---Rhodes was probably the other, the Rhodes Master Plan and site was probably the other one.

But as far as Five Dock was concerned, at least, this was the most significant?---Yes. Yes.

So it was really just those two?---They're the ones that stick out that tend to, that tended to come back frequently.

THE COMMISSIONER: When you said Rhodes Master Plan, that's R-h-o-d-e-s or roads - - -?---R-h-o, yeah, R-h-o-d-e-s. The suburb in, within the area.

MR RANKEN: And so do I take it it was a matter that was raised not only in council meetings but, from time to time, just by members of the public with yourself as a councillor?---Yes, yeah.

10 And did you ever have cause, let's just deal with in the early stages of early 2014, following the public exhibition.---Yes.

To have any discussions with Mr Sidoti about the Urban Design Study and the associated planning proposals?---I don't recall initiating any conversations with Mr Sidoti or, yeah.

And at that point you had, the nature of your relationship with Mr Sidoti, was that one that was rooted in your joint membership of the, or your membership, both of you being members of the Liberal Party?---Yeah,
20 largely, that's right. We didn't meet socially. We, we met through the party connection, that's right.

And from time to time, did you, in your role as a member of the Liberal Party, and a Liberal councillor, did you participate in events relating to Mr Sidoti's re-election and the like, is that right?---Yes, that's right, yes.

And did that include attending market stalls or community stalls on weekends?---Yes. Everything that goes with campaigning, including
30 working on election day, that's right, yes.

But were some of those kinds of stalls things that Mr Sidoti would run throughout the electoral cycle?---Yes.

That is, not only in the lead-up to an election, but actually through the course of ordinary non-election years and the like?---That's correct, yes.

And as a councillor and a member of the Liberal Party, were you expected to assist as best you could with those sort of activities?---I felt it was my
40 obligation, yes.

And you did so, did you?---Yes, I did.

Are you able to estimate how regularly it was that you participated in market stalls that were, or street events or community events that were specifically directed towards or arranged by Mr Sidoti's electoral office? ---Well, when, when everyone was made aware of them or asked, I would go, yes.

But are you able to estimate how regularly that was? Was it once a fortnight, once a month, once every two months?---Oh, it would come in waves. It would, it would be largely around the electoral cycle, those types of events, so it – you know, sometimes it could have been more frequently. It could have been on a weekly basis or fortnightly basis. But from time to time, yeah, it would come up, yeah.

And did you also participate in fundraising events relating to re-election campaigns or campaigns for Mr Sidoti?---Yes, I did.

10

And equally would you do, did you also do so for the federal member, Mr Laundry, once he was elected?---Absolutely. As mentioned earlier, I've been a member of the party for 20 consecutive years. I've attended many, many events and fundraisers.

So in addition to those points of contact, perhaps, with Mr Sidoti, in the course of your work as a counsellor, did you from time to time have contact with Mr Sidoti about local council issues?---Yes.

20

And how regular was that kind of contact?---It, it just depended on, from time to time, Mr Sidoti would get representations from residents about council matters and then he would forward through emails, typically to Michael Megna, sometimes copy me in. It would depend, but it, it would be from time to time, depending.

So that was on a fairly ad hoc time to time basis.---Correct. Yes.

And was it the case that, you said that more frequently Mr Sidoti forwarded or onforwarded those requests about council matters to Mr Megna in the first instance, is that right?---That's correct, yes.

30

Did Mr Megna, on occasion, then, in a sense, forward it on to yourself and the other Liberal councillors to see if one of you was in a, perhaps a better position to deal with a particular issue?---Occasionally. I think mostly Michael dealt with, with those issues. But occasionally I would get something, yes.

And those kinds of issues that Mr Sidoti was referring, the kind of council issues, did they ever involve planning matters or were they of a more simple kind of issue such as some concern about a tree or parking or something of that nature?---It was more business as usual, parking, tree, footpath stuff. I don't recall much about building, if anything, to be honest, yeah.

40

So as far as planning matters, generally it was very rare, was it - - -?---Yes, yes.

- - - if at all, that Mr Sidoti contacted you or, to your knowledge, any other Liberal councillors about matters that the community had raised concerning

planning issues?---Yes. Yes. Very rare. I'm, I'm just struggling to find a particular time, yeah.

And if we perhaps leave to one side, for the time being, the Five Dock Urban Design Study and the associated planning proposals, are you able to recall any other planning matter that was before council in respect of which you had occasion to either speak with Mr Sidoti about or he expressed his views on to either you, or you became aware of that through some other councillor?---Outside of Five Dock, no, I can't recall.

10

And to the best of your recollection, then insofar as you may have had any contact with Mr Sidoti concerning the Five Dock Town Centre Urban Design Study and associated planning controls or proposals, that was the only planning issue that you can recall him showing any interest in?---Yes, that's all I can recall, that's right.

And just to be clear, does that include the Rhodes Master Plan?---I don't recall receiving anything from Mr Sidoti about Rhodes.

20

So in terms of the Urban Design Study for Five Dock, the report in October 2013 considered by the council meeting in November 2013, following – I was asking you some questions some time ago now about any communication you may have had with Mr Sidoti about the Urban Design Study and the associated planning proposals following the public exhibition in December 2013 and 2014.---Sorry, what, what was the question?

Any communications that you had with him.---Oh, nothing's popping into my mind but potentially there could have been, yep.

30

Well, do you recall ever Mr Sidoti expressing his views about what had been proposed in the Urban Design Study and the associated design planning proposals?---In 2013, look, my, my memory is that I, I, there was a sense that it was an unfair outcome and that there was some, on purpose, that the mayor had some, some way, the former mayor, Angelo Tsirekas, had manipulated it to exclude the Sidoti property from the master plan, I think. That was, that's my recollection. There was a fair bit of animosity at that time, but it was a political, there was something political going on there.

40

So I just want to deal with that, 'cause there's a few aspects to that.---Okay.

So, firstly, when you said the former mayor Angelo Tsirekas, he was the mayor at the time, is that correct?---Sorry, the mayor at the time, and he's the mayor now, yep.

And he is currently the mayor as well.---That's correct, yes.

But there was a period where he had resigned from the position of mayor from about 2016.---Yes.

And you said that he had a, or Mr Sidoti had a view that there had been some - - -

THE COMMISSIONER: Well, I think the way you put it was there was a sense that there was an unfair outcome, et cetera.---Yes.

10 I think what was that sense built on when you say there was a sense there was an unfair outcome? You were asked whether Mr Sidoti had expressed any views on the study, and that was your response, that there was a sense that there was an unfair outcome.---Mmm.

And that the mayor somehow was responsible.---Yes.

Who was expressing that view?---Mr Sidoti was.

20 Right. And this would be in discussion with you or is this a public statement or what?---I think it, it was, it would have been in discussion with – I can't remember that discussion being alone, coming directly just Mr Sidoti and I. My recollection was that there was other people around us when that was being expressed.

We're dealing with a period about 2013, I think, the question was directing your attention to.---Mmm. Mmm.

All right. Yes. Yes, Mr Ranken.

30 MR RANKEN: Do you recall if anyone else was in fact present around when the discussion was had with Mr Sidoti?---My sense is that it was Michael and Helen, but, you know, I, I couldn't be definitive there. It's my sense that it was those two, yeah.

When you say Michael and Helen, you mean Michael Megna and Helen McCaffrey, is that correct?---Correct, yes, yeah.

40 And are you able to assist us with the context as far as the location in which this discussion took place. For example, was it in an office or was it at a public function?---Yeah, we, we were together as a group so many times for so many events. It really, my sense is that it was while we were campaigning, actually, that we were out on the street in Five Dock, and that was a discussion that was being had.

So the best of your recollection is that it may have been when you were participating in one of these market stalls.---Yeah.

And what was it that Mr Sidoti actually said that gave you that sense that it was being manipulated by the mayor to produce this unfair outcome?---It was just a straight-out accusation in my mind. All my recollection is that it

was, oh, that Angelo had purposely excluded the property from the, from the master plan and there was no reason to, to exclude it.

That, would you agree, was not consistent with what your knowledge was of the process by which the Urban Design Study had come to make its recommendations and the associated planning proposals. Would you agree with that?---Yeah, I mean, I have to accept the report, to an extent, yes.

10 Well, the report involved the engagement by council staff, correct?---Yes. Yes.

Of independent experts, is that correct?---Yes. Yes.

And council staff then also bringing to bear their own professional skills, correct?---That's right, yeah.

20 And council staff are required to act independently of any political interference by the councillors, including the mayor, correct?---Yes. Yes. Yes.

If Mr Sidoti's accusation was one of any substance, then it would necessarily have meant that, or involved the participation of council staff in such a scheme, correct?---Yes. And, and that's why it was, in my mind I thought, mmm, I wasn't really sure how to take that accusation, yeah.

30 And did you say to Mr Sidoti, well, that's not actually what's occurred? We've had council staff engage independent experts, and those independent experts have gone about their job and engaged in community consultation that has led to the proposals?---No, I didn't retort.

THE COMMISSIONER: At this time, and we're talking about I think now 2013, Mr Sidoti of course was a member of the Liberal Party, he having been elected to the seat.---Yes.

You also were a member of the Liberal Party at this time?---Yes.

40 Did you have any sense as to, in speaking to him at this time, as to whether you and he were on an equal basis as it were or whether you were more senior to him or vice versa in relation to any subject matters?---No, I, I didn't, I didn't, I felt that everything was, there was an equilibrium, if that's what you're asking, yeah.

I'm sorry, you thought what?---I, I felt there was an equilibrium, yep, at that point. Yes.

By that you mean, when you say equilibrium, you mean what? That you felt free to be able to talk to him or express views or what are you saying? ---Yes. I mean, I – yes. I, I felt relatively comfortable in approaching John

at that stage. Those accusations, I felt they were pretty serious but I, I, I didn't know, in, in the back of my mind, whether there was any truth to it. There could have been and, and I don't know.

MR RANKEN: But even so, you didn't express your view or your understanding to Mr Sidoti that well, "No, this has been the subject of expert consideration and consideration by the council staff. It can't all be a conspiracy"?---I, I don't recall having that conversation or, or mentioning that to John, no.

10

Now, this discussion when you got this sense, was it a one-off discussion or were there repeated or further discussions at which this view was expressed by Mr Sidoti?---This was an ongoing theme that there was this agenda going on, this political agenda against, against the Sidoti property, yeah, that was being run by council. It was, it was just an overview. It was a theme at, at the time.

20

And when you say ongoing, for how long, to the best of your recollection, did Mr Sidoti express this view to you? Over what period of time?---It was, my memory is that it was a topic of discussion or it was a theme for quite a while. It was just something that I felt he wouldn't let go of.

30

Perhaps we'll put some bookends. The matter first, in terms of the study, first came before the council in November 2013, and there's some evidence before this Commission that the matter was really finally resolved by the end of February of 2017. Was it over the entirety of that period that Mr Sidoti expressed this view that there was this conspiracy to exclude the Sidoti family's interests?---Actually, yes, because initially when the property was excluded and Angela Tsirekas was mayor, there was really no, nothing that could be done there because, you know, I think there was limited opportunity to have a conversation with council at that time from, from John's side, I'm just speculating, but then it became another issue, it raised its head again when Helen became the major.

And you're talking about the period from 2016 after Mayor Tsirekas resigned to pursue the possibility of election to Federal Parliament. Is that right?---Correct, yes.

40

Which resulted in Helen McCaffrey becoming the Mayor of the City of Canada Bay and the balance of power on the council tilting in favour of the Liberal side of politics. Would you agree with that?---Yeah, with the casting vote, yes.

Because as I think you've already told us, prior to Mayor Tsirekas's resignation there were effectively the four Labor councillors and the one Green councillor on one side of the political ledger, if I could use that term, and then on the other side of the political ledger there were the four Liberal councillors. Correct?---Yes.

Following Mayor Tsirekas's resignation there were the four Liberal councillors. Correct?---Yes.

And there were the three Labor councillors and the one Green. Correct?---Yes.

10 And that meant that again along the political divide between what might be called the Liberal side and the Labor/Green side of politics, it was four apiece. Correct?---Yes.

And the casting vote then fell upon whoever was the presiding councillor, specifically the mayor.---That's right.

And with Helen McCaffrey being the mayor, that meant that if a decision was made along party lines, then it was likely that the Liberal side would be successful.---Well, yes.

20 And so is it your recollection then that certainly in the initial stages in early, maybe late 2013/early 2014, this idea about a conspiracy on the side of the Labor side as it were, against the Sidoti family interests, was something that loomed large in your discussions with Mr Sidoti. Is that correct?---I think with, if I can say, in Mr Sidoti's discussion with all councillors, yes.

Were you ever privy to or present at discussions that Mr Sidoti had with any councillors on the Labor side?---No.

30 So when you say insofar as Mr Sidoti's discussions with all councillors, you're referring to only with all Liberal councillors.---Yes, I am. Yes, I am.

So were there a number of occasions where you were present with Mr Sidoti raised the issue with Liberal councillors?---My, my memory is there was a number, yes, there was a number of occasions that that came up as a topic regularly.

And were any of these - - -

40 THE COMMISSIONER: Mr Ranken, I'm sorry, when you're ready we might take the morning tea adjournment.

MR RANKEN: Yes.

THE COMMISSIONER: You continue if you want to finish on this aspect.

MR RANKEN: No, now is a convenient time, Commissioner.

THE COMMISSIONER: Very good. Ms Cestar, we're going to take a morning tea adjournment for about 15 minutes.---Thank you.

We'll resume then.

SHORT ADJOURNMENT

[11.32am]

THE COMMISSIONER: Mr Ranken.

10 MR RANKEN: Yes. Thank you, Commissioner. Now, Ms Cestar, we were dealing with discussions that you had had from time to time with Mr Sidoti in which he expressed his view about there being a Labor-run conspiracy, as it were, to exclude his property from the Urban Design Study. Is that correct?---Yes.

MR NEIL: Commissioner, even of this witness's evidence - - -

THE COMMISSIONER: Sorry, again, Mr Neil, if you would just speak into the microphone.

20

MR NEIL: Even on this witness's evidence - - -

THE COMMISSIONER: I'm sorry. It doesn't seem to be working. Is the sound system – you might just have to speak up until we have the sound system checked out, Mr Neil.

MR NEIL: Yes, sorry, Commissioner. It's clearly not working.

THE COMMISSIONER: No.

30

MR NEIL: Oh, it is now.

THE COMMISSIONER: Oh, now it is. Good.

MR NEIL: I've managed something.

THE COMMISSIONER: Bit of rough treatment sometimes - - -

40 MR NEIL: Even on the witness's evidence, she's only said that there was reference Mr Tsirekas. That doesn't involve the other Labor councillors.

THE COMMISSIONER: Yes, that's true. Yes.

MR RANKEN: I'm happy to withdraw the question and ask it another way.

THE COMMISSIONER: Yes. I think the evidence was to the effect that Angelo purportedly excluded the property from the master plan, was my note. And earlier the witness said there she had a sense that there was an

unfair outcome, that he was saying there was an unfair outcome and that the mayor somehow was responsible.

MR RANKEN: So perhaps if I rephrase it. So, you said that you were dealing with discussions that you had with Mr Sidoti in which the sense was that he perceived that there was a conspiracy on the part of Mr Tsirekas when he was mayor to leave out of the Urban Design Study the Sidoti family properties, correct?---That's correct.

10 And the views that he expressed in terms of that were directed to the exclusion of the Sidoti family interests. Is that right?---Yes, that's right. Yeah.

Not some other interests?---No.

And I think you indicated that, or you gave evidence that, this was a view that was expressed on numerous occasions by Mr Sidoti throughout the process between late 2013 and when it was finally resolved in February 2017, correct?---Yes.

20

And you also indicated that it came – you said there was obviously the initially views expressed in 2014 but then it reared up again, I think was your evidence, after Mayor Tsirekas had actually resigned?---Yes.

And at which point the Liberal councillors held the balance of power in the council chamber, correct?---That's right.

30 And so was the view expressed in any different terms, given that Mayor Tsirekas was no longer on the council after he had resigned, or was it always expressed in terms of a conspiracy that was on the part of Mayor Tsirekas?---It, my recollection, it was, it was directed at the mayor based on his influence over the Labor Party at council.

So, it follows, doesn't it, obviously that if there's a conspiracy there needs to be more than one person involved in it, correct?---Well, yes.

40 And so was there a sense that there were other persons that Mr Sidoti considered were party to this conspiracy, not just the mayor?---Well, well, yes. I mean, in, in, my recollection is that John would go off on an tangent about everybody that's against him and that would, that included everybody at council.

So who were the persons at council that Mr Sidoti expressed a view were against him?---Well, I, I would only, I'm only going on an assumption here, and this is people who have authority and influence. So everybody at council, to me, would, would, would mean staff, including the Labor councillors.

So if we could perhaps try to confine ourselves to the words that Mr Sidoti used, as best you can.---Yeah.

The words that Mr Sidoti used weren't necessarily specific identities or persons, but rather everybody at council, if I could use - - -?---Yes, that's my recollection of it, yes.

And then you made an assumption based on that, that that was a reference to not only Labor councillors but also council staff.---Yes.

10

Right. But Mr Sidoti never identified particular Labor councillors, other than the mayor, who he considered to be against his interests.---No, he didn't identify anybody else.

And is it also the case that Mr Sidoti in any of these discussions never identified particular council staff members who were acting against his interests?---I don't recall any names coming up about - - -

20

In all of these discussions it was only ever expressed in the most general of terms, apart from the identification of Mayor Tsirekas.---Yes. There, there seemed, there seemed to be, it was quite – my recollection at that time it was quite an acrimonious relationship between the mayor, between Angelo and John, and most of the anger seemed to be directed at the mayor.

But in all of these discussions, the view that Mr Sidoti was expressing was, would you agree, inconsistent with your own understanding as to the process that was being undertaken?---Yes.

30

Is there any particular reason why you, well, firstly, you never raised that with Mr Sidoti, to say, well, look, no, you've got it all wrong, John, it's not that way at all?---Look, to be honest with you, and it's probably not a nice thing to say, I just rolled my eyes and just thought it was just John going on a rant.

Why did you think it was just – was he advocating for any particular outcome during these discussions?---No, not at that time, I can't – it was just a general sense of that he'd been wronged.

40

But these discussions you've told us occurred on numerous occasions throughout that three or four-year period between, or three-year period between early 2014 and early 2017.---Mmm.

So there were, it wasn't about a particular point in time, it was about the whole process, wasn't it?---It, it, it changed. So initially when Angelo Tsirekas was mayor and this was, this was the discussion, it was more about, you know, the conspiracy theory around what was happening at council, but then when the dynamic at council changed, then the, then the conversation changed.

And how did the conversation change after the change in the balance of power at council level?---There seemed to be more activity and engagement of planners and different, you know, concepts and ideas being put through to, to, you know, the, the matter came back to council again for, for reconsideration.

10 So when you first told us about the sense of Mr Sidoti's views about what had come out from the Urban Design Study, you told us that you had a recollection that that was a discussion where Mr Megna and Helen McCaffrey were both present and possibly at one of the street stalls.
---Mmm.

Correct?---Those, you know, the, I mean John would tell anybody who wanted to listen really, he was happy to have that discussion openly with a lot of people. So it, you know, my sense is that it was, you know, with Michael and Helen, but I suspect if you asked anybody that was close to the matter at the time that they would say the same thing.

20 Are you able to say that because you actually saw him speaking with other people from time to time about the issue and expressing the same views you've told us about here today?---The only time I saw that type of discussion was with my sense of Michael and Helen around me, yeah, but not – it seemed to be a thing people were talking about in the party at the time.

But again were these discussions that happened either at party functions or at community engagement events and things like that?---Yes, typically.

30 Did you have any meetings with Mr Sidoti in which the Five Dock Urban Design Centre Study was, and the associated planning controls were discussed?---With Mr Sidoti? No.

Private meetings?---No.

Private meetings involving perhaps yourself and other councillors?---Not that I recall, no.

40 Do you recall attending a meeting, or did you attend a meeting with Mr Sidoti possibly at his electoral office in Five Dock which was attended by representatives from the Chamber of Commerce, Joe di Giacomo and Glen Haron?---Not Joe di Giacomo and Glen Haron, no. I, I, I have in my memory that there was a meeting in Glen Haron's office about a matter for Five Dock, but not, not in, not in the electorate office, no.

So you recall a meeting that you attended in the office of Mr Haron, and was that also attended by Councillor McCaffrey?---Potentially.

Was it attended by Mr Sidoti?---Potentially, I'm sorry.

Well, who else was in attendance at the meeting that you recall at Glen Haron's office?---I just remember Glen being there. I, yeah, look, the thing is there was lots of community meetings, so I'm sorry.

10 So are you saying or are you telling this Commission that that meeting was a community meeting at Glen Haron's office or just a meeting with him?
---It could have been, yeah. I'm sorry, I can't pinpoint the topic of discussion because there were many occasions where we'd have meetings.

But you told us before that it was a meeting in which one topic that was discussed was the Five Dock Town Centre. It would have been a topic of discussion, I would have assumed so, yes. It would have been a topic - - -

Why do you assume that?---Well, because it was going on at the time, so of course it would have come up as a topic.

20 So you have a recollection of when this meeting actually took place?---No.
Just that it took place some time in that period - - -?---Sorry.

- - - between 2014 and 2017, is that right?---Yeah.

I wonder if we could bring up page 356 of Exhibit 24. Now, do you see that's an email that actually has the title "Re: Ramsay Road accident blackspot". Do you see that?---Mmm. Yes.

30 And if I could just draw your attention to – you see down the bottom of that page, firstly, that there is a response from Mr Sidoti to an email that you had sent him regarding the Ramsay Road accident blackspot. Do you see that? That's at the bottom.---Yes.

And you've responded to that on 6 April, to Mr Sidoti.---Yes.

40 And then there's an email above that which starts, this is on 7 April, 2014, at 9.02pm, saying, "Dear Councillors, I would like to organise a meeting, day or night over the next week at a time convenient to all, in the presence of the Five Dock Chamber of Commerce President and Vice-President, to discuss the Five Dock Urban Study and the very misleading statements by council staff in an attempt to sell the business community of Five Dock a pup." Do you see that?---Yes.

Do you recall receiving this email?---Not specifically, but, yes, clearly I've received it. It's, yeah.

And it says, "Please be well-informed on this subject and challenge the thoughts of the staff. The survival of the centre is at play. Await your reply."---Okay.

Now, do you recall attending a meeting in response to this – sorry, I withdraw that. Do you recall that, as a result of this email there were arrangements made for there to be a meeting involving yourself and other councillors with Mr Sidoti and the President and Vice-President of the Chamber of Commerce?---Yeah, as I said, there were a number of meetings with, you know, so – this particular one, I, I don't recall.

Okay.---Yeah, I'm sorry.

Now, immediately above that email from Mr Sidoti is Mr Megna's reply, indicating that there would be – there was a workshop on the Five Dock Urban Study that night, being the night of 8 April. And your response was that Saturday afternoon would be fine. You fly in about 12.00 and you would be home by 1.00.---Mmm.

20 Do you see that?---Yes.

So, do you recall whether or not – I mean, does that assist you in recalling whether or not you attended such a meeting?---On a Saturday afternoon, I don't, I'm sorry.

Do you have any recollection as to what were the very misleading statements by council staff to which Mr Sidoti was referring to in his email?---Oh, no. I'm sorry, I don't.

30 You're unable to assist us in terms of what he might have said about that to you?---About that report particularly, no. Misleading statements, I, I don't know what he's referring to particularly in that comment.

And so as you sit there in the witness box, you don't recall any conversation with Mr Sidoti about this email or what he meant by that?---No, I don't. About this?

Ah hmm.---The misleading statements. I, I don't know what statements he's referring to.

40 Well, it would be quite a serious matter, would it not, if the council staff were making very misleading statements to councillors regarding such a significant matter as the Five Dock Urban Design Study, wouldn't it? ---Very, yeah, it would be serious.

And that would be a matter of concern to you as a councillor to think that the council staff might be attempting to sell the business community of Five Dock a pup and doing that by way of misleading statements?---To be

honest, reading that, and at the time, I would have taken it, that accusation with a grain of salt.

But it's quite a serious accusation to be making about council staff, correct? ---It is but it's, but it is, I mean, there is form in the accusations, I have to be honest. I mean, you know, these, these accusations, I, I did largely take with a, with a grain of salt because they were coming from Mr Sidoti and they were consistent. I'm sorry.

10 So when you say there is – that's quite all right, Ms Cestar. I just want to explore that with you. When you say there is form in these kind of statement from Mr Sidoti, are you suggesting that it was, in your experience, not uncommon for Mr Sidoti to make such claims as set out in this email, that is that council staff are making very misleading statements?--- Yes.

Was that part of the political rhetoric that you were used to seeing from Mr Sidoti?--- Yes, yes.

20 THE COMMISSIONER: But in this case the email from Mr Sidoti was proposing a meeting take place in the presence of the President and Vice-President of Chamber of Commerce and it seemed at least the Liberal councillors so that this would be bringing it out somewhat into the open, to make these allegations. Did you perceive that this was a matter that was putting forward an execrable proposal or not?---Sorry, just can you put that another way, sorry?

30 Yes. I'm saying you made a statement a moment ago in answer to the question put to you, something along the lines about Mr Sidoti's form. What I am putting here is, this email seems to be now specifically calling for a meeting at which the President and Vice-President of the Chamber of Commerce would attend, and presumably at least the Liberal councillors to openly discuss the subject matter being alleged, "Misleading statements by council staff in an attempt to sell the business community of Five Dock a pup." Well, was this the first time any such proposal had been advance by Mr Sidoti, that you recall?---For a meeting?

40 Yes, for a meeting with the personnel referred to in the email.---Look, potentially there were other, other calls for meetings. I, I can't remember any specific ones, I'm sorry.

Anyway, the only point is, here he's putting forward the proposal in black and white, as it were.---Yes, yeah.

Had he ever done that before or did this represent a new development? ---No, I never, the, not for any other area other than the Five Dock plan, if that's what you're asking. It was, it was really, the, the interest or the activity or the representations were very specific to this particular strip of

road. If you're asking did I get calls for meetings about roads or other, other matters within the electorate, no, there wasn't.

No, I think I'm really just simply saying is this the first time he's suggesting a meeting be convened with the personnel he's referred to to discuss the allegation that he's raised in the email? Or don't you recall?---I, I, I really don't recall. It's unlikely it's the first and unlikely it would have been the last, but I don't recall.

10 All right.

MR RANKEN: Now, the councillors to whom Mr Sidoti has forwarded this email are the Liberal councillors only, correct?---Yes.

If there was any substance to the allegation that council staff had been involved in making very misleading statements concerning the Five Dock Urban Study, would you agree that that would have been a matter that should be of interest to all councillors on the council?---Yes.

20 And that it would have been appropriate, if there was any substance to those allegations, to bring them to the attention of all councillors?---I would think so, yes.

Was it of any concern to you that the only councillors to whom this email was addressed were Liberal councillors, then?---No, at the time I didn't, I, and I'm looking at it now and it, it doesn't, yeah, it, it should be a concern but it didn't, didn't register at the time, no.

30 And again is it the case that you don't actually recall attending a meeting of the kind contemplated in this email?---No.

THE COMMISSIONER: Do you exclude the possibility that you did go to a meeting as proposed?---I'm not excluding it because there were many meetings that took place. To pinpoint each meeting with a time and a topic and agenda would be very difficult, I'm sorry, yeah.

40 MR RANKEN: So there were very, there were numerous meetings with Mr Sidoti that he had organised, is that what you're saying?---Not that he had organised but that we had had during the course. I mean, we would have informal meetings at an event. We'd have a discussion about something. I mean, this was just the, the nature of the relationship.

And the nature of that relationship was one that was born out of the fact that you were all members of the Liberal Party, is that right?---Correct, yes.

And he was a senior member of the Liberal Party at that time, correct?
---Yes.

Particularly as a result of securing the victory in the 2011 election to take the seat of Drummoyne away from the Labor Party.---Yes.

But you understood, though, when you received this email of 7 April, 2014, that Mr Sidoti had a family, at least a family financial interest in the Five Dock Urban Design Study, correct?---Yes, I, I knew the property at the function centre belonged to them, that's right. On Great North Road.

10 And indeed, from what you've told us before, that he had been expressing the view that there was a conspiracy led by the Labor mayor to exclude that property - - -?---Yes, yes.

- - - or the strip of land that included that property from the design study, correct?---Yes, that parcel. There was a couple of parcels, yes.

And that it was directed specifically at Mr Sidoti's interests, correct?---Yes, that's right.

20 So given Mr Sidoti's financial interest, as you understood it, in the matter that was to be the subject of the meeting being proposed in this email, were you concerned about the prospect of your role as a councillor being interfered with and your independence as a councillor being interfered with by these representations?---Initially no, but it did start to raise concerns, yes.

And when did it start to raise concerns?---When Helen became mayor and it became quite, the representations became quite frequent and I guess I'd say forceful to an extent.

30 And when you talk about representations, there you're talking about representations from Mr Sidoti himself?---Yes.

And were they representations made to you?---Yes.

And made to you in person or through some other form of communication? ---All. In person, email, in person and email probably the main two, yeah.

40 And what as the nature of the representations that Mr Sidoti made to you that were of concern?---I, the, the nature of it was that my position on council was being leveraged to achieve something for the Sidoti family interest.

How is it that you have that view, what was it about the representations, for example, what was the substance of the representations that were made to you by Mr Sidoti?---There were, there were threats that other people wanted to run, or it was positioned that other people wanted to run for council and that if I couldn't be loyal to I guess the Sidoti agenda, then my position would be up for grabs and there would be someone else who would be willing to take it.

And was that something that he expressed in those terms and in terms that related specifically to the Five Dock Town Centre Study and the proposals that he was seeking to advance in respect of it?---Yes.

10 And is there any particular interaction or communication that you have in mind when you are giving this evidence?---Probably the one that stands out the most is when I met – it was a Saturday morning and I typically do the Bay Run and I'd bumped into John, and it was before a council meeting and he was quite animated about the fact that the proposal and what he wanted for the rezoning, and this was towards the end, it sticks out quite, it sticks out more than the other events because it was quite obvious to me from that conversation that he would line up other councillors to run for council if I wouldn't play ball to an extent I think. I felt my position was being leveraged.

So if we can just deal with that occasion.---Ah hmm.

20 You told us that it was towards the end of the process.---Yes.

So closer towards the February 2017. Correct?---Yes.

And it was an occasion on a Saturday morning when you were doing the Bay Run.---Yes.

30 And what, you just happened to come across Mr Sidoti, is that the position? ---Yes. He was also exercising and it could have been a Sunday morning but it was early on the weekend and he was also exercising and we crossed paths and stopped to have a chat and from that conversation I, I was left feeling, you know, intimidated and that my position on council was up for grabs if I didn't do what was expected.

40 And what did he say to you firstly, what was it that he expected you to do at the upcoming meeting? Because I think you said that this happened shortly prior to a meeting of council. Is that correct?---That's my memory of it, that there was a proposal to, I think it was around the zoning of the area and also, yes, it was more – I think it was around the zoning and there was some, some wording that was sent to us by the town planners, John's town planners at the time, that they wanted some additional, additional floor space. I, I can't remember the detail of it but there was some wording that there was an expectation that we would overturn or add to the recommendation that was put to council.

And what was the conversation that you had with Mr Sidoti on the Bay Run? Did you express a particular view about the position that you would be taking in respect of the matter or did he raise the topic?---I can't remember who raised the topic.

THE COMMISSIONER: I think what you're being asked to do is to recall, if you can't recall the exact words he used and you used, which is probably not surprising given the time, but whether you can give us the essence of what you said, he said. Just, it might have started with some morning greetings and then who said what?---Yeah. It, it, yeah, we, we, as I, yeah, we, we bumped into each other. I, I don't know how the conversation came about but we got to a point where the discussion about the meeting came up, and that property, and there was, that there would be, there would be or there would be some information coming from the town planners to – so, so
10 the councillors could amend the recommendation that was coming up to council, which makes sense because on the Friday before, that's when the agenda items and the meeting, the meeting agenda was published onsite and we, we got the business papers. So, so there was wording to come and the expectation was that that wording would be, would be used to amend the recommendation and, and I said, well, but my memory of it is that, "Well, we'll see what the wording is but hesitant to amend any recommendation." And then it came around that, "Well, if you can't do it, we'll find councillors," or something to that effect, "I'll find a council who can, who can actually do that."

20

You said before that he was quite animated.---Yes.

What do you mean by that?---Just speaking very quickly and very emotional, erratic. You know, that, that type of – very, very emotional about the, I remember it being a very emotional interaction, very emotional about that, about that topic. Yeah.

MR RANKEN: What was his tone of voice like?---Loud. I remember him being loud.

30

Do you mean he was shouting at you?---No, he wasn't shouting at me.

What else was he doing in terms of being animated? He was loud?---Just his body gestures, I think, from memory.

What was he doing with his body gestures?---Oh, just kind of pointing and doing this a lot, is what I remember.

40 So he was standing over you?

THE COMMISSIONER: You're raising your right hand.---Sorry.

You are raising your right hand as you say that.---Yeah. It was kind of like pointing and it was like an, you know, accusatory type of interaction.

MR RANKEN: Pointing at you?---Yes.

Was he standing close to you at the time?---Not beyond the normal boundary of human interaction, no.

And did you do anything about this interaction after you'd had it with Mr Sidoti?---Yes. It was quite concerning. I felt threatened. I felt my position was threatened. I messaged Michael Megna about it and asked to speak to him and, and also in a way to have a record of that date because in the back of my mind I thought to myself this is potentially something that should be reported and I, yeah, sat on that for a while but I, I purposely, I thought I
10 need to have some sort of record of this interaction.

So you actually turned your mind, either at the time or shortly after the interaction, that it might be something that needed to be reported. And to whom did you think it should be reported or may need to be reported?
---Well, I wasn't sure at the time. It was, you know, I, I just felt it was an inappropriate interaction. I mean, more than any other interaction that I'd had with him.

But were there other interactions apart from this one that you've told us on
20 the Bay Run, whether in person or in correspondence, that caused you concern about your position as a councillor on the City of Canada Bay Council being compromised by Mr Sidoti?---Well, I'd had, one of my friends had said to me that Mr Sidoti had approached him to run for council, which was a surprise.

And who was that?---A friend of mine, Chang Lim, who was in the area. I'd heard – this is all hearsay – that there was some canvassing being done to replace, to replace the existing councillors.

30 So that's, though, things that you had heard that gave you concern perhaps about your position as a councillor more generally, but what about your, the compromising your role as a councillor? I think you said there were some interactions you'd had with him – that is, with Mr Sidoti or communications with Mr Sidoti – that gave you concern about your independence being compromised.---Well, yes, I mean, there was, there was, it, it, you're asking for another particular example?

Yes, for further examples.---There was an email where he'd, he'd said that
40 there were other shopkeepers looking to run for council that I found was threatening. It was like a veiled threat or maybe not-so-veiled threat.

And was that email an email that you understood was the threat being linked to Mr Sidoti asking you or the other councillors to act in a certain way in respect of the Five Dock Urban Design Study?---Yes, it all kind of linked up to this idea that the, the staff had got it wrong and that there seemed to be, you know, the staff had got it wrong and it's, it's our role as councillors to rectify the, the, you know, the, what staff had got wrong. And that, you

know, that there, if we wouldn't, if we wouldn't do it or if I wouldn't do it, that someone else would.

So that's an email that you received, and you've also told us about the Bay Run incident, if I could call it that. Were there other communications or interactions with Mr Sidoti that gave you cause for concern about your independence as a councillor being compromised by him?---I, I just can't think. Sorry, just under pressure I just can't think.

10 You can't bring to mind any at this stage?---No.

Well, can I ask this, then. Did you have conversations with any other of your fellow Liberal councillors – be that Councillor Megna, Councillor McCaffrey or Councillor Ahmed – about any interactions that they may have had with Mr Sidoti concerning the Five Dock Town Centre Study in which they may have expressed concerns?---Helen did say to me that, you know, she wanted to get John off her back.

20 When did Helen McCaffrey say that to you?---While she was mayor.

So that was an interaction that you had with Helen McCaffrey some time in 2016 or 2017?---Yes.

What was the conversation, what did she say about getting John off her back? In what sense was he on her back as far as she had expressed it to you?---There was pressure to, you know, pressure to overturn recommendation from, from staff and, and to push through a, you know, zoning, I think, from memory. Yeah, to use her casting vote to, to get an outcome that was more palatable to the Sidoti interest.

30 Is that what she told you?---They're not her words but that's the essence of the conversation.

To the best of your recollection, what were the words that she said that gave you that impression as to the essence of the conversation?---It, it was largely, you know, to get, get, you know, wanting to get John off her back, that was the main thing. There, there seemed to be a consistent, you know, sense of harassment from her.

40 THE COMMISSIONER: Get him off her back in relation to what?---The, in relation to the property up zoning.

MR RANKEN: Thank you, Commissioner. You mentioned a moment ago that it has something to do with Helen using her casting vote as mayor to favour the Sidoti family interests.---That was the - - -

From where did you get the understanding that there was some suggestion that Ms McCaffrey should use her casting vote as the mayor?---Yeah, good

question. More from Helen, I think, that, that there, I gather that there was some interaction between Helen and John, that there was some pressure put on her to use her casting vote.

Did she tell you that there had been some interaction between her and John in which he had suggested to her that she should use her casting vote in - - - ?---We discussed the, the, John's interactions with us openly, and the way he was dealing with us, yes. So I knew that she was being, that she was under pressure and she knew that I was.

10

Are these conversations that were had just between yourself and Ms McCaffrey?---Largely, yes.

Not in the presence of Mr Megna or Dr Ahmed?---I did tell – yeah, Michael was aware of it. Michael was aware that I was under pressure definitely and I, I believe that he was aware that Helen was under pressure as well.

20

So tell us about that. You, you certainly told Mr Megna about the interaction you had had with Mr Sidoti on the Bay Run and was there some other interaction you had with Mr Megna in which you discussed with him the pressure that you felt that you were under from Mr Sidoti?---There, there was one particular interaction and I, I, I can't remember where it was but he said, "Oh, yeah. I know. I have had to get legal advice to show John that I am not eligible to vote," I think, "that I am not eligible to vote for these, for these matters." I, I, I got the sense then that John was also putting pressure on Mr Megna, on, on Michael to, to vote but typically Michael had excused himself, absented himself from the meetings and, and Michael, yeah, I remember one interaction or one conversation with Michael that he had to get legal advice to prove to John that he couldn't vote on these matters.

30

So prior to that interaction, were you not aware of any interactions that Mr Sidoti may have had with Mr Megna about the Five Dock Urban Design Study?---No.

40

Did you expect that he would not have had any interactions with Mr Megna because you were aware that Mr Megna had declared a pecuniary interest and was not participating in any discussions or decisions in relation to the design study and the associated planning proposals?---I – no. I think Michael knew what was going on and I think that, that there was discussion about it. The, the, the depth of that discussion, or the frequency, I don't know but the fact that Michael had to get legal advice would tell me that there would have been some significant pressure on him as well.

So just so we're clear as to what Mr Megna told you about that, do I understand that he told you that he had – did he tell you that he had been approached by Mr Sidoti and that Mr Sidoti had suggested that he should be able to vote on matters relating to the Urban Design Study?---Yes, or on Five Dock, on Great North Road, that's right.

And did he also tell you that in order to resist that approach by Mr Sidoti, he had gone and obtained legal advice. Is that right?---That's right, yes, he did, that's what he told me.

And that he showed that legal advice to Mr Sidoti?---That's what Michael told me, yes.

10 And he told you this, did he, in the context of a conversation you were having with Mr Megna in which you were raising your concerns about the pressure that you were receiving from Mr Sidoti?---Yes, yes.

Are you able to assist us with a time frame in which this conversation with Mr Megna occurred?---It, it would have been in the time, the most pressure, my memory of it is the most pressure and the pressure cooker was really in the time that Helen was mayor, that was the main time, so it would have been in those, in that period. I'm sorry I can't give you any more than that, it's just - - -

20 No, that's quite all right, Ms Cestar. I'm just trying to exhaust your memory as best we can. So that would put it at least within a time frame between about June of 2016 and February of 2017.---Yes.

But where in that time frame you're not entirely able to say.---No.

And so that's an interaction you had with Mr Megna in which you expressed your concerns about pressure. Now, what about your discussions with, perhaps let's deal with Dr Ahmed. Did you have any discussion with Dr
30 Ahmed about your concerns about the pressure that you felt that Mr Sidoti was bringing to bear upon you in your role as a councillor?---No, no.

Is it fair to say that most of your interactions or – I withdraw that. Is it fair to say that insofar as you expressed concerns about the pressure you perceived Mr Sidoti to be bringing to bear upon you as a councillor, they were limited to conversations with Ms McCaffrey and Mr Megna?---That's right, yeah.

And in relation to your conversations with Ms McCaffrey, you told us about the interaction you had with her in which she indicated she just wanted to
40 get John off her back.---Ah hmm.

Were there any other interactions that you had with Ms McCaffrey in which you or Ms McCaffrey raised concerns about the pressure either of you perceived Mr Sidoti to be bringing to bear upon you in your roles as councillors?---I can't pinpoint a discussion but we discussed this regularly, it was, you know, every time there was a meeting coming up there would be an email or a phone call, you know, mainly, mainly from, from John. There would, there would be, you know, you would be expected to, there would be

wording coming along from his planners and there seemed to be a turnaround for planners to, you know, alternate wording in or alternate approaches to the recommendations seemed to be something that's replaying in my mind a lot from that time.

So do I take it that when you refer to these phone calls, they were phone calls by Mr Sidoti himself to you?---Yes, I did receive a call from John.

10 And this would occur on a regular basis whenever the matter was coming up before council. Is that your evidence?---It occurred on a number of occasions. I, I, I remember one particular one and it was after our Bay Run incident actually I think, and he called about, it would have been probably that night or that meeting and, and I said, "Look, I don't think you and I should speak about this anymore. I got very uncomfortable with the last conversation." And he said, "Well, can my planner call you?" And I said, "Yeah, your planner's welcome to contact me." And that, and that was it.

20 THE COMMISSIONER: Sorry, I couldn't hear what your last, the last bit of what you said.---Sorry.

You said and he said.---So - - -

30 When he rang that evening he said.---Yes, there was a, there was a call from John and he – it was about – and I think it was the night of that meeting, that final meeting, and, and I just stopped him and said, "Look, I, I don't think that – I wasn't comfortable after our last interaction, I don't think we should discuss this anymore." And then he said to me, "Would you be happier if my planner contacted you?" And, and I said, "Yep, yes, that's fine. Your planner's welcome to contact me." So that was at some point after the, the Bay Run, and I'm thinking it would have been either on the, on the Monday or the Tuesday night. The meetings were on the Tuesday.

MR RANKEN: So Bay Run happened on either the Saturday or the Sunday before the council meeting.---Mmm. Mmm.

And then there was a conversation with Mr Sidoti - - -?---After that.

- - - after that but before the meeting that was coming up.---Yes. Yes.

40 So before the Tuesday. So either on the Monday or the Tuesday itself, correct?---Yes.

And you indicated that whilst you weren't prepared to speak with Mr Sidoti, you were happy for his planner to contact you?---Yes.

And did you know who his planner was at that stage?---It was James Matthews at that time. He's, he's the one that sent emails, yeah.

Did you receive a call from James Matthews prior to the meeting?---Yes.
Yes, I did.

And do you have a recollection what it was that James Matthews said to you during the course of that telephone conversation?---I, I don't remember the detail of the conversation. I recall it being about justifying the alternative wording and change of recommendation that, that, that he was putting forward.

10 THE COMMISSIONER: Do you have any recollection as to the nature of the recommendation, at least in the sense as to whether it would be a recommendation that would be favourable to council or favourable to Mr Sidoti or favourable to someone else? In other words, the effect of what was being proposed by way of a recommendation?---Yeah. For that particular one, and I'm referring to this is probably the last matter or the last meeting on this matter in February.

It's February of - - -?---2017, I think. It would have been because, yeah, that year, that was the year of the, the, the elections as well. There was, we
20 did receive, either by text or email, some alternate wording from James Matthews to, you know, that would, you know, to add to the recommendation or change the recommendation put forward by, by council or the independent planners. And so that came through and I, and I think the discussion was about justifying or trying to explain that to me, but in my mind I had no intention of deviating from the recommendation at that time, so I just politely listened and, and hung up at the end of it.

Did you at any stage in which matters raised by Mr Sidoti concerning the town centre plan, where you gave yourself consideration to an issue of
30 public benefit in having the proposal by council, based on their expert consultants, changed?---In my mind I've always, I think, you know, tried to keep an open mind and have a look at, you know, is there something new that needs to be considered? Was something overlooked? Is there something that, you know, could balance the public interest against what any resident or, or developer would want and compliance and trying to balance those three aspects. So happy to, would have been happy to see any new information or anything that could have been considered, yeah.

Did you evaluate the question of public benefit in any proposal that Mr
40 Sidoti discussed with you as to whether there would be public benefit or, or not?---I, I was probably, public benefit would come under for me more compliance side of it. I would look at the compliance side of it, whether the building complied and what the recommendations were. But public interest, yeah.

Well, Mr Ranken, I think there's some emails dealing with the question of public benefit.

MR RANKEN: Yes. I'll come to them.

THE COMMISSIONER: I'll leave it to you to deal with any such matters as you see fit.

MR RANKEN: I will come to them in due course, Commissioner. So I just want to – before we start going to some of the particular emails and the like – just, you've told us about this telephone conversation you had with Mr Sidoti right towards the end. And you also told us that it happened on a number of occasions when the matter was coming up before the council for discussion and decision that you would receive some phone contact or email from Mr Sidoti about it coming, is that correct?---Yes.

And some of those emails, I think, or phone calls, were to let you know that there would be some wording coming through or some communication coming through from planning consultants that he had engaged or had been engaged on behalf of his interests. Is that correct?---Yes, that's right.

Or at least you understood them to have been engaged on behalf of his interests?---Yes, that's right.

For you to be aware of that coming through, is that correct?---Yes, that's right.

And in terms of that information coming through, was it the case that then there would then be emails that you would receive directly from the planners or from other persons or was it just material that came through to council and you would then be aware and alive to the fact that this was something that ultimately was being put forward on behalf of Mr Sidoti's interests?---Probably both. I think there was something that had, there were, there were emails that come through council, through the, through the council process and other emails that, my memory is that emails that came directly from either planners or, or John.

Do you recall any occasions on which Mr Sidoti may have suggested to you, either directly, that is himself, or through his planners, particular resolutions that should be passed by council or moved by Liberal councillors?---Other than the wording, you mean, that we would have received if - - -

Other than the occasion that you've told us about where there was some communication as to changing a recommendation, but were there ever any proposed recommendations or proposed resolutions that Mr Sidoti suggested you or your other Liberal councillors should move and support? ---Yes.

Are you able to assist us with the detail of any such - - -?---Oh, so, only in relation to the, the Five Dock issue, that's all. Yeah. So there was a rescission motion that we received wording from, I think, the planners.

There was additional points that were expected to be put through in the rescission motion and then again, you know, for that final – that, that seems to be sticking out in my mind the most. But in terms of away from the Five Dock planning, no.

So, insofar as you ever received any communications concerning resolutions that were being suggested that you and your Liberal councillors should move and support, they were only in relation to the Five Dock Urban Design Study and associated planning proposals?---Yes, yes, yes.

10

Now, I want to now – having covered those aspects. Just one moment. Perhaps before I move onto some of the particulars, I'll just ask a further question about it. Was it unusual for you as a councillor to have such regular and ongoing direct representations relating to a matter before council from someone who had an interest in that particular matter?---To the, to the extent that we did for this, no. Typically a resident, a typical resident would make a representation, have a matter they might – the matter might be at council, they, they might get up and speak and talk to the, the issue. We typically resolve it and it wouldn't be revisited.

20

But in terms of direct contact with yourself as a councillor, was it unusual to have such direct contact about such matters from, for example, other constituents who had interests in matters?---This is very – well, I, I didn't receive that much, no. I mean, no.

Ordinarily, when constituents made representations to council concerning planning matters, was that something that was usually made directly to council staff?---Both. It would be council staff and councillors.

30

And councillors.---And it would, it did, it would depend on how well the person involved knew the process. So if, if they wanted something to come to council, typically it would be more professional developers that would go straight to councillors as well as council staff. So typically a, a resident wouldn't always, if they were doing a house renovation, for example, a resident wouldn't typically email all the councillors about their house renovation unless it was coming to council due to a non-compliance issue. Then we'd hear about it.

40

But I think you said that persons who had, or developers, would contact councillors directly.---Yeah, they would email us, yeah.

Now, just want to go back to 2014, and I'm drawing your attention to the email from Mr Sidoti of 7 April, 2014. And there was some suggestion, if I could suggest to you, from yours and Mr Megna's response that it might have been possible to organise a meeting, but you don't recall actually attending any such meeting.---Mmm.

Now, do you recall – so I want to draw your attention to a calendar entry. If we could bring up page 373 of Exhibit 24. That is a calendar entry for a meeting, or it seems to be possibly a meeting organised by Mr Sidoti for 16 April at 7.00pm, and it’s described as an urban plan, urban plan with councillors.---Mmm.

Now, do you have a recollection of attending a meeting with Mr Sidoti and other councillors in April, on 16 April, 2014, concerning the Urban Design Plan?---I’m sorry, I don’t, no.

10

Could we then go to page 362. Now, this is the last page of a chain of emails, Ms Cestar, and I just want to draw your attention to the email that you can see as being the first in time, which is sent by Mr Sidoti from a parliamentary email address dated 8 April, 2014, at 1.01pm. Do you see that?---Mmm.

20

And in that email Mr Sidoti says, “Dear Councillors, can we meet over the next seven days to form a united stance for the Five Dock Town Centre Urban Study that will be voted on on the 6th May council meeting, any evening at your convenience? How is Monday the 14th, Tuesday the 15th or Wednesday the 16th at my office at, say, 7.00pm? Await your reply. Thanks, John Sidoti MP, Member for Drummoyne.” Do you see that?---I do.

Do you have any recollection of receiving an email of this kind, this email in particular?---I honestly did receive it. I, yeah, look, not off the top of my head, but it’s there.

30

And do you see that what he is seeking in that or appears to be seeking in that email is a meeting amongst councillors, well, with you councillors to form a united stance for the Five Dock Town Centre Urban Study, do you see that?---Yes, I do.

What did you understand to be referred to by a united stance?---Well, that we will have the same view on what the town centre, you know, that we all have the same view for the town centre urban study.

40

THE COMMISSIONER: Now, when you say “we” are you talking about all councillors or not?---I’m assuming, without seeing who it’s being sent to, I’m assuming it would be the Liberal councillors only. I’d be surprised if it went to any Labor councillors.

MR RANKEN: It wasn’t, though, just – if one looks at that sentence, it’s not just in relation to the same view of the Five Dock Town Centre Study because it says, “That will be voted on on the 6 May council meeting.” Do you see that?---Mmm, yes.

Is it not a reasonable reading of that sentence to suggest that what Mr Sidoti was seeking was a meeting to see whether or not you could form a united voting stance in respect of the matter.---It appears that way. That's the way I would read it, yes.

And again, you understood at the time of this email in April 2014, that the Urban Design Study on the Five Dock Town Centre was a matter in which Mr Sidoti very much had a financial interest in.---Yes, definitely had a financial interest in it.

10

And very particular views about how his financial interests were being adversely impacted by what was being recommended by the study.---Well, there was – I don't recall ever a discussion about money or financial, just about what, you know, that, that it wasn't actually a – he didn't put it forward in the sense that, oh, I'm losing money for this or I want to make money out of it, although that was obviously the outcome that would have happened, but for the, if it was rezoned, but it was more about, you know, more height and more density.

20

But his property interests as you understood them were not getting the benefit that he wished to see them get from the Urban Design Study. ---Yes, that's right That property wasn't receiving the same consideration that other properties had on Great North Road.

So he had an interest, a property interest in the very subject matter that he was seeking the councillors to have a united stance on in respect of their voting at the upcoming council meeting. Correct?---Yes, yes.

30

And was it a matter of concern to you then that you and the other councillors might be being organised by Mr Sidoti to vote as one bloc in a matter in which he clearly had some interest, property or financial?---At the time I, I guess, when this was going on, there was alarm bells. This particular email is concerning. Yeah, there, there was alarm bells, but I, I, I believed I knew my boundaries and wouldn't cross them.

So are you telling the Commission that whilst you had concerns, you kept them to yourself? Is that the case? At that time, at least at this stage.---Yes.

40

And you were happy to do so and potentially attend a meeting of the kind Mr Sidoti was seeking because you were confident in your own fortitude to make a decision that was in the public interest, notwithstanding anything that he might actually say to you.---Yes. Yes. I, in my mind, regardless of who it is, happy to listen to and try and understand what the considerations are, if there's any new information. It doesn't necessarily mean that it would change my point of view, but open to it.

THE COMMISSIONER: At this time, with the benefit of your experience over some years as a councillor, if a proposal was put that the Liberal

councillors should form a united stance on an issue such as the Five Dock Town Centre Urban Study, would a prerequisite be that you'd need to consider the impact of any united stance on voting on the public interest before you could commit to agreeing to participate in such a united stance?--I, I, I would be hesitant to just - - -

I'm sorry?---I, I'd be hesitant to agree to an united stance on anything. Like, I think it's, yeah - - -

10 Unless what?---Well, unless it was in the public interest.

That's what I'm putting to you. Is that what you were being asked in this email? When I say you, I mean, it seems, the Liberal councillors, is to form a united stance for voting purposes in relation to this town centre plan. Would a prerequisite have been that you would need to say, "Well, wait a minute, how would any voting bloc impact on the public interest"?---Yeah, yes, definitely.

20 I mean, did you see that as a primary, or even perhaps a fundamental, obligation on councillors to ensure that they use their voting power independently in the public interest?---Yes. And, and deal with matters on merit, yes.

Sorry?---And deal with matters on merits, yes. Yeah.

I see it's just after 1 o'clock.

MR RANKEN: Yes, Commissioner.

30 THE COMMISSIONER: We'll take the luncheon adjournment and we'll resume at five past 2.00. I'll adjourn.

LUNCHEON ADJOURNMENT

[1.05pm]