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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION WITNEY

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 9 APRIL, 2021

AT 10.00AM

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

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

MR RANKEN: Ms Cestar is in the witness box, and I think Mr Neil has some cross-examination.

THE COMMISSIONER: Thank you. Ready to proceed. Would you administer the oath again to Ms Cestar. If you wouldn't mind just standing again. There's a Bible there. Thank you.

THE COMMISSIONER: The declaration I made under section 38 of Independent Commission Against Corruption Act at the commencement of Ms Cestar's evidence continues to apply to the evidence she gives today. Yes, Mr Neil. I grant leave.

10 MR NEIL: Thank you, Commissioner. Ms Cestar, I appear for Mr Sidoti. I just want to ask you, firstly, you gave some evidence on Wednesday about the fact that the actual ownership of properties is not a matter that affects your decision-making as a councillor if a decision has to be made about a property, but rather the actual merits of the proposal in relation to the property, is that right?---That's right.

And before councillors were prevented from making decisions about development applications, had you, as a councillor, made decisions on development applications at various times?---Yes.

20 And is it commonplace that many development applications are made in the name of companies or entities that don't disclose the identity of the underlying owners?---From time to time, yes.

Yes. And you, as a councillor, don't concern yourself to try and find out the underlying ownership because you're going to decide the matter on planning merit, correct?---Yes, that's the intention, yes.

30 Thank you. And is that, as you understood it, what is considered to be the appropriate practice for councillors making decisions on property matters? ---Yes.

Thank you. And just then want to ask you about a phrase you used in your evidence "strip of road". When you've used that phrase on at least once or maybe more than one occasion, in relation to what I think you said were Mr Sidoti's family properties, were you referring to Great North Road?---In this instance, I was referring to Great North Road.

40 THE COMMISSIONER: I'm sorry, you have to keep your voice up again. ---Sorry, I'm trying.

It's all right.---Yeah.

MR NEIL: So the answer's yes?

THE COMMISSIONER: Sorry, could you just repeat - - -?---Yes, sorry, the, yes, in this instance, yes.

Sorry, what's your answer?---In this instance, yes, it was Great North Road.

MR NEIL: Thank you.

THE COMMISSIONER: Thank you.

MR NEIL: And in particular, was it Great North Road between Barnstaple Street and Second Avenue?---Largely, yes.

10 Thank you. And I think you've given evidence that the town centre, in terms of the northern boundary, commences at Lyons Road, is that right?
---In my mind, yes.

Thank you. And would you agree that the properties fronting Great Northern Road between Barnstaple Street and Second Avenue were, during the relevant time, zoned B4 mixed-use?---I think some were, yes.

20 All right. Did you have an understanding that the Sidoti family properties fronting Great Northern Road, or property, was zoned B4?---If we're talking about the function centre, I believe that was B4.

Thank you. Did you ever become aware as to whether the Sidoti family had at some stage come to own more than the function centre 120 fronting Great Northern Road?---At some point I did become aware, but I can't remember when.

30 All right. Now, I think you've said, but I'll just ask you to confirm, is it your evidence that the Five Dock Town Centre Urban Design Study and the associated planning instruments and documents represented a major project for the council, having long-term implications for the area?---Yes.

Would you expect a project of that size and complexity to have a number of periods of consideration at council, exhibition, and amendments?---It's a difficult question to answer, because it's pretty much a case by case. Some projects, even small projects have come to and from council and others have been approved on delegated authority. It just depends.

All right. Depends on the circumstances in each case, is that right?---Yes.

40 And one of the circumstances may be that there's an exhibition followed by a further exhibition if there's some substantial amendment, is that right?
---That's right.

And each occasion of exhibition carries with it, does it not, a public pronouncement that submissions may be made about the exhibited plans, correct?---Yes, that's right.

Thank you. And was the overarching principle of the project to, in reality, try and reactivate the Five Dock Town Centre?---Yes.

A number of various factors could be involved in the process of reactivating the Five Dock Town Centre, which could be considered and either adopted or rejected, such as, one might be the question of floor space ratios, correct?
---Yes.

One might be the question of bonus provisions, correct?---Yes.

10 One might be the question of heights, correct?---Yes.

One might be the question of setbacks, correct?---Correct.

And would it be fair to say that whenever there was an exhibition period, you as a councillor would take interest in the feedback that was received from the community?---Yes.

And both yourself and council staff would consider feedback, correct?
---That's right.

20 Now, I think could the witness, Commissioner, be shown page 430?

THE COMMISSIONER: Yes.

MR NEIL: Perhaps I should have asked firstly for page 429, Commissioner.

THE COMMISSIONER: Yes.

30 MR NEIL: 429 shows that there's a motion, point 1 of which is at 429, moved by Councillor Kenzler and seconded by yourself, correct?---Yes.

And it goes over onto page 430, with the second, third, fourth and fifth matters set out, correct?---Yes.

And it's basically to adopt the Five Dock Town Centre Urban Design Study and endorse certain planning proposals, plus some other matters, correct?
---Yes.

40 And all councillors at that meeting, including yourself and Labor, Liberal and I think the Green councillor all voted in favour of that proposal, correct?---That's right.

And that, in essence, amongst other things, provided – subject to Gateway and further exhibition – it really was the basic decision to extend the town centre, correct?---Yes, it looks that way.

Thank you. Now, a portion of the extension – I withdraw that. The extension of the town centre involved extending the B4 zoning to some

areas adjacent to the original town centre boundaries, which were not B4-zoned, correct?---Yes.

Extensively, if not exclusively, residential areas, correct?---It looks that way, yes.

And one of those areas that was subject to extension was the western side of Waterview Street south of Second Avenue. Correct?---I'll have to think about that, but I'll take your word on it, yes.

10

THE COMMISSIONER: Do you need to see the plan?---Yeah, can I see the map? I'm just - - -

MR NEIL: Yes.---North, west, et cetera, I'm just trying to think where that all sits.

Yes, certainly. Could the witness be shown page 154, please, Commissioner.

20 THE COMMISSIONER: Yes.

MR NEIL: Now, if you have a look at that map, are you able to locate Second Avenue and Waterview Street?---Yes.

And the eastern boundary of the town centre depicted on that page, which, as I understand, is prior to extension, the eastern boundary ran down Jersey Lane and then split the block between Barnstaple and Second Avenue, and continued to split the block south of Second Avenue. Do you see that?
---Yes, I do.

30

And I take it you had that understanding at the time?---Yes.

And did the acceptance of the urban design, or Town Centre Urban Design Study, with concomitant planning control provisions, involve the extension of B4 zoning to the area on the western side of Waterview Street south of Second Avenue and east of the previous eastern boundary?---From memory. I'll, I'll take your word that it did. I can't recall.

40

All right. Well, do you recall that – I think you've given evidence that at some stage Mr Sidoti spoke with you, perhaps alone or perhaps with other councillors, about what I'll call the block that is depicted between Barnstaple Road, the western side of Waterview Street, down to Second Avenue and on the eastern side of the previous – and still – eastern boundary. Did he speak to you about that area?---I believe he, yes, he did.

Is that the area which you have given some evidence to the effect that he said something about he couldn't understand, or there was some problem about that area being left out?---Yes.

Now, I just want to ask you this. Did he say anything – I’ll just withdraw that for a moment. Might the witness be shown page - - -

THE COMMISSIONER: Sorry, Mr Neil, I’ll just clarify one point. When you say – the witness has answered the last question. You said you withdraw that for the moment. I’m not sure what you’re intending to say. You’re not withdrawing the question you’ve put.

10 MR NEIL: No, I’m sorry. I just want to ask another question.

THE COMMISSIONER: Yes, okay.

MR NEIL: Thank you. I’m obliged to you, Commissioner.

THE COMMISSIONER: No, that’s all right. I thought that was the case.

MR NEIL: Thank you very much. Could I ask you to look at page 1441. Now, do you see towards the end of 1441 there appears an email from Sean
20 Durkin to various persons, including yourself?---Yes, I see that.

And can we take it you received this email on 4 December, 2016?---It looks as though I did, yes.

And do you see that, if I now ask you to look at page 1442, that Mr Durkin has said in this email, “The main elephant in the room that needs to be addressed is the political animosity between Councillor Tsirekas, now departed from council; Kenzler, a political ally of Mr Tsirekas, but allegedly no longer a resident of City of Canada Bay; and Mr John Sidoti, state
30 member of NSW Parliament.” Do you see that?---Yes, I do.

And he goes on to talk about some previous events, and then the next paragraph he says, “It is well known that Mr Sidoti’s family own property at the Great North Road reception centre.” And then he then goes on further. Now, in conversations with you and possibly other councillors, did Mr Sidoti say that he had been approached by residents of Waterview Street who are complaining that they’ve been left out of the additional B4 arrangements?---I don’t recall a conversation, but, yeah, I’m sorry.

40 Well, do you think it’s the type of conversation he might have mentioned to you?---Potentially.

Can you recall if he said to you that residents were saying to him that they thought that it must have been left out because of political animosity between the Labor Party and Mr Sidoti?---There was a number of occasions where Mr Sidoti made that claim. Not that residents had said that to him, but that that was his belief.

Could it be that he did say to you that residents had told him that they had the same belief?---Potentially. Potentially.

All right. Now - - -

THE COMMISSIONER: Sorry, just clarifying, what does “potentially” mean?---He could have, but it’s not something I’m, I, I’m recalling at the moment.

10 MR NEIL: Now, was Councillor Kenzler keen on more development?---I can’t recall. Generally I think he was, he seemed to be in favour of commercial activity and activating commercial spaces, commercial places, yes.

Was he in favour of greater height for commercial premises?---I couldn’t remember. Potentially.

Was he in favour of higher floor space ratios?---It would be site by site. I can’t talk to what he was in favour of.

20

Do you recall him ever saying he was in favour of greater height and floor space ratios in respect of the town centre?---I, I don’t recall a conversation with him about that.

Now, I want to ask you about some other conversation that you’ve given evidence about involving Mr Sidoti at the Bay Run occasion.---Yes.

Is the Bay Run a well-known recreational area consisting of some pathways and at least in some parts some cycle tracks?---Yes.

30

And is it about seven kilometres all told?---Yes, that’s right.

And if people are on what is called the run are they at least for some substantial portion able to either walk or jog or run?---Yes.

And do they do it on paths that are in either many areas or even substantial areas adjacent to the public road?---Yes, that, it follows a, a road, that’s right.

40 Thank you. And about how wide is the pathway for people walking, jogging, or running?---It varies. Some parts of the Bay Run are quite wide, others are quite narrow, it just depends. There’s been a fair bit of work around that run, so, it’s a reasonable size.

And can it become congested with people?---Depending on what time of day, it can, yes.

At any one time, would the people involved in walking, running, or jogging on the Bay Run involve hundreds of people?---Not that I've seen. Not in any one spot, no. Unless there's a fun run or something.

Dozens of people?---Not in any one spot, no.

10 But people, for example, who may be lined up in front and then behind each other, if they want to overtake someone, is there much space to do so, or are you forced out onto the road?---Generally there's enough space. It just depends on what part of the Bay Run you're in, and how many people are around, but it's rare that, as I say, depending on the time of day, that you would need to overtake people.

Are the Saturday and Sunday mornings very popular?---Yes, they can be. Over COVID times, yes, they were quite popular.

20 And do some of the participants go in what might be called at least generally a clockwise direction and some go in an anticlockwise direction?
---Yes, that's right.

And what time of day was it that you met Mr Sidoti?---Just based on the text messages I've seen, it was early in the morning, which would be about right with my schedule. I do go early in the morning.

Would you have met him, say somewhere around 8.00 to 8.30 in the morning?---No, it would have been earlier. I would typically run, I'd start my run between 6.30 or 7.30 in the morning. It's quite early to, to miss the, to miss the crowds, actually.

30 Well, if someone started a run at about 7.30, what time would they likely to finish, if walking?---Walking?

Mmm.---Walking, potentially, oh, yeah, I, I, it's hard to say. Approximately maybe an hour. I, I don't know. Depends on their speed and, and their fitness.

40 Now, are you able to say in which direction clockwise or anticlockwise you were moving on that day?---I was going towards Nield Park Pavilion, so I would have been going clockwise.

And are you able to say about what location it was that you met Mr Sidoti?
---Yes, actually it was just before Nield Park Pavilion, coming through, before – there's an aquatic centre at Rodd Point. It was about there, around that turn that I bumped into him.

And was he travelling the same direction as you or coming towards you?
---No, he was coming towards me.

And how far away from you was he when you first saw him.---Oh, I mean, normal, normal vision. I would see – hard to say. Just depends on what speed I was running and, potentially when I first saw him, maybe five metres away from me.

And was he accompanied?---No.

Are you sure of that?---Yes.

10 Were you wearing sports clothing?---Yes.

And sports shoes?---Yes.

And did you, in effect, greet each other?---Yes, I stopped.

Now, you said in your evidence that there was some mention of zoning. Is that what you said?---There was, the topic of the upcoming meeting was, came up, and there was a mention of information coming I think from the planners, and there was put to me an expectation that that wording would be
20 adopted or, if there wasn't, if I wasn't prepared to adopt that wording, that there were plenty of others who would be supportive. And my recollection then was in fact I, I did say to John at the time, "Are you blackmailing me?" and he looked a bit taken aback and said, "No, I'm just letting you know what course of events could occur."

Now, at page 452 on 7 April, that is Wednesday this week, at line 10, you said, amongst other things in your evidence, you bumped into John, it was before a council meeting. "He was quite animated about the fact that the proposal and what he wanted for the rezoning, and this was towards the
30 end." Now, would you agree that any question of rezoning of the area between Barnstaple Street and Second Avenue on the western side of Waterview Street had long since been resolved?

MR RANKEN: I object. The reason why I object is because it hasn't been established in terms of the context of the word "rezoning". And my friend has already cross-examined other witnesses about the different meanings that that word can have when used by persons. So it needs to be established, the particular meaning that was intended to be conveyed by Ms Cestar before that can be put.
40

MR NEIL: Well, that might be a matter for re-examination, but it's not an objection to the question.

THE COMMISSIONER: I'll allow it.

MR NEIL: Thank you. Now, were you aware that any question of rezoning of the land on the west side of Waterview Street between Barnstaple Road and Second Avenue had been determined well before the Bay Run day?---In

my mind, it was all still encapsulated as one issue relating to the Sidoti properties.

10 Do you agree that on the same page of transcript, 452, on 7 April, between lines 35 and 40, you said, “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 wording that was sent to us by the town planners.” What did you mean by “zoning” in your evidence?---As I just said, in my mind it was all encapsulated as part of the lobbying that I received on behalf of John or John’s planners for that property.

The meeting that followed that occasion was at page 1364. Could the witness be shown page 1364, Commissioner.

THE COMMISSIONER: Yes.

MR NEIL: That meeting followed the Bay Run day. Correct?---Yes.

20 And at that meeting it was unanimously agreed, including yourself, to defer consideration of the exhibition outcome for the planning controls for land on Waterview Street to a council workshop. Correct?---Yes.

There was no consideration of any proposal put forward to rezone that land as B4, was there?---As I mentioned before in my mind all of that was encapsulated as an issue in that, in that Sidoti property.

30 But all that was happening here, I want to suggest to you, is a deferral of consideration of the exhibition outcome to a workshop. Correct?---That’s right.

And ultimately, and might the witness, Commissioner, be shown page 1410 – we see there that there are points 3 to 6, if the witness might be shown page 1409, we see there points 1 and 2, do we not?---Yes.

Mr Matthews spoke at that meeting, did he not?---He’s on the list there, yes.

And also Mr Durkin. Correct?---He’s on the list there, yes.

40 And a Ms Cassisi. Correct?---Yes, she’s on the list.

And number 2 item is the removal of the heritage item. Correct?---That’s right.

Without going into the details, had the precise formulation of a removal of the heritage item been left out of a previous set of staff recommendations, although it should have been presumably included?---Yes, it seemed that way, that’s right.

Thank you. And then if the witness might be shown 1410, we see there that the totality of the six points were resolved in favour on the casting vote of the mayor. Correct?---Yes.

With yourself, Councillor Ahmed and Councillor and Councillor McCaffrey voting in favour.---Yes.

10 And every single one of numbers 1 to 5 were based on council staff recommendations. Correct?---That's my understanding.

And is that one of the reasons why you voted for them?---Largely, yes.

Did you have faith in the staff?---Yes.

In their competence?---Largely, yes.

And their objectivity?---Largely, yes.

20 Thank you. Well, did you have sufficient faith to believe that their recommendations 1, 2, 3, 4 and 5 were in the public interest?---I, I can't see why they wouldn't be, yes.

Thank you. And number 6, as I think you've been asked by my learned friend, really derived from a proposal of Mr McNamara, correct?---I really can't remember who put that wording together, but my memory is that it was read out at the council meeting and added to on the night.

30 Thank you. And you, can we take it, approved of that wording when you voted in favour of it.---Yes.

Thank you. And I want to then just go back to this question of this Bay Run meeting. You've given evidence, at page 457, Commissioner, that Mr Sidoti said to you, "Well, if you can't do it, we'll find councillors,' or something to that effect, 'I'll find a councillor who can, who can actually do that.'" That's your evidence, isn't it?---Yes.

40 Well, I want to suggest to you he never said that to you. What do you say? ---You weren't there.

Now, isn't this the case, the meeting was held about four days after the Bay Run occasion, correct?---Yes.

How would Mr Sidoti be able to arrange a new council favourable to him within the four or five days to the meeting?---I'm, I'm not sure what you're getting at.

You've given evidence that you say that he said, "Well, if you can't do it, we'll find councillors,' or something to that effect, 'I'll find a councillor who can, who can actually do that.'" And you say it's talking about him wanting something to be done at the meeting on 6 December, correct?
---Yes, I believe he was using my position on council to leverage a decision that was in his favour.

10 There was never any matter voted upon other than the council recommendation, the council staff recommendations, Mr McNamara's recommendations, correct?---There was alternate wording sent to the councillors, and I believe that's been in evidence, and that was sent to us on the day, which had come from Mr Sidoti's planners, and that was the, the intention that the councillors would move the alternate wording.

And you simply, in effect, disregarded that, didn't you?---Yes, I did, because it wasn't part of the recommendation.

Yes, you put it aside, didn't you?---Yes.

20 Now, I'll just ask you this. How could Mr Sidoti find a council who could do his bidding, or councillors who could do his bidding, within four/five days? How could he find councillors to do his bidding at the meeting coming up on 6 December? How could he do it?---I didn't take his comments to mean that he was going to do it within the next few days because we all know that there was no preselection coming up at that time and that there would be elections and council nominations further on in that year, and it was in 2017. My understanding of that comment was that it would be enacted for the next round of council nominations.

30 But the question of the Urban Design Study issue, setting aside the rescission motion, which failed, was all over by the end of the meeting of 6 December, was it not?

MR RANKEN: I object.

40 THE COMMISSIONER: Mr Neil, with respect, you hadn't sought to link the prelude to the meeting that took place – that is, what happened between the time of the Bay Run and the meeting. The witness has said just a moment ago and said before that she received a document from the town planners. She gave evidence about this the other day. And this was in the lead up to the next council meeting, early the next week.

MR NEIL: Yes.

THE COMMISSIONER: Now, whether Mr Sidoti was in a position to get somebody else, some other councillor to do whatever it was that he wanted is not the point, with respect.---Mmm.

The question is, on her evidence, which she gave, there was an attempt being made through the town planners to get the wording before the council early the next week or the Monday night or whenever it was, Tuesday night. You can't leave that out of the factual matrix here, can you, because whether or not it was raised at the meeting or it wasn't raised at the meeting and the whole thing was just deferred as it was, doesn't detract from the fact, does it, unless you want to put to this witness that there was no, nothing said or provided to her by Mr Sidoti's town planners as she stated at 452. So in other words, she said he was endeavouring to secure her cooperation on this question of an attempt to get the wording before council. She says she wasn't going to be in it. But what's that – you keep – I understand you're linking this back to the Bay Run incident, but it is a bit of a non sequitur, isn't it, to say, well, you look at the minutes of the meeting and it was deferred, there's nothing said about this? It's a question of whether there was an earlier antecedent stage in which there was a suggestion that at that meeting something was going to happen or there was a desire for something happen.

MR NEIL: Well, Commissioner - - -

THE COMMISSIONER: Yes, I just want to understand where we're going, that's all.

MR NEIL: Thank you, I - - -

THE COMMISSIONER: And I haven't interrupted your line of cross-examination at this stage because I just wanted to – I'm trying to understand where you're going on this, but I do think it's important to clarify.

MR NEIL: No, I appreciate that, Commissioner. But the material from the planner is in evidence. It may be a matter for further evidence and/or submissions to deal with it. I know it's there. But what I was directing my question to is the, what the witness says that Mr Sidoti said to her. I was trying to test the reliability of that on the proposition that something couldn't be done in time.

THE COMMISSIONER: Yes, I understand that.

MR NEIL: But I've put to her that he didn't say that, so I'll move on.

THE COMMISSIONER: All right.

MR NEIL: Now, your position as I understand it is that – oh, no, I just withdraw that. I want to suggest to you that on that occasion at the Bay Run, Mr Sidoti did not intimidate you. What do you say?---He didn't physically intimidate me, no, but he tried to leverage my position to achieve an outcome suitable to him.

Well, isn't that your interpretation of what you say he said?---Oh, there was no other way to interpret it, in my mind.

What, that at some stage in the future, and it couldn't be any earlier than September 2017, he might in some way prejudice your preselection?---Yes.

Now, I want to suggest to you he did not point his hand at you. What do you say about that?---My recollection is that there was some pointing.

- 10 Did he hold up his hands, both of them in front of him like two stop signs?
---No, I don't recall that.

Now, did you mention anything to him about preselection?---Not that I remember, no.

All right. Now, just moving to another topic, you've given evidence that Mr Sidoti only ever spoke to you about planning matters as they related to the Five Dock Town Centre, is that your evidence?---Not only, but largely. They were the main representations that I got from John.

20

Now, when you say representations, do you mean to include in that statements by Mr Sidoti seeking your assistance with planning matters?
---Yes.

Do you include statements by Mr Sidoti informing you that some constituents had raised matters with him relating to local government matters which he was asking you to consider?---From time to time there would be emails from his office about local government matters.

- 30 Did you have any discussions with Mr Sidoti on the topic of there being too much development approved by council with too little infrastructure at Rhodes East?---Sorry, did I say that to John, is that your question?

No, did you have discussions with him in which he raised that topic with you?---Oh, potentially. I can't recall but he may have.

- 40 Did you have discussions with him about the topic of the Bushells factory site in Concord?---Oh, gosh, I don't think I did. I think that was something that came through – I recall a presentation at a workshop about the Bushells site and then following that, that, there was only that one presentation and then, and then we had council elections and I don't believe I've seen anything since then. I think it's just that one presentation, I don't recall a conversation with him about it.

Did the presentation include any presentation by consultants?---Yes, it did.

Did you have any discussions with Mr Sidoti about the Bayview Park Ferry Wharf closure?---Potentially.

Then again does that mean you might have had such discussions?---May have, yes, may have.

Thank you. Did you have any discussions with him about Five Dock Bowling Club?---Likely. The bowling club in Five Dock Park I think is the one you're referring to. Is that right?

10 Was it one that was subject to some community discussion about a possible rezoning?---Yeah, there was some discussion about that site as the new Tigers club in the interim. I think that's the same site we're talking about.

And did that discussion include you talking to Mr Sidoti about it?
---Potentially.

And did you have some discussion with Mr Sidoti about the Drummoyne Sports Club?---Gosh – sorry, which one's the, which one's the - - -

20 Perhaps some rezoning, potential rezoning problem.---Sorry, which one is the Drummoyne Sports Club? I'm just trying to think. What street is that one on, where is that located?

Victoria Road.---Drummoyne Sports Club.

Behind the 7-Eleven.---Oh, yes.

Well, did you talk to Mr Sidoti about that, a possible rezoning problem?
---I think so, yes.

30 In respect of the bowling club and the Drummoyne Sports Club, were there at times proposals from people who wanted to turn the sites into apartments?---Yes, I remember that.

And did Mr Sidoti talk to you about that question?---Likely he did.

Right. Do you know the Drummoyne water tower?---Yes, I know where it is.

40 Did you have any discussions with Mr Sidoti about the Drummoyne water tower?---No, I don't think so. I think that was passed by the time, I think the water tower drama was after I was on council.

Now, ultimately, as you are aware, 7 February, 2017 resulted in the resolutions that we've just looked at in evidence. The effect of those, I'll ask you do you agree, included the removal of the heritage listing on 39 Waterview Street?---That's right.

Included enabling building heights to go from 8.5 metres or two storeys to 10.5 metres, three storeys, and up to 14 metres, four storeys. Correct?---I, I don't have the document in front of me, but yes, that, that sounds right.

And it enabled floor space ratios to go from .5:1 to 1:1.---I'll, I'll take your, your word on that.

10 Enabled a laneway within the block so that loading and unloading of goods for deliveries to the rear of premises fronting Great Northern Road could be facilitated. Correct?---I'll, I'll take your word on that, I'm sorry.

And also allowed a laneway to be used for rear access by residents or visitors to the residences fronting Waterview Street.---I'll, I'll accept that what you're saying is correct, yeah.

And could alleviate some of the parking problems on Waterview Street. Correct?---I'll accept that that's what, what was the outcome.

20 Thank you. And you have, as I understand it, accepted that you sent, I think it's called a text or an SMS, to Mr Megna saying, "I spoke to John last night. He was actually happy." Do you remember that?---I remember seeing that text, yes.

And there was a response from Mr Megna and you, as I understand it, said that you thought he was genuine about being happy. Correct?---Yes, it took me by surprise, yes.

30 But is it the case that Mr Sidoti indicated to you that he was happy with the result of the meeting on 7 February, 2017?---That's what he said, yes.

Thank you. And you've also given some evidence that you thought that in some respect Mr Sidoti or perhaps people associated with him had been screwed. Were you referring to the block on the western side of Waterview Street between Barnstaple Street and Second Avenue?---I was referring to the fact that that recommendation had some additional height to it which you just mentioned and that that wasn't in previous recommendations, so in that sense I thought some wriggle room had been overlooked.

40 But had the wriggle room been remedied by the resolutions on 7 February or did you think there was still some more accommodation that was potentially available?---No, I didn't think there was anything else available, no.

All right. But does it follow that you had thought that Mr Sidoti or the people in the block had been at some stage, to use your expression, screwed, but there had been amelioration of that by virtue of the resolutions on 7 February?---Yes.

And did Mr Sidoti say anything to you to the effect that that amelioration was part of what he was happy about?---He probably, he potentially did. I can't recall any wording, but potentially.

Because at least going back to early occasions when you spoke to Mr Sidoti, without getting into controversial matter, he at least made it plain to you that he had been approached by residents of Waterview Street to pursue what they saw as their interests.---I recall businesspeople, not really residents.

10 All right. Does that include people in the Chamber of Commerce?---Yes.

And is it the case that people in the Chamber of Commerce generally speaking favoured more development?---I'd be surprised if they didn't favour more development.

And did you used to, I think you've given evidence, go and assist Mr Sidoti at street stalls throughout the electorate that could have been at any particular time, but generally more during the electoral cycle, is that right? ---Yes, that's my recollection.

20

And in doing that, were you seeking to increase, to some extent, your own profile in the electorate?---It's about the Liberal Party. All my involvement was not about me. I've been a member for 20 consecutive years, and I've campaigned and done a lot of work for a lot of different people.

So did it include or was it to help increase the profile of the Liberal Party? ---Yes.

30 And increase Mr Sidoti's profile?---Yes.

He had been elected in 2011, correct?---Yes.

He'd increased his majority at the next election in 2015, correct?---Yes.

And more than the state average, correct?---I'll, I'll accept that, yes, I can't remember, yep.

Was he a hardworking member of parliament?---I'll, I'll accept that. It's a matter of opinion.

40

Did he have a, did he build up and increase a profile in the electorate over the time he served?---Oh, it's not for me to judge, I guess.

Now, you at some stage have given evidence that you became aware of an email of Mr Sidoti referring to, I think, shopkeepers possibly going to run for council, and could the witness be shown page 376, Commissioner?

THE COMMISSIONER: Okay.

MR NEIL: If we start at, Commissioner, if the witness could be shown 375, I apologise. That is an email which in the last paragraph states amongst other things, "There have already been a number of shopkeepers lining to run up for council." Do you see that?---Yes.

And you, at page 376, if the witness might be shown 376, Commissioner.

THE COMMISSIONER: Yes.

10

MR NEIL: You've emailed to Mr Megna and Ms McCaffrey, "What exactly was the purpose of this email and does it matter if shopkeepers want to run? Is John saying he would support them, is it a threat?" Now, you sought some advice from Mr Megna and Ms McCaffrey about that email. Correct?---I sought their opinion and reading of it.

And you got the reply from Mr Megna that's shown in the centre of page 376. Correct?---Yes.

20

And you got the reply from Ms McCaffrey that's shown in the top portion of page 376. Correct?---Yes.

In which she says, "Everyone is entitled to run for council." Do you see that?---Yes, that's an obvious statement. That's right.

Yes, it's obvious and correct, isn't it?---Yes.

THE COMMISSIONER: But what did you take her to be saying in the phrase - - -?---I think it was a rhetorical line in my view.

30

What did you understand, if you had any understanding, what she was saying?

MR NEIL: And then Ms McCaffrey says - - -

THE COMMISSIONER: Sorry. What did you understand - - -

MR NEIL: Oh, I'm sorry, Commissioner.

40

THE COMMISSIONER: - - - by the statement she made, "I too am a bit worried about his comments re shopkeepers"?---Well, I think it sounds to me as though she took it as a threat as well.

MR NEIL: But I want to suggest to you that is a misunderstanding on your part of what she said because she follows by saying, "I have heard so far there is a group at Rhodes, another at Breakfast Point, now Five Dock, and it's only 2014." Isn't she there expressing some concern herself about shopkeepers who might be possibly organising to run for council in those

areas?---My recollection of that is that she was concerned that they were being organised, not that they were organising themselves.

And if you go back to page 375, did you not take what Mr Sidoti had put in that last paragraph as an attempt to support your interests and protect you and advise you to work harder and be more diligent so that potential candidates for council will be less likely to run against the present council?

10 ---I would think that that would be highly inappropriate for him to make that suggestion that we should work harder, and that's not how, I read it as a threat and even that comment, if you're suggesting that it's appropriate for the state member to tell the councillors they're not working hard enough, I think that's crossing the line.

Well, I'll set aside working harder. Would you not have seen it as a protective piece of advice to let you know about potential difficulties that might be faced by councillors in the future?---Not in the circumstances and based on what was in the top of that email, no.

20 Now, did you ever have any discussions with Mr Sidoti about that email?
---No, I don't think I did.

Thank you. Now, I just want to ask you some questions about preselections. Is it the case that any member of the Liberal Party is entitled, if they see fit, to put themselves forward for preselection for a federal seat or a state seat or a position on the local council?---Yes.

30 And does the Liberal Party have a preselection process that includes members of the party in terms of local council elections who come from the local branches and persons from the head office?---Local branches, delegates from adjoining, from other outside of area and state executive, yes, that was my understanding at the time.

And there may be some eligibility criteria such as perhaps time as a branch member, but if you're eligible you can put your name forward. Correct?
---That's right.

And there's no provision in any rules of the Liberal Party that prevents persons who are eligible from nominating. Correct?---That's right.

40 And the process is democratic, is it not?---It can be, yes.

Now, how long were you overseas during the period of prior to the preselection?---Roughly four weeks.

And I think you said that unfortunately you were overseas, you used that phrase in your evidence. Correct?---I'll accept that I did use that word, yes.

Well, I'll have it checked. Just a moment. But whatever be the position, the fact that you were overseas put you at a considerable disadvantage in terms of the preselection. Isn't that right?---Probably, yes.

You sought to some extent to remedy that if you could by asking for the date of the preselection to be changed.---Yes, that's right.

But they did not accommodate you. Is that right?---I, I think it was just borderline though, it wasn't particularly good, yeah.

10

Now, in the 2012 election were there eight Liberals who ran on the Liberal Party ticket at the council election?---I honestly can't remember.

Right.---I wouldn't have thought there would be – it just depends on how many places there, there are.

You have said that at some earlier time it was difficult to get candidates. Is that right?---Yes, that's right.

20

Was one of the features why it's difficult to get candidates is that in an area that at any particular time might be seen to be strongly Labor, it's simply very difficult to get candidates to apply for what might well be a hopeless task?---It's difficult to get candidates because people that run would want to run in a winnable position and so it's difficult to get candidates to run to fill a ticket.

30

If the prevailing political situation is strongly Labor, that makes it less likely that a candidate can get a winnable position. Correct?---Yes. It's interesting though where we've had federally a Labor, Labor sitting member and Liberal state members, it doesn't always follow that the voting line of the electorate lines up across all levels of government.

Is it the case that after either no Liberal representation or none for many, many years, in 2011 and repeated in 2015, the Liberal Party took the seat of Drummoyne, correct?---That's right.

And this was a great morale boost to the members, correct?---That's right.

40

And Mr Laundry I think in the mid-2000s took the federal seat, formerly Lowe, then folded into Reid or renamed – well, not renamed, Reid had been around for a long time, correct?---Yes, that's, but it wasn't part of the Inner West, that's correct, yep.

And the seat that Mr Laundry took, whatever had been the previous nomenclature, it'd been strongly Labor for many years, isn't that right? ---Yes, that's right.

And was there a morale boost to the members when Mr Laundry succeeded?
---Yes.

And was there a morale boost to the members when, after the resignation of Mayor Tsirekas, Ms McCaffrey became the mayor?---Yes.

And those events and those morale boosts, did they not tend to result in more people interested in running for council on the Liberal side?---Oh, potentially, yes.

10

Yes. And also, as I think we've seen from the letter from Mr Smith about a convention coming up, that the party was at the time regenerating itself or attempting to do so, isn't that right?---Yes.

20

Isn't this the case, that there was new blood coming into the party, you were overseas and not able to campaign as well as you might otherwise, and you simply did not get sufficient support from the preselectors to be preselected, isn't that the situation?---No, the situation is that previously we hadn't had preselections and we'd always worked it out amongst ourselves who was going to run in the ticket, and it was quite a surprise to have candidates who had not approached me or any of the sitting councillors to say that they wanted to run in winnable positions. If they had done so, we could have avoided a preselection. The preselection itself was an unusual situation. The number of people who turned up for that preselection was unusual. The fact that the state member was also at that preselection was unusual. It was a very unusual event. And, and I just might add that the fact that someone who was unknown in the local electorate to win a number 2 position on a ticket in a preselection was highly unusual.

30

Now, what I want to suggest to you is that the preselection was conducted without any attempt to be unfair to you, without any machinations, you simply lost on merit, and you're bitter about it. What do you say about that? ---I think if I was bitter about it, I would have resigned from the party. I still wouldn't be involved. I've -- still a committed member to the cause. I just don't like the way that this has played out. I believe that Mr Sidoti sought retribution and, and I think the preselection was the way to do it.

40

And you blame Mr Sidoti for your not getting preselection, is that right?---I think his involvement was inappropriate.

I want to suggest to you that you have made totally unfounded and unwarranted assumptions about this so-called involvement of Mr Sidoti. What do you say about that?---I think based on the threats made by Mr Sidoti leading up to the, leading up to that event at council, I think they're not unwarranted.

And you're aware, are you not, that Councillor Megna, Councillor McCaffrey were successful at the preselection?---Councillor McCaffrey was

successful at the preselection because Stephanie Di Pasqua pulled out on the day and left that position altogether and I would have assumed that based on the results of the day that if she would have stayed in that mayoral candidacy that she would have won that.

You have given evidence that Ms Pasqua worked for Mr Sidoti. Correct?
---I wasn't aware that Stephanie worked for John Sidoti. I believe that she was employed after that preselection or round about that time.

- 10 But either way, at the very least she withdrew her candidacy in terms of the mayor, correct?---Yes, she did at the day, on the day of the preselection.

And in the long run in any event, Mr Megna and Ms McCaffrey were selected. Correct?---Yes, Ms McCaffrey was selected by default because there wasn't a challenger.

- 20 Yes, but what you're suggesting is the protégé of Mr Sidoti, Ms Pasqua, pulled out against her. Correct?---That's what I'm suggesting. Helen McCaffrey got that position by default because Stephanie Di Pasqua pulled out.

Had Mr Yap been a candidate in 2012?---I think he was on the ticket, yes.

As of 2017 preselection, did you consider him to be a capable person?
---I had known Nick Yap for some time, yes.

Well, did you consider him to be capable?---I believe he was intelligent, he is intelligent, yes.

- 30 Do you consider him to be qualified for council office?---I don't know what qualified for council office means.

Well, sufficiently capable to fulfil the duties of a councillor?---Yes.

And in the 2017 preselection he was preselected ahead of you. Correct?
---Yes, he did win that preselection.

Did you ever appeal the preselection decision?---No.

- 40 Commissioner, I'm almost finished. Could I ask if we took the short adjournment because we did start slightly late, no criticism. I'll just check my notes. I won't be very long afterwards.

THE COMMISSIONER: Yes. All right. I do want to move on to another witness as soon as practicable but certainly Mr Neil, I'll do that.

MR NEIL: Thank you, thank you, Commissioner

THE COMMISSIONER: So, Ms Cestar, we will adjourn for the morning tea break. I think my prediction yesterday that you'll be away by lunchtime will be fulfilled. Anyway we'll see.

I'll adjourn.

SHORT ADJOURNMENT

[11.42am]

10

MR NEIL: Under Mayor Tsirekas, I think you said something to the effect that all representations had to go through the mayor's office. Is that what you said?---There was a policy of, I think it was just their internal policy that any representations received by councillors should be forwarded through to the mayor's office.

And whose internal policy was that?---Oh, to be honest, I'm not sure, but I didn't take much notice of it.

20

So what in fact happened in practice with regards to representations during Mayor Tsirekas' time?---I would receive them and forward them – excuse me – to the relevant director of the department. If it was a footpath issue it would go to the Director of Engineering, et cetera, just dependent on what it was.

So if you got a representation, would you bypass the mayor?---I would go, yeah, directly, typically directly to the director of whichever department it was.

30

Well, by saying that all representations had to go through the mayor's office during Mayor Tsirekas' time, does that mean representations made to Labor members of the council?---No, I'm talking representations made to me. I thought that was where you were going with that question.

But did you then send them through the mayor's office, or did you send them direct to the particular staff members?---I sent them, most of the time I would send them directly to the relevant director of the department.

40

Well, why would you then not send them through the mayor's office?---In my mind, I wasn't the mayor's employee, and I didn't, oh, in, in my mind, I was representing constituents and I didn't think I, I, it needed to go through the, the mayor's office. I couldn't see the basis for that policy or that idea.

So did you disagree with that policy?---Yes, I did.

Did you understand it was a policy that applied to Labor members who received representations that they would send them through the mayor's office?---I've got no idea what happened with the Labor Party councillors.

All right, thank you. Thank you, Commissioner.

THE COMMISSIONER: Yes, thank you, Mr Neil. Mr Ranken?

MR RANKEN: There are a few discrete matters, Commissioner, if I could -
--

THE COMMISSIONER: Yes.

10

MR RANKEN: Now, Ms Cestar, I just want to clarify a couple of matters arising from Mr Neil's questions.---Okay.

20

Firstly, you were asked some questions about the plan that appears at page 154 of Exhibit 24, so I wonder if we could bring that plan up on the screen. And the questions you were asked were about the extension of the B4, what was being proposed as the extension of the B4 mixed-use, in terms of the expansion of the town centre. And can you see in this plan on page 154, the area of the Five Dock Town Centre Study is identified with a series of, a border that consists of a series of dashes and dots.---Yes.

Black dashes and dots. And that represented the existing B4 mixed zone, prior to what was being proposed under the study.---Right. Okay, yes.

And in particular, if I could draw your attention to the block or the area that is between First Avenue and Second Avenue and bounded by Great North Road and Waterview Street.---Yes.

30

That area, there was already a part of that area that was zoned B4 extending from Great North Road through to Waterview Street.---Okay, yes.

Do you see that, towards the bottom?---Yes.

And there was what, a council car park seems to be identified on that plan. ---Yes.

And then next to the council car park, there's a yellow-shaded area that appears to be Department of Housing, that there was existing then.---Yes.

40

In terms of the extension of the B4 mixed-use, if we could go to page 232. Now do you see, we can see there the area of the proposed expanded town centre proposed by the study is bounded by the hard blue line?---Okay, yes.

And you can see the dotted lines within that hard blue line indicate – and if you need to go back to 154, we can do so – the areas that were previously the outer limits of the B4 mixed zone.---Okay.

And so what was proposed as far as the eastern side of the area was to include a further part of the block between First Avenue and Second Avenue as B4 mixed-use, but no further.---Okay.

And that would mean that that block which already had some B4 mixed-use going across like between Great North Road - - -?---I understand.

10 - - - and Waterview Street would be entirely B4 mixed-use. Do you see that?---Yes.

And then what you can see over the other side, perhaps even corresponding to the eastern side, there is a smaller area that extended the B4 mixed-use up to a point that was in fact midway between Lancelot Street and Henry Street, but not all the way to Henry Street. Do you see that?---Okay, yes.

Does that now refresh your memory about what was the proposed extension of the B4 mixed-use - - -?---Yes.

20 - - - zone as part of the extended extension of the town centre? I now want to move on to a different topic. If we could, I was asking – sorry, I withdraw that. Mr Neil asked you some questions about the location at which this interaction between yourself and Mr Sidoti occurred on the Bay Run.---Yes.

30 And I think you told us in response to Mr Neil’s questions that your recollection was that you were running in an anticlockwise direction towards Nield Park Pavilion.---I was, no, a clockwise direction, sorry. So the way the clock, yeah, clockwise.

And you were running, I think you said, you mentioned both - - -?
---Towards - - -

- - - Nield Park Pavilion and you also mentioned an aquatic ceremony at Rodd Point.---Aquatic centre, sorry.

Aquatic centre.---At Rodd Point, yeah, there’s an aquatic centre there in the car park.

40 So you passed that aquatic centre and were heading towards Nield Park Pavilion from there or - - -?---No, it was before I’d got to – it was that corner before the Rodd Point car park, and that Rodd Point car park is right, a little bit further down the road is the Nield Park Pavilion, the café and, and the soccer ground.

Because Nield Park Pavilion is actually at one end of Nield Park. Correct?
---Yes, that’s right.

And so were you approaching it from the Nield Park Pavilion end of the park or were you approaching it from the other end of that Nield Park?
---No, I was approaching it, I was coming from let's say the Haberfield side and coming towards Nield Park running clockwise before, it was that, there was a patch, a corner just before the car park that's on the right, if I was running that way the car park was on the right and then a little bit further down is the Nield Park Pavilion, which would have been, which is on the left.

10 And so was it somewhere near that car park, was it?---Yes.

And in terms of the width of the Bay Run at that particular point, is there space to be able to step aside and engage with someone you might come across?---Yes.

And is that what occurred, that the two of you moved off the Bay Run, the actual run itself or the pathway itself?---No, no, we, we stayed on the Bay Run and we were kind of probably closer to the fence that was fencing the water and the bay, and we were, we were there. There was, there was room
20 for people to keep running past or walking past us, but at that time of the morning there are very few people.

Then if we could then bring up page 1409 in Exhibit 24. Do you remember being asked some questions about this, which is the resolution that was passed on 7 February, 2017, and in particular it was suggested to you by Mr Neil that paragraph 2, which refers expressly to the removal of the heritage listing for 39 Waterview Street, was included here because it had been left out of a recommendation by the council staff, and I think you might have agreed with that suggestion or that that might have occurred?---I don't know
30 why it was left out previously, but yes, I'm speculating, I'll accept that it was left out by council staff.

But you recall though don't you that that paragraph essentially reflected the decision by the council to go with option 2 arising out of the Studio GL report that had been prepared as a result of the resolution of the council in November of 2015. Correct?---Yes, that's right.

And that was considered when the matter came back before the council on 2 August of 2016.---Yes.
40

And I think, do you recall that from your evidence I think yesterday that the recommendation of the council's staff in respect of the meeting on 2 August was simply that council should make a choice as to what option they wanted to go with?---Yes, yes.

And it didn't otherwise set out the kind of detailed recommendations that were usually the case, correct?---That's right, yes.

And I think you might have accepted that that was because there were options to be considered by the council.---Yes.

And if we could then, perhaps, go to page 1171. This reflects the resolution that was ultimately in fact passed by the council on 2 August, correct?
---Yes.

10 And we can see that paragraph 1 of that says that option 2 in the additional sites report for land between Second Avenue and Barnstaple Road on Waterview Street be endorsed.---Yes.

And then paragraph 3 referred to a planning proposal amendment to the Canada Bay Development Control Plan and any consequential amendments to Canada Bay Development Contributions Plan be prepared to implement the recommendations of the additional sites report in relation to option 2.
---Yes.

20 And it then follows. And because there would need to be some further public exhibition.---Yes.

So there was then the public exhibition of the matter in August and September of 2016, and a further outcomes report was prepared by Studio GL. Do you recall that?---Yes.

If we could then move to page 1335. This is the recommendation that was prepared in advance of the meeting that was to consider the matter on 6 December, 2016.---Yes.

30 Following the public exhibition that had occurred as a result of the decision of 2 August, 2016.---Yes.

And do you see that paragraph 1 there refers to “A planning proposal and associated Development Control Plan be prepared to implement the recommendations of the exhibition outcomes report prepared by Studio GL, dated 26 November, 2016,” correct?---Yes, yes.

40 So essentially that recommendation was that pick up what’s recommended in the exhibitions report dated November 2016, and that’s the kind of resolution you want in terms of any – if there were to be any amendments, they would be in accordance with what’s been recommended in that, correct?---Yes.

And if one goes to, if we could then go briefly to page 1336, that’s the cover of the relevant Studio GL report for the exhibition outcomes. Could we go to 1340. Now, that has some background and introduction. I just want to draw your attention to the final paragraph on the left-hand column, which refers to, “In July 2016, council resolved that an option to change the controls be endorsed and public notification to affected and adjoining

residents occurred in August 2016.” Would you accept from me that the reference to July 2016 appears to be erroneous because it was in fact August 2016 when the council did endorse option 2?---I’ll accept that, yes.

10 If we could go to page 1341. And in terms of 1341, if I could draw your attention to the second paragraph where it says, “To enable development, this review assumes removal of the heritage status of the number 39 Waterview Street is possible. This allows for increased development potential and enables the creation of a laneway to provide rear access to lots, including those facing Great North Road.”---Right.

And then if we could go to page 1356. This is the summary of recommendations. And the particular part of the summary I wish to draw your attention to is the single paragraph in the right-hand column, which says, “It is recommended that the planning proposal provides additional information on issues not related to urban design, such as the existing heritage item and the traffic impacts.”---Mmm.

20 Do you see that?---Yeah.

So it contemplated that there would be some amendments relating to the heritage item.---Yes. Yes.

And then if we could go to the recommendation made by the council staff for the purposes of the meeting on 7 August, 7 February, 2017, which is at page 1379. You can see that there, in paragraph 2 is the specific paragraph that was ultimately adopted by council.---Yes. Yes. Yes.

30 So having regard to that history, would you agree that the removal of the heritage item at 39 Waterview Street was in fact always part of the recommendations of council staff following the adoption by the council of option 2 August of 2016?---Yes.

Now, one final matter I wanted to ask you about was some evidence you gave in response to questions from Mr Neil concerning the preselection event in 2017.---Yes.

40 One of the things you said to Mr Neil was that, or in answer to questions by Mr Neil, was that one of the things that was unusual was the number of people who turned up to the preselection event, correct?---Yes.

Do you mean to say that there were more people in attendance than simply the delegates and the candidates themselves?---Yeah, there seemed to be, I’ve been to a number of preselections over the years as a member of the party, and there seemed to be, for a council preselection, the fact, I mean, that in itself is extraordinary but there seemed to be an extraordinary number of people there.

But there would need to be in attendance, though, those candidates who were attending, correct?---That's right, yes.

And obviously those delegates who were going to be casting their votes in respect of each of the positions that were being the subject of preselection, correct?---Yes.

10 We've had some evidence that, as far as the number of delegates were concerned, there were about 25 or possibly some more than that, a few more than that.---Potentially, yes, yeah.

So when you say that there was a much larger number of persons than you might have ordinarily expected, how many persons do you, as a ballpark figure, do you estimate were actually in attendance?---There was some observers. I, ballpark figure, I, yeah, I, it'd be tough to put a number on it. What struck me on the day was the number of people that I hadn't seen before that were out of area.

20 That were out of area?---Yeah.

And when you talk about number of people who you hadn't seen before who were out of area, is that other than those persons who may be delegates, for example, from the state executive?---Well, out of area in terms of I would expect if there is a preselection for a local government election, that it would be the members and the eligible people within that state conference or within that LGA conference. So there was people not, not only just locals that I recognised, but there were people that weren't locals that were in that, in that preselection.

30 Yes, but when you're talking about people who weren't locals, are you talking about, other than those persons who were not from the area but were there because they were delegates?---Yeah, they were eligible to, I understood they were all eligible to vote. Is that what you're asking? Yes, the delegates.

40 There were delegates, but then in addition to those delegates, who might not have been in area but might have been present because they were there by reason of coming from the state office or the head office, were there, in addition to that, other persons who were present just apparently watching the proceedings?---Yes, there were. The state member was there, John Sidoti was there, and - - -

He was not a delegate.---No.

No. And in terms of where they were, this event, do you remember where it actually took place?---I have in my mind it could have been Massey Park Golf Club, but I can't remember.

And is it the case that the candidates for the positions on the ticket, they were all in one room and the delegates and other persons were in another room for the most part, is that correct?---Yes, that's right.

And so the candidates did not necessarily see any presentations that each other did before the room. Is that correct?---That's right, I have no idea what the other candidates presented.

10 But the other room consisted of both the delegates and anybody else who had attended to observe the proceedings, as it were?---No, I understood no observers within the room that there was voting, it would only be eligible people who could vote. That's my understanding of it.

So where were these other people who had turned up for the preselection that were from out of area?---I couldn't tell you because they lock the candidates away in a room so there's really no understanding of what's going on, yeah.

20 So when did you see these people to be able to make the observations that there was a much larger number of people who had turned up than you would have expected?---Before the preselection. So I turned up and it's kind of an opportunity to put a last-minute case to the preselectors, and we had an extraordinary length of time to do that because the state director's representative or person from head office who was chairing the meeting was actually running late, so we were able to talk and, you know, before the actual preselection started, so there was an opportunity to, to talk to a lot of people.

30 Now, you said you observed a number of persons from out of area who you'd never seen before were in attendance. Do you mean that you recognised them as being members of the Liberal Party but not in area, you just hadn't seen them attend something within your area before or you'd never actually seen these people ever?---There were people that I'd never seen before.

Were there people that you knew were out of area who you had seen before?
---Um - - -

40 Possibly not within, not at any function within area, but at some other Liberal Party function?---No, I can't - - -

You told us yesterday about a person by the name of Joe Tannous, Joseph Tannous.---Yes.

Was he present?---No, I don't remember seeing him there.

And one other question about this preselection process. In relation to question that Mr Neil asked in relation to appealing the selection process, do

you have an understanding as to the grounds on which a candidate who may wish to appeal a preselection process can lodge such an appeal?---No, I didn't, actually at the time I didn't realise there was an appeal process and I suspect it's quite convoluted regardless and it would, yeah, I didn't realise there was an appeal process.

Thank you. They're the only further questions I had.

10 THE COMMISSIONER: Yes. Thank you, Ms Cestar, that completes your evidence.---Thank you.

Thank you for your attendance. You are excused.---Thank you very much.

THE WITNESS EXCUSED

[12.22pm]

THE COMMISSIONER: Yes, Mr Ranken.

20 MR RANKEN: Yes, I call Helen McCaffrey. Ms McCaffrey is represented.

THE COMMISSIONER: Yes, Ms McCaffrey. Do you take an oath or an affirmation?

MS McCAFFREY: Oath.

THE COMMISSIONER: Yes, we'll come to that in a moment. Yes?

30 MS BARNES: Yes. My name is Barnes, B-a-r-n-e-s.

THE COMMISSIONER: Yes.

MS BARNES: I appear for Ms McCaffrey.

THE COMMISSIONER: Yes, Ms Barnes.

40 MS BARNES: And when the time is appropriate I make an application for a declaration under section 38 of the ICAC Act.

THE COMMISSIONER: Yes, very well. Yes, I grant you leave to appear.

MS BARNES: Thank you.

THE COMMISSIONER: Thank you.

MS BARNES: With Mr Blair, solicitor.

THE COMMISSIONER: I'm sorry?

MS BARNES: Mr Blair, solicitor as well.

THE COMMISSIONER: Oh, yes. All right. Thank you.

MR BARNES: Thank you.

10 THE COMMISSIONER: Well, I grant leave for Mr Blair to also be present to represent Ms McCaffrey. Now, Ms McCaffrey, I will get my associate to administer the oath to you. If you wouldn't mind just standing and taking that Bible.

THE COMMISSIONER: Thank you, Ms McCaffrey. Just take a seat there. And would you state for the record your full name?---Helen Susanne McCaffrey.

10 Thank you. And, Ms McCaffrey, I understand the provisions of section 138 have been explained to you and that you wish to avail yourself of the benefit of that provision.---I do.

Very good. I make, pursuant to section 38 of the Independent Commission Against Corruption Act, a declaration that all answers given by the witness, Ms McCaffrey, and all documents and things that may be produced by her during the course of her evidence in this public inquiry are to be regarded as having been given on objection or produced on objection. That being the case, there is no need for Ms McCaffrey to object to any particular answer given or document or thing produced.

20

DIRECTION AS TO OBJECTIONS BY WITNESS: I MAKE, PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, A DECLARATION THAT ALL ANSWERS GIVEN BY THE WITNESS, MS MCCAFFREY, AND ALL DOCUMENTS AND THINGS THAT MAY BE PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE IN THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN ON OBJECTION OR PRODUCED ON OBJECTION. THAT BEING THE CASE, THERE IS NO NEED FOR
30 **MS MCCAFFREY TO OBJECT TO ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Yes, Mr Ranken.

MR RANKEN: Ms McCaffrey, could you please tell us your full name? ---Helen Susanne McCaffrey.

40 And what is your occupation?---I, my husband and I own a consulting engineering business, so I help - - -

THE COMMISSIONER: Sorry, I'm sorry - - -?---Oh, my - - -

I'm just, sorry to interrupt you.---Yep, sorry.

Unless you speak close to that microphone, it's very hard for people at the end of room to hear what you say.---Yep, sorry, I was trying to - - -

So just keep your voice raised slightly, and try not to rush your answers, just take your time.---Raise, all right. (not transcribable) Okay. My husband and I have a consulting engineering business, so I assist him with that business.

Okay, thank you.

10 MR RANKEN: Thank you. And prior to 2017, and specifically September 2017, you were a councillor on the City of Canada Bay Council for a period, is that correct?---That is correct.

And you held a position as a Liberal Party councillor, is that right?---That is correct.

And for how long have you been a member of the Liberal Party?---I, I think I joined about 1995 or '96.

20 And when were you first elected – sorry, I'll withdraw that. And in terms of the branch at which you are a member of the Liberal Party, is that the Concord West branch?---Yes.

And have you always been a member of the Concord West branch?---Yes.

Since you first joined the party in the mid-90s?---Yes.

When were you first elected to the City of Canada Bay Council?---2004.

30 Prior to taking up the position as a councillor with the City of Canada Bay Council in 2004, had you ever held any office with a council prior to that? ---Yes.

And firstly, what council had you held office?---In Concord Council.

Was that prior to Concord Council being amalgamated with other councils to make the City of Canada Bay Council, is that right?---Yes.

And when did you first join the Concord Council?---1990 to 1995.

40 Okay. Does that mean that you were a member of – you joined – sorry, I withdraw that. Does that mean that when you were first elected to office as a councillor on the Concord Council, you were not a member of the Liberal Party?---Yes.

You weren't – so you're agreeing with me, are you?---Yes.

Yes. Were you a member of any party at that time?---A, a local group.

Is that a local community action group of some sort?---It was called the Reform Association.

And was it as part of the group, well, on a ticket involving that group that you were elected to council in 1990?---That is correct.

But you left council in 1995, is that correct?---Yes.

10 Now, then you re-stood for council in 2004, by which time the council had been amalgamated with other councils to form the City of Canada Bay Council.---Yes.

At that time how many other Liberal councillors were on the council, that is, the City of Canada Bay Council?---One other.

And who was that?---Michael Megna.

20 And were there nine councillors in total at that time?---Yes. Oh, eight plus the mayor.

So a total of nine when you include the mayor, is that right?---Yes.

And who was the mayor in 2004?---Angelo Tsirekas.

And did he remain the mayor throughout the time that you were a councillor on City of Canada Bay Council, at least up until June of 2016?---That is correct.

30 And were you continuously a member of the City of Canada Bay Council from the time you joined in 2004 until the local council elections in September 2017?---Yes.

Now, in 2008 there was some council elections, is that correct?---It was every four years, so, yes.

And at that election, did the Liberal Party increase its number of councillors on the City of Canada Bay Council with the addition of Mirjana Cestar? ---Yes.

40 But were the remaining councillors at that time members of the Labor Party and/or a member of the Greens?---Plus an Independent.

Plus an Independent. And then in about 2012 was there a further election? ---Yes, four years, yes, yes.

And on that occasion did the number of Liberal Party councillors increase further by one with the addition of Dr Tanveer Ahmed?---Correct.

And was it at the 2008 election, were you elected to be the deputy mayor?
Sorry, not 2008, 2012 election.---Not, not in the first part of it, no.

How was the deputy mayor elected or appointed?---It, it is elected by the
councillors.

So at the commencement of the term that commenced following the election
in 2012, who was the deputy mayor initially?---I can't see the board. I think
it might have been Marian O'Connell.

10

And did she subsequently become Marian Parnaby?---That's correct.

And at some point did she relinquish the role as deputy mayor and it come
to you?---Not at that point of time. It was a one-year tenure, and it's, it
went, it seemed to go on a cycle, different, each year somebody else got the
guernsey, got the position.

20

And when you talk about a one-year cycle, does that mean at the end of, on
a particular date each year you would have a re-election or would it just be
passed around the councillors?---No, no, at a particular time each year,
which was just – council elections were held in September, and around
about that time, the election for the deputy mayor took place.

And each year that would happen again?---Yes.

So is it the case that then there was such an election in about September of
2015? Would that follow?---That, that would follow.

30

And at that point you were elected to be the deputy mayor?---Yes.

Because you were the deputy mayor by June of 2016, when Mr Tsirekas
resigned from his position as mayor, is that correct?---That is correct.

And then simply by reason of you having the deputy mayor role at that time,
you became the presiding councillor at any elections?---At, yes, at - - -

Sorry, I withdraw that. At any meetings.---Yes, that is correct.

40

By reason of being the deputy mayor, is that right?---That is correct.

And following Mayor Tsirekas' resignation, the number of councillors on
the City of Canada Bay Council reduced from nine to eight, correct?---Yes.

And that would, the remaining eight comprised of the four Liberal
councillors and three Labor councillors and one Green councillor. Correct?
---Yes.

And you, as the deputy mayor and presiding councillor at any meeting, therefore had the casting vote, is that right?---Yes.

And was one of the first things that needed to be attended to following Mr Tsirekas' resignation as mayor was the appointment of a new mayor?---Yes, because it, at that stage, it wasn't a, an external election cycle, so it was done within the council.

10 There was still more than 12 months to go before there would be another election in September of 2017.---We didn't know that. It was the period of great turmoil in local government, because of the, the amalgamation issue that was occurring.

And was there some concern in fact amongst the councillors at the City of Canada Bay that the City of Canada Bay itself would be amalgamated with other councils?---There, there certainly was.

20 And did you know which other councils you were likely to be amalgamated with?---Yes, I did. Yes, I did.

And which were those councils?---Burwood and Strathfield. That was the, yes.

As it happens, those amalgamations did not occur.---That is correct.

30 But in any event, in June 2016, following the resignation of Councillor Tsirekas, one of the first orders of business was the election of a replacement mayor by the councillors. Is that right?---Yes, it was around about that period that that occurred.

Now, because of the balance of power within the councillors or amongst the councillors as a result of Mayor Tsirekas' resignation, and your position as the presiding councillor, effectively you would have the casting vote on the vote for mayor, is that right? If there was to be a contested vote.---I, yes, that's how it would have worked.

40 Was there a contested vote for mayor - - -?---No, there was, there - - -
- - - or were you voted unopposed?---No, I was voted unopposed.

At the time, did you – was there some understanding or appreciation on your part that that was because all involved could recognise a result that was likely to be inevitable?---I assume so.

And from that point until the elections in 2017, was it the case then that the balance of power remained one that was in favour of the Liberal side of politics?---Yes.

By reason of there being four Liberal councillors and your position as now mayor of the council, correct?---That is correct.

Now, in late 2012 and early 2013, the City of Canada Bay Council embarked upon a study of the Five Dock Town Centre. Do you recall that? ---I don't recall the dates, but it would – I know it happened, well, at some stage it happened.

10 Do you recall the reasons why the council saw fit to look into that area in particular and what the council saw as the objectives that might be sought to be achieved by even embarking upon such a undertaking?---There had been, as I recall, representation from the business owners in the area to try and regenerate, regenerate or revitalise the area, the strip, because there was a lot of empty shops, as I recall, and that - - -

And so in the first instance, did the council engage some experts, external experts by the name of HillPDA to conduct some kind of economic analysis of the area – and you referred to a strip, are you referring to a particular section of along the Great North Road?---Oh, I refer to it as the strip
20 because that's how it's in the, I'm pretty sure it went from Lyons Road to Ramsay Road.

You're talking about Lyons Road in the north. Going down south to Ramsay Road, towards – at the Parramatta Road end.---If that's the – I'm not good on directions, but if that's the direction, yes.

Perhaps if we could bring up page 154 of Exhibit 24. Now, this is a representation of the Five Dock Town Centre area. Do you see that?---I can see that, yes.
30

And you can see towards the top of the page Lyons Road?---Yes.

And down towards the bottom you can see Fairlight and Queens Road? ---Yes.

And you referred to another road, being Ramsay Road. Is that further south?---Where that little hand is.

40 That's Ramsay Road, is it?---Yes.

It meets or crosses over Fairlight Street.---Yes, I, yeah.

So in your mind did the town centre in Five Dock really end at the intersection between Ramsay Road and First Avenue?---Ramsay, Ramsay Road and First - - -

Where those two - - -?---It's where the - - -

- - - roads intersect or - - -?---It was where the shops were on that road.

Now, do you understand or do you recall looking at this plan that the area bounded by the black dots and dashes represented the area that had been zoned as B4 mixed-use prior to the Urban Design Study being undertaken and any changes that might have resulted from it?---I can't remember the zoning.

10 Okay. But certainly that represents here, as one can see from the legend, the area that was considered by the Five Dock Town Centre Study?---As far as I can recall.

And if I could direct your attention specifically over to the eastern side, which is on the right-hand side of the plan - - -?---Yes.

- - - there is a block of land that is bounded by First Avenue to the south, Great North Road to the West, Waterview Street to the east and Second avenue to the north. Do you see that?---Yes (not transcribable)

20 And that block includes, it would appear to include an area that was part of the existing B4 mixed-use and also an area that fell outside of that B4 mixed-use. Do you see that?---I can see that.

And within the area that was zoned as B4 mixed-use, we can see that there is a car park.---Yes.

Where the hand is currently hovering.---Yes, yes.

30 And that was in fact a council-owned car park. Is that right?---Yes.

And then a little bit further north of it there was a – you can see the hand is hovering over a yellow site, a yellow-shaded site, which appears to have been Department of Housing. Correct?---I don't recall but I assume so, yes.

And then from there to the top there is predominantly what would be considered to be, would that be basically residential from your recollection? ---From my recollection, yes.

40 And then on the other side of Second Avenue there is a block that's bound by Great North Road to the west, Waterview Street to the east, Barnstaple Road to the north and Second Avenue to the south. Do you see that? That's the next block up.---Yes.

That block, at least prior to the urban study, had a mixed-use zone on the Great North Road side, but residential on the other side. Is that correct? ---I believe so.

And that accords with your recollection generally?---It recalls, yes.

And following the economic analysis that was conducted by HillPDA, it was the case, was it not, that one of the recommendations from that economic analysis was that there should be a study done by urban designers to look at integrated urban design?---Which designers I don't recall, but if you've - - -

10 Yes, and I'll come to the designers themselves. But it was, but the recommendation though was that this needed to be, the revitalisation of the town centre needed to be looked at from an urban design perspective. Would you agree?---Yes, that seemed to be the, that was the practice.

And that was also the recommendation that had come out of the economic analysis that had been - - -?---I believe so.

- - - done by the HillPDA. Correct?---I believe so.

20 And so to that end, the council engaged, through its Environment and Planning Department, urban designers, specifically an organisation called ARUP, A-R-U-P, and there was an offshoot from ARUP called Studio GL. Do those names - - -?---Those names ring a bell, yes.

And they were commissioned by the City of Canada Bay Council to look into the urban design aspects of the Five Dock Town Centre Study to consider what kinds of changes might be needed to various development controls and zoning in order to facilitate increased economic activity within the centre, would you agree?---I believe so, yes.

30 And did you, as a councillor, apprehend that, as part of that study, that there would be a degree of community engagement and consultation that the experts would engage in, correct?---That was the practice.

Possibly with some input and assistance from council staff themselves, is that right?---That's how it generally happened.

And is it your recollection that that occurred over some months?---The time frame I don't recall, but I assume that would be the case.

40 The Five Dock Town Centre itself was within part of the electorate that was not previously a part of the Concord Council when there had been a Concord Council and a Drummoyne Council?---Sorry, could you just repeat the question.

The Five Dock Town Centre, that was not a part of the local government area – that is, the City of Canada Bay local government area – that had previously been part of the Concord Council area?---Yes, that's correct.

So it wasn't an area that was within your specific part of the council that you were associated with generally?---No, I lived in Concord.

Yes. Does that mean that you yourself did not have any direct participation in any of the community engagement activities and consultation processes that were undertaken by the experts that had been engaged by the council? ---I would have been invited, I assume, because we didn't have wards or anything like that in the council area. We were, had the whole area.

10 But do you have a recollection of ever yourself actually actively participating in any of those activities?---I, I don't have a recollection.

That's okay. In due course, though, a detailed report was prepared by the independent experts who had been engaged by the council, is that correct? ---I assume that would have been the case.

And that report was ultimately presented to the council at its meetings, at one of its meetings.---I assume so. I would have assumed it would have been presented to workshops before that period.

20

Now, I wonder if we could bring up – perhaps before I do that, I might just deal with something you've just mentioned. You've just mentioned council workshops.---Yes.

Now, there are meetings of council, correct?---Yes.

And those meetings are a public forum.---That is correct.

30 And they are accompanied by an agenda and papers that form part of the agenda that is going to be before the council at any particular meeting, is that correct?---That is correct.

And at least as at the period between 2013 and 2017, was it the case that the agenda papers – so the agenda and the agenda papers – would be placed up on the council website for public access from about the Thursday or Friday before each council meeting?---You hope that's what would have happened. Sometimes it was a delay because they had trouble bringing them up, but generally speaking it would be the Friday afternoon, as I recall.

40 But the councillors themselves, would they receive the papers in some other format or at some other time?---Often not.

Does that mean that often the councillors themselves would have to access the very same material that was available to the general public?---What happened was that the, the rangers delivered the council papers to your home before the meeting, and if I recall that was on the Thursday night.

Would they be delivered in a hard copy?---Generally speaking, yes.

At some point was there a move away from hard copies to giving them to you on tablets?---Unfortunately yes.

And when you say unfortunately yes, is that because - - -?---I like to use highlighters.

10 Okay. But in any event, the same material that councillors would receive, be it in hard copy or on an iPad, was the same material that was placed up on the council website for public access prior to meetings?---Sometimes we received more information, and I don't recall what that was, necessarily.

And of course, the meetings of the council are open to the general public, is that correct?---That is correct.

And so the general public are also able to register an interest to present to council on any item that is on the agenda, is that right?---That is correct.

20 And having so registered, they are then given a certain amount of time that they can speak about a particular topic in respect of which they're registered?
---Five minutes.

Five minutes. And the time allotted to a particular speaker, is that ever subject to change, so for example if councillors have questions of a particular presenter, the time can be extended?---That is correct.

30 So the more questions that the councillors need to ask, it may be possible that a particular presenter goes for longer?---The presenter has five minutes to present. There can be an extension, there was an extension moved to allow them a little bit more time, then the questions could occur.

Okay, but the questions could go for as long as the councillors had questions to ask?---Generally speaking, yes.

And was it only councillors who could ask questions of presenters?---Yes.

40 And of course in addition to the council meetings being open to the public, and members of the public having the opportunity to present to councillors, there were minutes that were recorded of council meetings?---I think that's legislation that that has to happen, yes.

And those minutes become a public record of what has occurred at a particular council meeting?---Yes.

They do not include a word-for-word verbatim transcript of what was said at council meetings, correct?---No.

Only the terms of any motions that were moved and/or passed successfully, correct?---That is my memory.

And the details of who may have presented, but not necessarily the detail of the presentation, correct?---That is correct.

And also the details of any declarations of pecuniary or non-pecuniary interests that may be made by councillors in respect of particular items?
---That, that had to be included.

10

And details of the time at which persons who had declared pecuniary interests may have left a meeting while an item was discussed and then when they returned.---That's my recollection.

And the minutes also recorded the names of the councillors who attended the particular meeting, correct?---Yes.

20

And also members of any council staff who were attending the meeting in their capacity as a member of staff.---Yeah, well, certainly the directors were registered. I think the others, council staff were also included. I, I, I can't remember that detail.

And you would include in terms of the directors the general manager, who at the time I think was Mr Sawyer?---Yeah. That is correct.

Now, those meetings of council occurred every two weeks, is that correct?
---Yes.

30

And on the off week, that is, the week between council, were there opportunities for councillors to engage in this thing that you've referred to as a councillor workshop?---That is correct.

And did they generally happen every second week as well?---They did.

And were they also on Tuesdays generally?---They were.

And those councillors' workshops were conducted in the absence of the public?---That is correct.

40

And so members of the public were not able to attend those, is that right?---I don't recall seeing members of the public there. The presenters, if, if presenters were invited in to report on an item or give a rundown on an item, or something that was happening in the area, like, I don't know, a new Telstra tower, they came in to talk to council to give information.

Those presenters, though, were they generally either members of council staff who were presenting about a particular area that they had some expertise in, correct?---(No Audible Reply)

Or alternatively were they external providers of services to council? For example, independent experts that had been engaged by the council for the purposes of some study or some task, correct?---That is correct.

Or I think you mentioned something to do with Telstra, possibly.---Oh, I'm just trying to think of an example that, when the 5G network was supposed to come in, I remember they came in and gave a presentation of what it was all about.

10

But was it the case that experts who may have been engaged by private interests in respect of a particular matter, they were generally not invited to present before, to council at councillor workshops, as opposed to council being allowed to register to present to council meetings?---Occasionally they did.

20

And in what circumstances would that occur?---I do recall there were people that, or from the Rhodes area, R-h-o-d-e-s area, because it was such a massive development going on there, and the staff, not the councillors, generally the staff invited these, these people in to give councillors a rundown on information.

So when you talk about these people, these are people who had a private interest in the development that was being undertaken at Rhodes? This is a particular example you're talking about?---Yes. Yes. Yes, I do recall that.

30

And in that, in the context of that matter, was it, were there, were other interested parties made aware of the fact that a private, someone who had a private interest in the matter was going to be presenting directly to the councillors at a council workshop?---That would be something that the staff, the GM would have managed it, I don't recall that.

Because the position was, was it not, that there were no minutes taken of councillor workshops, correct?---That's my understanding.

And there was no record even taken as to who actually had attended a councillor workshop, to your knowledge?---To my knowledge.

40

And you've never seen such a record?---I have, I haven't seen it. To my knowledge, I haven't seen a record of that. We were given a little sheet to say who was coming in, if it was external, or what topic was being discussed, with vague timelines.

So what you're referring to there is effectively an agenda that would inform you that there was an upcoming council meeting for a particular date. These are the items - - -?---The possible items that were going to be discussed.

That were going to be the subject of a presentation.---Yes.

And this is the person who is going to be presenting on it.---Yes. The, the staff member that was associated with it was listed, as I recall.

Now, in relation to those councillor workshops, they provided an opportunity for the councillors to ask questions of the persons presenting to get a better understanding as to the issues about which they would need to decide at the upcoming council meeting where the matter was to be discussed and decided upon.---They were very effective for that reason.

10

And when you say effective, was that because the councillors could then digest the information, and time at a council meeting – where there might be quite a number of items on the agenda – would not be taken up with questions by councillors about matters that could have been resolved easily in a councillor workshop?---That’s how I saw it.

What about the opportunity that councillor workshops provided for councillors to make suggestions to council staff as to the recommendations that should be placed before council upon which they might resolve?

20

---There was certainly an opportunity to ask a lot of questions about all sorts of issues. The recommendations weren’t available at that point of time.

You’re saying that the recommendations that council staff were going to be proposing were not made available to the councillors prior to a councillor workshop, albeit that they would be made available to the councillors before the council meeting. Is that what you’re suggesting?---That’s what I’m suggesting.

30

I just wanted to understand that’s what your evidence was. But that doesn’t actually answer my question which was actually directed to the opportunity that a councillor workshop provided to councillors to in a sense have input into the recommendations that council staff might then make to the councillors in their report on the item for consideration at the meeting.

---I understand your question. It was an opportunity to explore all avenues of, of a, a problem or a – problem’s not the right word, an issue and to ask council staff to explore further if it was complicated issue.

40

THE COMMISSIONER: Now, Mr Ranken, I’m just going to interrupt for the moment. I see the time.

MR RANKEN: Yes. Perhaps I could just ask two more questions in relation then I will be finished with this particular topic.

THE COMMISSIONER: Yes.

MR RANKEN: Commissioner, if that is convenient.

THE COMMISSIONER: Yes, go ahead.

MR RANKEN: Thank you. So in that to and fro that you've just described then, there would be an opportunity for councillors to suggest that perhaps you should be looking at this kind of a recommendation to us. Correct?
---Possibly, yes.

And of course that would be something that would be happening in the absence of the community. Correct?---Yes.

10 And then just one other matter about councillor workshops. Was there a practice that councillors who may have a pecuniary interest in a matter would declare their interest and remove themselves from the councillor workshop when that matter was being presented on?---Generally speaking, yes.

And in your experience did that occur as a matter of course, that is that councillors who had a pecuniary interest would absent themselves from councillor workshops?---Yes.

20 Thank you. That might be a convenient time.

THE COMMISSIONER: Now, Ms McCaffrey, we are going to adjourn now. The Commission will not be sitting this afternoon. It means that your visit is fairly short, a short one today and sorry if that's going to occasion you any inconvenience, because you'll need to return on Monday and then we'll continue, Counsel Assisting, Mr Ranken, will continue his examination. So we'll adjourn and if you'd be back here on Monday morning ready for a 10 o'clock start. Do you understand that?---I do understand.

30 Thank you. Anything else?

MR RANKEN: Nothing from my part, Commissioner.

THE COMMISSIONER: Nobody wants to raise anything else? Very well. Then I'll adjourn till 10 o'clock Monday next.

40 **THE WITNESS STOOD DOWN** [1.04pm]

AT 1.04PM THE MATTER WAS ADJOURNED ACCORDINGLY
[1.04pm]