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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 TUESDAY 13 APRIL, 2021

AT 2.15PM

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

THE COMMISSIONER: Mr Ranken.

MR RANKEN: Yes, Commissioner, I call Tanveer Ahmed.

THE COMMISSIONER: Thank you. Good afternoon, Dr Ahmed. You shortly need to take an oath or an affirmation, which would you prefer?

DR AHMED: Affirmation.

10 THE COMMISSIONER: Affirmation. I'll have my associate, if you wouldn't mind standing, and she'll administer the affirmation.

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

MR RANKEN: Mr Ahmed is not legally represented today.

THE COMMISSIONER: Yes, very well. Dr Ahmed, I'll just give you
some information as you're not legally represented. Under the provisions of
10 the Independent Commission Against Corruption Act a witness can object
to giving evidence. That doesn't excuse the witness from answering the
question, it simply provides a basis for the Commission to make a
declaration that all answers given are under objection. The legal effect of
that under the Act is that evidence given by a witness in answer to the
questions cannot be used in any other proceedings in the future, save for one
exception, and that is if the witness committed an offence under the
Independent Commission Against Corruption Act, such as for example
giving deliberate false evidence or perjury, that would be an offence under
20 the Act, the evidence could be used for that purpose, but save for that
exception, it offers the witness the protection I referred to. Witnesses are
free to give evidence on objection, in other words, because the Act provides
for it. The witness may not wish to take an objection, that's entirely a
matter for the witness, but you are entitled and that's why I'm informing
you about it. It goes without saying that if a declaration is made in relation
to the objection, the witness of course must still answer every question
truthfully or produce a document or an item under a summons if required.
So having given you that background do you wish to object to the evidence
for the purposes I've indicated?---No, that's fine.

30 Sorry?---No, no, that's fine.

All right. If you do at any point in time wish to object to a question or you
want to change your mind and revise it, you only need to indicate that to me.
All right.---Thank you.

Good. Yes.

MR RANKEN: Thank you, Commissioner. What is your full name?---So
40 Tanveer Ahmed.

And Ahmed is spelt A-h-m-e-d?---That's correct.

And Tanveer is T-a-n-v-e-e-r. Is that correct?---That's right.

What is your occupation?---I'm a psychiatrist.

A practising psychiatrist?---That's right, yes.

And for how long have you been a practising psychiatrist?---I guess specialist qualified I think 11 or 12 years, but you're training doctor for a decade prior to that.

And do you practise full-time?---Effectively, yeah, effectively. Both in the public and private sectors and forensic sectors.

And have you been practising full-time for at least the past 11 years, 10 or 11 years?---Yes, essentially.

10

Do you have any other occupation in addition to being a psychiatrist?
---Yeah, I'm an author and I'm a columnist for the Australian Financial Review.

In 2012 you were elected to be a councillor on the City of Canada Bay Council. Is that right?---That's correct, yeah.

And that's a position that you held until the local government elections in September 2017. Is that right?---That's correct.

20

And throughout that time were you a Liberal Party councillor?---That's correct.

Since the 2017 local government elections, have you stood for any other office, public office?---Informally. I was a candidate for the federal seat of Reid.

So was that in the 2019 elections?---That's correct, yeah.

30

Were you the Liberal candidate for the - - -?---Well, not quite. I was, I guess I was part of a set of candidates through a prime ministerial committee for the federal seat.

Was that following the sitting MP leaving politics, was that right?---That's correct, yeah, that's correct, 2019.

Now, prior to your election to the City of Canada Bay Council, had you stood for office at any time?---Sorry, just say that one again, Mr Ranken?

40

Prior to your election to this, prior to 2012 - - -?---Oh, actually, no, yeah, years ago I did, I, I, I stood as a Marrickville councillor, I think it might have been 2007 or 8.

2008 was it?---Yeah, something like that.

So you stood to become a councillor in the 2008 local government elections in respect of the Marrickville Council. Is that correct?---I could be mistaken in the year, but approximately then.

THE COMMISSIONER: Were you elected?---No, no, I was not.

MR RANKEN: And were you put forward as a candidate by the Liberal Party, like were you a Liberal Party candidate or - - ?---I'm not sure. Honestly, I can't remember. I wasn't a regular member of the Liberal Party at the time, no.

10 You were not a member of the Liberal Party at the time.---No, I'm not sure I was, no.

Do you recall when you first joined the Liberal Party?---I think 2011.

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

That's the first time you formally became a member of the Liberal Party. Is that right?---That's correct, yeah.

20 Obviously 2008, were you resident within the Marrickville local government area?---Yes, we lived in Dulwich Hill.

And did you subsequently move to be within the Drummoyne area. Is that correct?---That's right, yeah. We lived, we moved to Drummoyne in 2010 I think.

2010.---Or possibly 2009, yeah.

30 And had you lived within the Drummoyne electorate, as in the state electorate of Drummoyne, prior to 2010?---No, no.

So you first moved into the area in 2010 and would you agree that at that time the state electorate of Drummoyne was taken up entirely by the City of Canada Bay local government area?---That's right. Not, not that I was taking much notice at the time, but yeah, yes, that's right.

40 And in fact that there was a small part of the City of Canada Bay local government area that sat outside of the state electorate of Drummoyne and was in the state electorate of Strathfield.---I, I would have had no idea at the time. Yep.

But for the most part, the boundaries were almost identical.---Sure, sure.

Would you agree?---Yep.

So through your membership of the Liberal Party from 2010 or 2011, did you come to know Mr John Sidoti?---Yeah, absolutely, yeah, absolutely.

Did you know him before you joined the Liberal Party in 2010, 2011?---No, I did not, did, no, I did not.

10 So is it primarily through the Drummoyne branch of the Liberal Party that you came to know Mr Sidoti?---Yeah, I mean, it – to be honest, there’s a, there’s a bit of a story. I mean, I, I remember just getting slightly more interested and was at a, it was actually at a Lowy Institute function that Barry O’Farrell, who I think was Premier, he might, might not have been Premier at the time, but I was saying I was getting more interested, and he was saying, “Yeah, what, get, get involved,” and he gave me a few names, and I’d just moved into the area, and one of them was John Sidoti. He’s like, “Why don’t you go, go say hello to him?”

So you had some discussion with Mr O’Farrell in which you expressed your interest in becoming more involved in politics?---Yeah, it was very casual, it was a very casual discussion, but yeah.

He suggested a few names, one of which was Mr Sidoti.---That’s right, yep.

20 Were the other names that he suggested persons who were members of the Drummoyne branch of the Liberal Party?---No, no, no, no, no, they included Joe Hockey among others, yeah.

Who else did they include?---Oh, look, to be honest, I, I, I can’t remember, but it was a splattering of sort of possible names in the area that they thought (not transcribable) get involved.

30 And had you expressed to Mr O’Farrell an interest in standing for political office? Is that, when you say - -?---I think casually, I think at the time there was a, there was a Reid preselection not far away. So, I guess the, the casual discussions – and again, it was very casual – were more along the lines of, “Wow, have you, you know, have you thought about Reid?” And, and I’m, and the reality was I hadn’t really, but as part of that, I thought, oh, if you’re interested, why don’t you start getting involved.

40 And through that conversation, did you reach out to Mr Sidoti to make yourself known and introduce yourself to him?---Yeah, possibly, I’m not quite sure how it necessarily happened. It may have been I just turned up to a meeting and – I can’t remember exactly how it may have happened. It, it, it was, it would have been fairly organic, I think, I, I think I did think, okay, given we’ve moved to a new area and, you know, our kids were in the local school, I, I did feel more interested in getting involved in local community activities, if you like. And, and joining the party, and going to meetings was part of that.

And 2011 was the year that Mr O’Farrell was in fact elected to be the premier of New South Wales, correct?---Possibly, yep, I, I couldn’t tell you for sure, yeah.

When you met him at the Lowy Institute function, was he already the Premier at that time, or - - -?---I'm not sure he was.

Just trying to work out this time frame.---I'm not sure, Mr Ranken, I couldn't, it's possible he wasn't, but I can't remember.

10 Can I ask you this then - - -?---Well, I'll tell you the nature of the function. I think it was related to the Indian diaspora. It was something to do with diaspora politics.

Okay, but if you could just stay - - -?---Yeah, yeah, okay, yeah.

Stay with me for a moment.---Okay.

Can I ask you this, then – when you met Mr Sidoti, first met Mr Sidoti, was he the state member for Drummoyne already?---Yeah, yeah, I'm sure he would have, he must have been, yeah, he must have been.

20 So I take it you didn't work as a volunteer or in any capacity in support of his campaign to become the state member in 2011?---I, I couldn't remember, I'm not sure I did, I'm not sure I did, but yeah, it's possible. But I, I can't actually remember that, no.

Well, just - - -?---We would have, we probably would have just moved, and it's possible I wasn't even a member at that stage.

30 I thought, I had understood you to say that you joined in about 2010 when you moved to Drummoyne.---No, we moved in 2010, and I don't think I was a member before 2011. But I'm not sure what stage of that year.

Well, given that the elections would have been in about March of 2011 - - -? ---I don't reckon I was a member.

Okay. So then we can take it then that it's likely that you met Mr Sidoti sometime after March 2011, correct?---Yep, yep.

40 But plainly before September 2012 when you were elected to the council, correct?---That's correct. That's correct, yes.

And did you discuss with Mr Sidoti your interest in running for public office?---I'm, I'm, I'm sure we did, yeah. I'm not sure the process, how that may have, like, progressed but, yeah, absolutely, I'm sure we did at some stage.

So he was in fact the only person from the Drummoyne branch that Mr O'Farrell had indicated to you, or suggested to you, that you should speak to, correct?---More just in the area, we'd just moved to Drummoyne, he

said, "Well, he is the member for Drummoyne." You know, it was an obvious person to recommend, yeah.

So, at some point you put your hat in the ring, as it were, to be on the ticket for as a Liberal council for the City of Canada Bay Council, correct?

---That's correct, yep.

And you were number 4 on that ticket, were you?---That's correct, yep.

10 And that was in 2012, correct?---That's right.

And in terms of the forming of that ticket, as it were, did you have some discussions with the other persons on that ticket about the order in which you would be on the ticket?---I, I remember being introduced to the others and, look, I don't think there was any suggestion I would be, you know, someone who's just turned up in the area, so I don't think there was any suggestion that I would be – I mean, the other three were already on council and even number 4 was a fairly aspirational, there was, there was no guarantee. It certainly wasn't a, you know, definitive entry into council. So
20 I guess it was part of, "Okay, yeah, let's get you involved and we're going to put you at number 4."

What I understand you to be saying there as to your position on number 4 was, firstly, that you had no expectation of being placed higher up on the ticket than number 4, given that the other three candidates were existing councillors, correct?---Not at all, yeah, not at all.

So you were quite happy for them to take the positions 1, 2 and 3 on the party's ticket, is that correct?---Absolutely, yeah. Absolutely.
30

And you were happy to be in number 4 and you went into the process with no expectation that you would necessarily get on council as a result of being number 4, is that so?---That's correct, that's correct.

Because up to that point, of course, there had only been three councillors who were Liberal councillors on the - - -?---That's right. Yeah, that's right. it would have been unusual to have four Liberal Party councillors.

And did Mr Sidoti support you in your candidacy for the local government, for the council in 2012?---Yeah, that's correct. He, he was certainly an important figure in the - - -
40

And how was he an important figure?---Well, I guess, his support and introducing him to, introducing me to various people, including the other councillors. I needed to meet them and, I guess, you know, arouse their interest and, you know, build some sort of a rapport and relationship and so he was an important figure as part of that, definitely.

So certainly an important figure as part of your election to council in 2012, correct?---Unquestionably, yep.

And he, of course, was the state member, correct?---Yep.

10 Did you have an understanding that he had previously been a council, albeit with the Burwood Local Council?---Yeah, I think over time. I, I don't think it was something that was just, kind of the resume wasn't presented immediately as such but, yeah, over, over time I got to know more about him, how he had been at Burwood Councillor et cetera, and the, his trajectory into politics, including, you know, him being a local businessman et cetera.

20 And when you were looking at running for council and you were – did you seek advice from Mr Sidoti about the process?---Absolutely, yeah. And, and the other councillors too. To be honest I'd probably almost describe it as him kind of segueing my introduction to the other councillors and me then, it was almost me interacting with them more thoroughly in terms of the election or campaigning et cetera.

30 And did he show an interest in your views on local government issues to find out what those views were?---Yeah, I think so, I think so. Especially because, again, I probably, I know you've, you know, looked on this in the past where that, that area has a variety of – even though it's not distributed towards, it has a variety of sections, and to some extent I felt I represented a kind of a young family segment of Drummoyne, young professionals, we just started at the school. So in terms of our growing interest in, be it parks or, you know, the roads or various local issues you get in that, so I had certainly expressed my, sort of, broader advocacy interest, if you like.

40 And did he express an interest in what those views were, like wanting to find out what your views on various local government issues were?---I wouldn't say in great depth, but certainly not on planning or anything like that, but I think he, he certainly assessed my broader political interests, if you like.

But did you express to him what your broader political or what your interests or views were in respect of planning matters generally?---No.

40 Did you have any views about planning matters at that point, that is at the - - -?---I wouldn't say so.

- - - point at which you were - - -?---I would - - -

- - - looking to run for council?---I would say I had a marginal interest prior to that in municipal politics. So I'd certainly written publicly about a host of issues but they were certainly rarely about local politics, they were far more likely to be about, you know, much broader issues.

I'm just wanting to - - -?---Yeah, yeah.

- - - ask you questions about your views on local government issues and particularly whether or not you expressed any views to Mr Sidoti during the course of your, putting your hat in the ring - - -?---No, not at all, no, no. It didn't come up.

10 - - - about where you stood on things such as development or just in general terms.---No.

No?---Oh, maybe in general, but I mean these were possibly views that were formed after council so I couldn't say entirely.

Okay.---So - - -

You have no recollection as to whether or not you in fact - - -?---No, no.

20 Sorry, whether or not you in fact had any particular views one way or the other regarding development, particularly in relation to the City of Canada Bay.---No.

Now, having joined the City of Canada Bay Council in the latter part of 2012, did you become aware either early on or at least sometime during the course of 2013 that one of the things that the City of Canada Bay Council was looking at was ways to enhance and develop or rejuvenate the Five Dock Town Centre?---Yeah, definitely. That was a, I think it was a fairly regular item. It would keep coming up I think and I certainly remember discussions about that and - - -

30 When you say it was a fairly regular item, do you mean throughout the course of the time that you were a councillor it was a matter that was coming back and forth to - - -?---Yeah, that's my memory. I think the first 12, 18 months it definitely felt like it was something that kept coming up and we might have a workshop on it and, yeah, I certainly, it was something that was, felt like an ongoing part of our duties there, yeah.

40 And amongst the kinds of matters that you saw come before the council during the time you were a councillor, was it one of the more significant matters?---I think so. I mean again as a new councillor you can't always immediately assess significance, but you definitely got a sense that this was a long-term decision. I definitely got a sense that I guess the area, Five Dock, was underperforming to some respects, it could have been revitalised as a, particularly as a commercial centre that was so close to the city, that much more could be done there. They were kind of broad sort of feelings I had and in terms of what had been communicated to us by council and the various submissions.

THE COMMISSIONER: Mr Ranken, could I just interrupt for a moment.

MR RANKEN: Yes.

THE COMMISSIONER: I think in relation to background contextual matters, as it were, I think it would be appropriate for you to lead the witness, otherwise it's going to take a great deal of time.

MR RANKEN: I'm happy to - - -

10

THE COMMISSIONER: And perhaps when you get to the, what I might call the central issues you can take the evidence as you think is appropriate.

MR RANKEN: Thank you, Commissioner. Yes. So the position was, wasn't it, that in fact the council had engaged some external experts to look at the town centre at Five Dock and firstly do some economic analysis as to why it was that the centre did not appear to be functioning well as a business community. Correct?---Yeah, I think so, yeah.

20

And not achieving the kind of development that the planning controls that were already in place had perhaps envisaged. Correct?---That's correct, yeah, that's correct.

And out of that, out of that economic analysis there was a recommendation that there should be some input from urban design planning perspectives. Correct?---That's correct, yeah, that's correct.

30

And as a result of that, there was some external independent experts that were engaged by council to embark upon a significant period of consultation and urban design work and engagement with the community in order to report back to the council with a vision for the future development of the Five Dock Town Centre. Would you agree with that?---Correct, yeah, correct.

And that resulted in a report that was prepared by three organisations, one which was HillPDA, which were economics analysis consultants.---Oh, yeah, I don't remember who they were, but yeah, if I, I accept it, yep.

40

Studio GL and ARUP, they were urban design planners, correct?---Sure.

And that came before the council in late 2013. Do you recall that?---I wouldn't say I recall it, but it certainly, I certainly accept it, yep.

And then from that, there was a – the council endorsed the study. It was a very lengthy, quite a significant document in terms of its length, correct? ---Yes, that's correct, yep.

It was endorsed by the council and the matter was publicly exhibited. Do you recall that?---That's correct, yep.

And as part of that public exhibition, there were proposed development amendments to the LEP, that is the Local Environment Plan, and the DCP. ---Yep, that's, that sounds right, yep.

10 And that allowed there to be some input from the community about what they thought about what was being recommended to council or what council was recommending should happen with Five Dock, correct?---Sure, yep.

Now, can you remember that one of the issues was the expansion of the extent of the central core of the town centre?---Yeah, absolutely, yep.

And that included a recommendation that there should be an extension of the B4 mixed-use zoning.---Again, I don't remember the more specific details, but yes, that sounds, that sounds correct.

20 And that in particular that the central core of the centre was considered to be more towards the southern end, that's the Parramatta Road end of the centre, correct?---That's right, yep, that's right, yep.

And that there was to be some expansion of the B4 mixed-use up to about Second Avenue. Correct?---Yeah, that's right. Certainly one of the – yeah, I, I guess we'll get to it, but the, the contentious point was where that should be, yep. But certainly the initial recommendations - - -

30 So you have a recollection that over the course of this matter coming back and forth between council that one of the matters that were of contention was where the B4 mixed-use zone should end.---That's right, that's right.

And had you discussed that issue with Mr Sidoti over the course of this consideration by council?---Yeah, certainly, certainly, yeah.

40 So when did you first discuss with Mr Sidoti his views about the extent of the extension of the B4 mixed-use zone?---Look, I wouldn't know. I mean, you'd probably know better than I would based on some of the communications. But it certainly felt like there was a, there was a council discussion going on, and then there was – it, it felt like I think he was fairly well into it, to some extent. And then it felt like there was a contribution, if you like, from Mr Sidoti.

When you say contribution, do you mean that Mr Sidoti made representations to you?---That's correct, yeah, that's correct.

And other councillors?---That's correct, yep.

Well, we'll come to that in a moment. But can I just ask you this – when you were first elected to council, did you know anything about Mr Sidoti or his family's property ownings in the Five Dock area?---I only knew the function centre. I knew about the function centre.

So you were aware of that when you were first elected to council?---Oh, whether it was – certainly within the early period. I, I certainly knew, knew about his history, that he ran this function centre, and I'd, I think I'd even attended a possible fundraiser there at, at some stage, yeah.

10

What about by the time you were receiving representations from Mr Sidoti, you and your fellow councillors, regarding his views about the extension of the B4 mixed-use zone? At that time, were you aware that his family at least owned the function centre?---Well, I certainly knew the function centre, but not much beyond that.

And you understood that the function centre was in that part of – it fronted onto Great North Road, correct?---Yeah, that's correct, yeah.

20

And it was on that block that was between Second Avenue and Barnstaple Road, do you remember - - -?---Sure, yep, yep.

Is that correct?---Yeah, yeah, yeah, that sounds correct, yep.

Now, insofar as the views that Mr Sidoti expressed to you when he made these representations concerning the extent of the extension of the B4 mixed-use zone, what were the views that he expressed to you?---I guess in summary that he thought a more extensive region could have greater potential for development, that that could be - - -

30

No, but did he indicate to you where he thought it should be extended to?---I can't remember the exact streets, et cetera, but that, that was certainly part of it, whatever it was, well, I can't remember the names of the streets, et cetera, but - - -

So can I ask you this then - - -?---Yeah.

40

Did you have an appreciation from what he said to you that he thought that it should be extended to at least include that part of Waterview Street between Barnstaple Road and Second Avenue?---Yeah, I think that's correct, yep.

Of course, which backed onto that part of Great North Road that was between Second Avenue and Barnstaple Road, correct?---That's correct. Yeah, that's correct.

And so you had an appreciation, did you not, that that meant that included,

or that whole block, included the function centre at 125 Great North Road?
---Certainly the function centre, yeah, certainly the function centre but not beyond that.

Did you have an appreciation that that meant that there was at least there was a likelihood that that there was a financial interest that Mr Sidoti had in respect of, or a pecuniary interest, in what he was putting forward?---Yeah. I think very loosely. In the sense I did, I certainly had no sense that the, the function centre was likely to be redeveloped but at no stage, it certainly
10 wasn't talked about openly and at no stage did I think any of his representations were in any way linked to his private interests. Let's, let's put it that way.

So he never made it clear to you that in fact he was, what he was wishing to pursue was his own private interests?---No, no, no. At no stage, yeah.

Was there something about the way he presented his view to you that made you, or led you to consider or receive them as if they were being made on behalf of the community?---Yeah, I think so. I mean, for one, for one
20 example, and, I mean, you will have records of this, where I attended a, it was either, whether it was a formal Chamber of Commerce meeting or not, it was, you know, some kind of meeting involving representatives of the Chamber of Commerce and I, I, I suspect I had informal discussions with him as well. So at no stage did I interpret – I certainly interpreted his actions at every stage as him, what he, what he, I guess, assessed, his assessment or his interpretation of the interests of constituents. That's certainly how I interpreted it.

So did you understand those representations then being made by him in his
30 capacity as the member for Drummoyne, the state member for Drummoyne?---Absolutely, yeah. Absolutely, yeah. Without question. Yeah.

So you were quite comfortable that what he was effectively doing was performing his duties appropriately as the sitting state member of parliament?---Yeah, absolutely, absolutely. And I, and I know these discussions have come on, and you may well ask me about it more, but I, the way I interpret his actions was he was, there was no question that he was especially enthusiastic, that, that could be a way to describe his interactions,
40 but right throughout, I, my impression was that he was, he, he was, he, I interpret him as seeing us as having underrepresented commercial or small-business interests in the electorate, which the function, you know, certainly as the Liberal Party representatives, it was, you know, to some extent, it was our duty to do. That's how I interpret his actions.

And is this the case, that you had interpreted it that was because that's the way he had presented the arguments?---Absolutely. Without question. Yeah, without question.

He would use the language that suggested that this was about the business interests of the local business community, correct?---Without question. And I had been to a Chamber of Commerce thing where there were a couple of people there talking, giving me property and development tutorials and what have you, yeah.

And that was something that he had arranged?---Absolutely, yeah. Absolutely.

10

For you to be able to attend?---That's correct, yeah.

And he was present for that?---I think so, yeah.

20

And, what, he contacted to you arrange a meeting between you and the members of the Chamber of Commerce and other developers, you said? ---Yeah. Well, I thought they were developers but it's possible they weren't. But I do remember getting, you know, kind of property development 101 type tutorials about floor space ratio and when things became profitable or otherwise. You know, I had, sort of, I remember getting impressed upon me that property in general had a, had a moral worth, particular for a variety of ethnic groups, if you like, as a part of aspiration and social mobility. Oh, you know, it was impressed to me that, you know, there was a place for property development and certain levels of controls that allowed it to occur more favourably.

30

THE COMMISSIONER: Dealing with that meeting in context. The period of time that the Drummoyne – Five Dock, I should say, Town Centre Plan was under consideration was approximately 2013 to 2017. Does that accord with your recollection?---Yes, certainly. But it, it felt like a much shorter period. Like, in terms of his representations, I would say, I would say they, they happened over a period of weeks. Like, I remember - - -

Just stay with me if you would.---Yeah, yeah, sure.

40

Whatever it felt like for you, I'm telling you that the evidence is that essentially the Five Dock Town Plan Centre was actively under consideration from sometime in 2013 through to early 2017. That's a fact. ---Sure, yeah, yeah.

I don't think there's any controversy about that.---Sure, sure, sure.

Why I'm raising that is to try and place this meeting you're just giving evidence about, whether it was the beginning of that period, the middle of that period, the end of that period. I'm now talking about your evidence of having attended a meeting, Chamber of Commerce in which you thought members of the Chamber of Commerce were there and people you thought might have been developers. That's the meeting. Can you help me, was it

the beginning, middle, end or some other time in that bracket of period 2013 to 17 that you went to this meeting?---We'd have records of it. It was in - -
-

No, no, no, attention, please.---Oh, sorry, yeah.

If you can't – no, just - - -?---Okay, okay.

If you can't answer the question, you say, "I can't answer the question."
10 And so ---It would be in the middle. It would be in the middle.

Please don't talk over me.---Oh, sorry.

If we both talk together the transcript will be very messy.---Yeah.

Can you remember at what point of time this meeting took place in the period I've identified? If you can't, just say, "I can't."---I can give a reasonable estimate that it was in the middle period.

20 Thank you.

MR RANKEN: Yes, thank you, Commissioner. So you mentioned that you had a sense that not only was there representatives from the Chamber of Commerce but there were also persons who were developers who were at this meeting that you attended.---Possibly. I guess it was more that if I was getting chats about floor space ratio, my memory was that they may have had, been linked to developers or been developers themselves, but I can't, I can't say that as a, as a fact.

30 Do you remember the names of any of those persons?---No, I don't, no.

Now, I just want to take you to an email chain at page 356 of exhibit 24. Now, if I could just draw your attention to the email in the middle of that page, which is dated 7 April, 2014, at 9.02pm, from John Sidoti. Do you see that?---Yep, yep.

And in that email he refers to, well, firstly it's addressed to, "Dear Councillors. I would like to organise a meeting, day or night over the next week at a time convenient to all and in the presence of the Five Dock
40 Chamber of Commerce President and Vice President to discuss the Five Dock Urban Study. Do you see that?---Yep, yep.

And then he goes on to say, "And the very misleading statements by council staff in an attempt to sell the business community of Five Dock a pup." Do you see that?---Yep, yep.

“Please be well informed on this subject and challenge the thoughts of the staff. The survival of the centre is at play. Awaiting your reply. John Sidoti MP.” Do you see that?---Yep, yep.

Is that the type of representation that you were referring to when you said that you received these kinds of representations from Mr Sidoti in which he appeared to be expressing the views of or representing interests in the community rather than his own personal interests? Is that right?---Yeah, absolutely. I mean that’s the flavour of it and that’s how I interpreted it, that
10 - sorry, go on.

I understand, so that’s how you interpreted it.---Yeah.

And do you see by this time you had been on council since September of 2012. Is that correct?---That’s correct.

So you would have had an opportunity to have seen the kind of work that council staff produced. Correct?---That’s right, yeah.

20 And do you have a particular view about the competency of council staff, particularly in the area of planning matters?---Yeah, very good, yeah.

They were very good.---We had a good relationship with the council staff, yeah.

And they always appeared to provide independent advice to the councillors. Correct?---Yeah, correct, but at the same time I was a new councillor, ultimately it’s a political organisation, so there was still a part of me, and that’s probably something that was advocated upon by Mr Sidoti, it was still
30 a Labor-run council. So I guess as part of these representations the way I interpreted it was, okay, you know, I’m quite inexperienced in this scene, should there still be a bit of scepticism about what I might get entirely from council, given it’s a Labor-run council.

So Mr Sidoti impressed upon you, did he, the need from his perspective for you to be suspicious because it was a Labor, because the council at this time was dominated by the Labor Party? Is that right?---To some degree. I don’t think he encouraged any suspicion but it was, it was still a broad
40 representation, if you like, that okay, well, you can’t just swallow what council’s giving you, you know, without question.

THE COMMISSIONER: And in that context, did you understand ‘council’ to mean councillors and council staff?---Not so much councillors. I mean obviously there’s a political dimension to councillors. But yeah, just – not so much council staff, but possibly independent, what might be called independent reports, et cetera, that potentially they can have political leanings.

So reports by council staff could have a political leaning, given that you say the council was being run with Labor influences?---Yeah, that's possible, yep, I'd, that's possible. I'd, I certainly didn't have a strong opinion in that direction, but it was something that I think was worthy of consideration.

MR RANKEN: So but in relation to, to the Five Dock Town Centre Study, you were aware, were you not, that this had been the subject of independent work done by independent experts, correct?---Yes.

10 Independent of council staff, correct?---Yep, yep, yep.

And independent of councillors.---Yes, that's right.

So independent of the mayor, correct?---Sure.

And there'd been the detailed report that had been produced, correct?
---Yeah, but at the same time, I mean, you wouldn't need politicians if everything could be run on independent reports. I mean, it's still, you know, we had - - -

20

THE COMMISSIONER: No, just - - -?---Yep.

I think you're going off - - -?---Yeah, yep.

MR RANKEN: But you had an understanding, did you not, that the issue about the Five Dock Town Centre study had been looked at by independent experts, correct?---Sure, yep, yep.

30 You're not suggesting that the independent experts produced some politically-charged report?---No. But it was an, it was still an opinion.

Or politically-biased report to council, are you?---No. But it was still an opinion.

THE COMMISSIONER: It was still what?

MR RANKEN: An opinion.---It was still a, an opinion.

40 THE COMMISSIONER: An opinion held by who?---By the independent experts.

MR RANKEN: Yes, so an independent opinion. Correct?---Yep. Yeah, yeah, sure, sure.

And following from the preparation of those reports by the independent experts, the council staff would generally try to synthesise what would be a huge amount of details for councillors to get across into a more digestible report, correct?---That's correct, absolutely.

To assist the councillors to get across the issue sufficiently to be able to make an informed decision, correct?---That's correct.

And each of – you understood as a councillor you were required to exercise your own independent judgement in relation to decisions, particularly in respect of planning matters, correct?---Absolutely, yep.

10 And that meant that you were not supposed to be influenced by the fact of you being a member of the Liberal Party?---Sure, yep, yep.

It was to be independent of any political views you might have on the topic, correct?---Yeah, but you, there is still a political dimension to planning. So, there was still a set of views and a worldview I would have brought. So it wasn't - - -

That may be your - - -?---I don't think you can make an opinion independent of my Liberal Party position. Yeah.

20 Well, you knew that you were not supposed to caucus with other Liberal councillors to have united stances, correct.---No, no, yeah, definitely, yeah. You got to make an independent view, no question.

You need to have an independent view, correct?---Yeah, that's correct.

Not just independent of Liberal Party councillors, but independent of the Liberal Party entirely.---Sure, yep.

30 Including the local member. Correct?---That, that's correct, but at the same time, you're, you're getting opinions from the whole set of, you know, whether it's rate, ratepayers or whoever's involved, so I don't think you can completely distance someone with a huge amount of planning experience and a huge amount of electorate experience as well.

40 So if we come back to this email on page 356 in the middle of the page, I want to ask you, did Mr Sidoti ever enumerate for you or outline to you the very misleading statements that he considered council staff had been making in respect of the Five Dock Urban Study?---Well, if he did, I can't remember. If, I can't remember exactly what they may have been, but presumably it was still around the zoning and why certain things couldn't be zoned in a certain way.

So do you have a recollection or not as to whether or not he did in fact outline them for you?---The, I, I can't say for sure, no.

It's quite a serious statement to make, isn't it, to say that council staff, who are supposed to be exercising their own independent professional judgment

were making very misleading statements, would you agree?---Yeah, I think so, yeah.

He's suggesting to you that the council staff had been making misleading statements to the councillors, correct?---Yeah, I guess so, yeah.

And that would mean that it would be misleading not only to the Liberal councillors, but to all councillors, correct?---Sure, yes.

10 THE COMMISSIONER: If the statements in the email to which your attention's been drawn, which Mr Sidoti says, refers to the "very misleading statements by council staff in an attempt to sell the business community of Five Dock a pup," that being the statement of the sitting member of parliament at the time, did that influence you?---To be honest, I don't remember the exact statement. I mean, I'm, I'm sure I read it, but at the same time, there, there is a kind of theatrical quality to the statement and I think we probably would have read it and gone, "Okay, that's his" - - -

20 What do you mean – sorry, go on.---That's his, he's expressing a view but I, I don't, I doubt it would have much influence, put it that way. But it was, it was certainly a representation and we would have taken notice of it, yeah.

MR RANKEN: Well, just when you say a theatrical quality, do you mean a theatrical quality as far as what Mr - - -?---Well, in terms of - - -

No, just let me finish my question.---Sorry, go on. Yeah.

30 As far as what Mr Sidoti was saying in this email, that that's got a certain political rhetoric about it, is that what you're suggesting?---Well, the, the words, "Very misleading," yeah, certainly, yeah.

That's actually potentially defamatory of the council staff, is it not?---I don't know. I, I - - -

Well, it's suggesting that council staff have made misleading statements - - -?---Possibly, yeah.

40 - - - in the course of their professional duties to properly inform the councillors, correct?---Sure, yes, that's possible. Yep.

Well, that's suggesting that they are not performing the role that they should be performing and not performing professionally.---No, you're right, yeah.

It's a very serious accusation, wouldn't you agree?---Yes, I, I agree.

And the reference to council staff in the context of dealing with the Five Dock Urban Study could only mean those council staff who were involved with the Five Dock Urban Plan Study, correct?---Sure, yep.

So they would be persons who would be readily identifiable, correct?
---That's correct, yeah.

So this was quite an outrageous statement for someone to be making, wasn't it?---Yeah, possibly. I don't remember it, putting much notice in it at the time but - - -

10 Did you ever come across any matter of substance that would suggest that that was an accurate statement that Mr Sidoti has made there?---No. There's no, no, there's no way I would consider any of the staff being intentionally misleading.

THE COMMISSIONER: You dealt with staff from time to time over the years?---Yeah, all the time, yeah, yeah.

And how did you find them? In terms of - - ?---Yeah, very good, yeah.

20 Sorry. How did you find them in terms of their professionalism?---Yeah, very good. We had a good working relationship and it was a very cohesive and well-functioning council, yeah.

Were they diligent?---Absolutely.

Were they conscientious?---Yes.

Did they seem to be professional and able to deal with planning matters competently?---Absolutely.

30 MR RANKEN: And indeed, the statement goes on to say that those very misleading statements by council staff were made in an attempt to sell the business community of Five Dock a pup. Do you see that?---Yeah.

That would suggest that, insofar as he was suggesting that council staff had made very misleading statements, it was done deliberately and with a deliberate purpose in mind, correct?---It would seem that but, yeah, I don't think I paid it too much attention, yeah.

40 Now, you have a recollection of actually attending a meeting with the President and the Vice-President of the Chamber of Commerce where you say there were some other persons who you thought might be developers?
---Sure, yeah, that's right.

It that correct?---That's correct, yeah.

And do you recall whether any of the other councillors, that is the other Liberal councillors, were present at that meeting?---I don't think they were. For, for whatever reasons they weren't able to make it.

And can I then take you to a calendar entry, and this is at page 373 - - -?
---It's not coming up, oh, here it is.

It says, "Urban Plan with councillors," and it seems to have been organised by Mr Sidoti for 16 April at 7.00pm. Do you see that?---Yep, yep.

And it doesn't indicate who are the intended attendees but, I mean, does that accord with your recollection of possibly around - - -?---I think so, yeah.
10 Probably, probably earlier that I thought initially, especially as I reiterated to the Commissioner, but, but, yeah, that's, that's, it's within the range, yeah.

Now, just to get the timelines and things in place. Do you recall that one of the things that the urban study recommended, that is the original design study, was that the existing floor space ratio of 2.5:1 should be retained across the centre, across the B4 mixed-use, even as expended, but that there should be some changes to the height controls that might facilitate greater development? Do you remember if that was the - - -?---Yeah, that sounds familiar, yeah, sounds familiar, yeah.
20

And do you recall that there was a workshop in early 2014, a councillors workshop, at which there was a presentation by council staff about the Five Dock Study?---Yeah, it sounds familiar. Yeah, so, yeah.

Did you attend those kinds of workshops?---I, usually, yeah. I would be at most meetings, yeah.

Do you recall attending such a workshop where the prospect of including a bonus provision that would allow for a great floor space ratio of 3:1 on larger sites was discussed by the councillors?---That sounds familiar, yeah.
30 That sounds familiar.

And there was suggestion made to, possibly a suggestion made to council staff that they should go away and consider drafting a clause to be inserted into the LEP that would reflect that? That in order to incentivise the amalgamation of sites, that there could be an increased floor space ratio and increased height limits for certain sites above a certain area?---Look, it's possible but I wouldn't say it's an obvious things that comes to mind, no.

40 Now, after the public exhibition in earlier 2014, the matter came back before the council on 20 May, 2014. Do you remember that?---That, yep, yep.

Now, so to just give the timeline. So, you believe that you attended a meeting sometime between that email of 7 April, 2014, and 20 May, 2014, at which you met with the President and Vice-President of the Chamber of Commerce?---That, that, that sounds right.

And I took you to that calendar entry for 16 April. Could we go to page 362? Do you see there is an email of 8 April from Mr Sidoti in which he said, "Dear councillors. Can we meet over the next seven days to form a united stance for the Five Dock Town Centre Urban Study?" Do you see that?---Yep, yep.

"That will be voted on, on the 6 May Council meeting." Do you see that?
---Sure.

10 And then there's a suggestion of some dates, including the 16th.---Yep.

Now, if you would accept from me then ultimately the matter did not come before the council on 6 May but in fact was dealt with on 20 May. But do you see that what Mr Sidoti is suggesting there is that he wants to meet to form a untied stance for the Five Dock Town Centre.---Yep, yep.

I mean, that would be contrary to your duty as a councillor to form a united stance with other Liberal councillors, wouldn't it?---Well, that's right, yeah.
20 Yep. Our job is to form an independent idea. So, yeah, I mean, I'd seen, we'd seen that email and, well, certainly I can speak for myself. I said, "Okay, we'll see what he's got to say," but you take it with a grain of salt.

If we could then go to page 364. Can you see there is a chain of emails, and just so that you can orient yourself, if we could briefly go over to page 365, you can see at the bottom of that page there's that email I just took you to, seeking to form the united stance.---Yep, yep.

And then moving back over to 364, we can see your response, there's a
30 response from you where you say that you can do 7.00pm but not earlier, "Will be coming straight from airport." Do you see that?---Yep, yep.

And up the top, "My office. Joe D and Glen are in also." Do you see that?
---Yep, yep.

Now that, can I suggest to you, that Joe D is Joe di Giacomo, who was the President of the Chamber of Commerce?---Okay, yep.

And Glen was Mr Glen Haron, who was the Vice-President of the Chamber of Commerce.---Okay, yep.
40

So is it likely that, with that in mind, that that's the meeting where you met with the Chamber of Commerce?---That would be the meeting. Yeah, that, that sounds likely, yeah.

And do you recall whether or not Council Megna was present for that meeting?---I can't actually. My, my memory of it is that I, I can't remember any other councillors managing to make it but it's possible they were there.

Now, the meeting of 20 May, 2014, there was a recommendation from the council staff that the planning proposal that had been exhibited, which included a – sorry, I withdraw that – that there would be included within the planning proposal a bonus provision that provided for, on sites with an area of greater than 1,500 square metres and a frontage of greater than 20 metres an additional floor space ratio of 3:1?---That sounds familiar, yeah, it does sound familiar.

10 And an additional height of 27 metres or eight storeys.---I couldn't tell you the height aspect, but the floor space ratio bit, it does sound - - -

You recall that?---Yeah, yeah, yeah.

And do you recall that it was then recommended by the council staff that the planning proposal should be endorsed and submitted to the Department of Planning and Infrastructure for a Gateway Determination?---It sounds familiar, yeah.

20 And that was a matter that didn't actually occur on 20 May because the matter was deferred to consider issues of height setbacks overshadowing mix of developments and the amenity of the surrounding residents.---Sure, yeah.

Do you recall that?---Certainly it sounds appropriate or familiar, yeah.

And do you recall that it was you in fact or one of the councillors who voted with all the other councillors who could vote on the matter for that deferral to occur?---It sounds familiar, yeah, sounds familiar.

30 So then the matter came back before the council on 24 June, 2015. Do you recall that?---I don't recall exactly but it, it, it wouldn't surprise me, yeah.

Okay. Now, do you recall that one of the matters that was looked at in the interim was the possibility of extending the B4 mixed-use zone beyond that which had been recommended in the study so as to include relevantly the land between First and Second Avenue on Waterview Street?---Yeah, I do remember there was some to and fro during this period where it was going back and forth to council, yeah.

40 No, I just want to focus, I'm just focussing on this period in about May/June 2014.---Sure.

Okay. So one of the things that was looked at by council as a result of the deferral in May of 2014 was the possible extension of the B4 mixed-use zone to some areas that had not previously been considered as part of this study. Correct?---Yes, yes, definitely, yeah.

And the one area I particularly want to focus on is the area along Waterview Street between Second Avenue and Barnstaple Road. Correct?---Sure, yeah.

Now, you understood that that was part of the block that, or that part of Waterview Street backed onto properties that fronted Great North Road. Correct?---That's, that's right, yeah.

10 And one of those properties was the function centre.---Yeah. I don't think I'd entirely calculated that at the time necessarily.

Okay.---But more broadly I was certainly looking at that area thinking it was a set of people, not necessarily directly linked to Mr Sidoti.

But did you know who had actually made the representations in relation to, that led to the council considering this issue at that time?---Like, it was a planner.

20 So I think you're thinking of a point later on in time. Is that right?---Oh, okay, okay.

But I'm just talking about early 2014.---No, I couldn't tell you exactly who it was, yeah.

30 But in any event, I want to draw your attention to something that in the report that was prepared for the council meeting on 24 June, 2014, at page 417. Now, this is part of the report that was prepared, if you would accept from me, by council staff, specifically Marjorie Ferguson, in respect of the Urban Design Study and associated planning proposals for the purposes of the meeting on 24 June, 2014. And can you see there's a subheading that says Extension of B4 Mixed-Use Zone?---Yep, yeah.

And can you see that it talks about, amongst other things, certain land between First and Second Avenue on Waterview Street that had been consider to be, by the study to be an area where the B4 mixed-use zone would be extended?---Yeah, I can see that, yeah.

40 And then it goes on to say that it was suggested that council consider extending the area of land being zoned to the northern end of Waterview Street. Do you see that?---Yep, yep.

That is the northern end between Second Avenue and Barnstaple Road. And then it explains the reasons why it was not identified for rezoning. Do you see that?---Yep, yep.

The very first of those reasons is the fact that it is located outside of the central core of the centre.---Sure, yeah.

And you understood that that had been determined as a result of the extensive public consultation process that had been undertaken by the independent experts.---Sure, yeah.

And in fact your own understanding was that I think you've already told us was that the central core of the Five Dock Town Centre was really towards the southern end, closer to Parramatta Road.---That's how it was deemed, yeah, sure.

10 And it also identified that there were a few constrained sites, including a heritage item and an existing strata development. Do you see that?---Yep, yep.

And if you were going to rezone it, you would need to also extend a proposed Waterview Lane to facilitate improved access.---Sure, yep.

And so it wasn't recommended. Do you see that?---Yep.

20 Now, at the meeting of the council on 24 June, 2014, it was resolved unanimously for the matter, that is, the planning proposals, to go to a Gateway Determination.---Yep, yep.

Does that accord with your recollection?---Yeah, it sounds familiar, yep.

And in fact you were one of the councillors who voted in favour of that resolution, would you agree?---I, I believe so, yep.

If you're unsure, I can take you to the relevant minute.---Yep, it, yep, sounds, sounds right.

30 And that meant then, did it not, that you had voted – given the substance of what I've taken you in the report that had been prepared for the councillors, that by endorsing the referral of the matter for a Gateway Determination, you were comfortable with the idea that the town centre of Five Dock would not be extended, that is, the B4 mixed-use zone would not be extended to that part of Waterview Street between Second Avenue and Barnstaple Road, correct?---Sure. Like, you know, I'd base that view on, yeah, advice from council, debate between, amongst fellow councillors, yep, et cetera.

40 And did you have any communications with Mr Sidoti about that issue at this time?---I, I don't remember, but possibly not, yep.

After it went to a Gateway Determination, which was ultimately made in September of 2014, there was a requirement for there to be a further period of public consultation. Correct?---Okay, yep.

That's pretty standard for Gateway Determinations, would you agree?---Yeah, sure, yep.

Because the planning proposals are put forward to the Department, there's a determination made, and then it needs to be put out for further public consultation, correct?---Sure, yep.

And that allowed members of the public to make further submissions in relation to any issues they might wish to raise in respect of the proposed planning controls.---Sure, yep, that's right.

- 10 And did you become aware of a submission that had been made to council in November of 2014 by MG Planning on behalf of two companies, one Deveme Pty Ltd and one Anderlis Pty Ltd?---Yeah, it sounds familiar, yep, sounds familiar.

Do the names of those companies sound familiar?---Okay, yep.

At the time, that is, in November 2014, did you know who was behind Deveme Pty Ltd and Anderlis Pty Ltd?---No, no, no.

- 20 Did you know that the shareholders and directors of each of those companies were Mr Sidoti's parents?---No.

And did you know that Deveme Pty Ltd was the registered – it was represented in the submission made on behalf of Deveme Pty Ltd and Anderlis Pty Ltd that Deveme Pty Ltd owned 120 Great North Road?---No. That's not something I was aware of, no.

And that Anderlis Pty Ltd owned a property at 2 Second Avenue?---I certainly can't recall, yeah, yeah, anything along those lines, no.

- 30 2 Second Avenue almost backed onto the function centre at 120 Great North Road.---Yeah, it's possible, but yeah, I, I, I can't recall.

Well, do you recall there being a submission in late 2014 that sought to or that argued for the extension of the B4 mixed-use zone past First Avenue on Waterview Street – sorry, past Second Avenue on Waterview Street, up to Barnstaple Road?---Yeah, that sounds familiar, definitely.

- 40 Did you understand that that was a submission that was being put forward on behalf of persons who had an association with Mr Sidoti?---Yes, I think so, but I, the way I, the way I interpreted it was this, was part of his advocacy for constituents.

Even though it was actually – they were submissions being made on behalf of companies that you understood or persons that you understood were associated with him.---I don't think I understood that the companies were associated with him. In terms of the, any properties there.

Did you understand – the properties.---Yeah, no, I certainly wasn't, I didn't see that directly linked to him, no.

So you didn't see the properties as being linked to him at that time?---No, no.

10 So is that because at all times he represented to you that he was just doing this on behalf of the constituents?---Absolutely, yeah, yeah. There was, there was, at no stage did I make an inference that there was some sort of private dimension.

You seem to not have turned your mind to or not been aware of the fact that his family effectively owned two properties, at least at that stage, within that block, 120 Great North Road and 2 Second Avenue?---Well, well, to be frank, it wasn't, it was never at any stage made clear.

20 And you appreciated, did you not though, that if the entirety of that block was to be made B4, then that would most likely result in there being more favourable development controls applying to not only the properties along Waterview Street but also along Great North Road, correct?---Yes, yeah. I was certainly aware of that, yeah.

Because the removal of the split zoning would remove the need to ensure that there was an appropriate interface by way of heights and setbacks between the properties that fronted on Great North Road and the properties that fronted onto Waterview Street, correct?---That's correct, yeah, I did understand that.

30 So it would be of benefit to anybody who owned a property on Great North Road, fronting Great North Road, for there to be a rezoning of the properties along Waterview Street?---Yep.

Now, you did become aware though that a submission had been received by the council that was arguing for the extension of the B4 mixed-use zone for that block in late November of 2014?---I can't remember exactly when but, yeah, I certainly do remember that.

40 And that that then, together with a large number of other submissions that had been received by the council, had to be considered by the independent experts?---That sounds correct, yep.

And a further report was required to be produced that dealt with the various submissions that had come in in response to the public exhibition of the planning proposals, correct?---Yep, that sounds correct.

And that reporting also needed to deal with any issue concerning rezoning? ---Yes. That sounds correct, yep.

Now, I want to take you to a report prepared by the independent experts in 2015, which commences at page 568. That's the cover page, as it were, for the report prepared by Studio GL, dated 21 May, 2015, in relation to the exhibition outcomes. Do you see that?---Sure, yeah. It does, the cover does look familiar.

Now, if I could just take you then to page 596. Now, this is part of the report that deals with recommendation and it deals with the key recommendations. Do you see that?---Yep, yep.

10

And firstly do you see that there is a subheading of Rezoning?---Yep, yep.

And it refers to the fact that, firstly, "Extending the area to be rezoned between East and West Street and moving the boundary is not recommended as this would not solve the interface issue identified in the submissions that simply move the location of the interface so that it impacts on different properties." Would you accept from me that that's about an entirely separate area to the block that this Commission is particular interest in?---Yep, sure. Yep.

20

But the next paragraph reads, "Rezoning of the western side of Waterview Street between Barnstaple Avenue and Second Avenue is not recommended due," I think it should say, "to the small heritage house in this block and the likely impact rezoning would have on this dwelling and on the existing dwellings around this building." Do you see that?---Yep, yep.

So rezoning had been considered again by the experts. Is that correct? ---Yep, yep.

30 And it was not supported?---Yep, that's correct.

And if we go to the report that was then prepared by council staff following Studio GL's report. If we go to page 529, and you see that there is a subheading of Rezoning?---Yep, yep.

And there are three particular areas that were considered but I just want you to focus on, if you might, the second dot point which deals with the land between Barnstaple Road and Second Avenue on Waterview Street?---Yep, I can see that.

40

And do you see that it refers to the fact that there were two submissions that requested that that land be rezoned to B4 mixed-use?---Yep, yep.

And that the existence of the heritage-listed house and a strata-title residential flat building resulted in limited opportunity for change should the area be rezoned. Do you see that?---Yep, I can see that.

So that the point being made there was, even if you rezoned it, because there's a heritage listing and there's an existing strata development, that's likely to mean that any development would be constrained by the existence of those properties.---Sure, yep, yep.

10 And it goes on to say that, "Future development would impact those properties and would be unlikely to resolve vehicular access issues for properties fronting both Great North Road and Waterview Street," and so it was recommended that this land retain at R3 medium-density residential zone. You see that?---Yep, yep.

So experts have considered the representation, so has council staff, and the recommendation is to not rezone. Correct?---Yep, yep.

Now, ultimately, you did not actually attend the meeting of the council on 2 June, 2015, if you just accept that from me your name is not recorded as being present.---Sure, sure, okay.

20 But just so that you're aware, at that meeting, the minutes record that all of those councillors present and able to vote on the matter – that included Ms McCaffrey and Ms Cestar – voted to adopt the recommendations contained in the agenda report and to publicly exhibit the proposed LEP.---Yep. I accept it.

So, and then thereafter the LEP was publicly exhibited in late June and throughout July of 2015. And that meant that there was an opportunity for interested parties to make further representations to council about the proposed LEP. Correct?---Yep, yep.

30 But up to this point, it's quite clear that the issue to do with the rezoning of that block of Waterview Street had been considered on numerous occasions, correct?---Yeah, at some length, yep.

At some length.---Yep.

And not only that, that the councillors, yourself included, had voted on resolutions that accepted that advice.---Yep.

40 And sought to proceed with the LEP without including that area for rezoning, correct?---That's correct, yep.

So is it fair to say that you exercising your independent mind when turning to planning matters, you had considered the issue and you were satisfied that there was no basis to justify the rezoning?---Certainly on the information and representations up till then, yep.

But do you say that there were further representations that you received in particular from Mr Sidoti regarding that block?---I'm guessing, I'm, I can't remember the exact times, but yeah, that may have predated, yeah.

But I'm asking you about your recollection about receiving representations from Mr Sidoti.---I can't remember when they were, but presumably they were after that.

THE COMMISSIONER: Well, were there any?

10

MR RANKEN: Were there any? From Mr Sidoti directly to you. That is, directly from Mr Sidoti to you.---Well, yeah, absolutely, look, I mean, you have records of that, you know where his - - -

Well, what were the representations that you recall him making to you about the rezoning of that block between Second Avenue and Barnstaple Road? ---I don't remember the exact details, but in terms of, you know, be it the text messages or the meetings, the chamber of commerce meeting, a, a separate meeting we'd had.

20

Separate meeting with Mr Sidoti, is that right?---There was another meeting where us and all the councillors, which you, you have records of, when we met at the, I think it was the Bakehouse or something like that.

So there was a meeting you attended at a place called the Bakehouse, is that right?---That's correct, yep, yep.

30

And you have a recollection of that meeting?---Again, I don't remember the exact content, but the, the broad sweep was certainly about that area and, and, and development and again, what he viewed as, how, again, how I interpret it, was that he didn't think that the commercial or small business interests were being adequately advocated for.

But this was in the context of talking about the rezoning of that block of Waterview Street between Second Avenue and Barnstaple Road - - -?---I believe so.

40

- - - from R3 medium residential to B4 mixed-use.---I, I believe so, I believe so, yep.

And at all times, just to be clear, he represented to you that he was doing so in the interests of the constituents?---Absolutely, yeah, there, there was no, there was not at any stage did I feel that his representations were related to his private interests.

But you were aware, were you not, that there had been considerable public interest in the Five Dock Urban Study and the associated planning proposals?---Yeah, I think so, yeah, and we, we get, you know, there was

definitely more correspondence from ratepayers, like that kind of thing as well.

And on each occasion the matter was put out for public exhibition there was significant, a significant number of submissions that were made by members of the public. Correct?---Yeah, that's true, yeah.

10 And would you agree that an overwhelming theme of the submissions that were being made was concern about too much height and too much development?---That's true, that's true, but - - -

And what Mr Sidoti was arguing for, was he not, was increased heights and more development. Correct?---That's correct.

20 So whilst Mr Sidoti was representing to you that he was representing the interests of constituents, you knew, did you not, from what had been reported back as a result of the various exhibitions and the exhibition outcomes report, that that was not what the overwhelming feedback from the community was indicating?---At the same time I think, I don't think I would say I took that as definitive. I mean I think already, even though I was a fairly inexperienced councillor, I think I was rapidly getting a sense that if you ask the local community whether they want more development, more often than not, the answer will come back as, as no. So in part I think I was also seeing my role as potentially people who may live there in the future and that's probably a view that I was developing anyway.

30 So you - - -?---So I don't think I took it as absolute gospel that locals who didn't want development meant that the prospect of development was to be null and void.

So were you developing a view that regardless of whether or not the community, overwhelming sense from the community was that they didn't want further development, if you thought it was a good idea then that was worthwhile pursuing?---No, certainly not, but more that it wasn't absolute gospel and definitive information. It was important information and it was one of the aspects of information that were very important to judge and consider, but there were still other considerations.

40 Would it have made a difference to you if you had known that when Mr Sidoti was making these representations to you about rezoning and about increasing the heights to that area of Waterview Street, that his family had property interests that would benefit from those matters?---Absolutely, absolutely, and, and to be honest, I've said this to John. If there was at any stage that I thought he was representing private interests, one, I would have weighed his advice very differently, and two, I would have had no hesitation in essentially just, you know, telling him where to go, to be honest. I would not, I would not have accepted his advocacy in the same way, unless at every stage he was kind of making it very clear that I own this, my parents

own this, et cetera, and that's where you, I want you to know that, that this is why I'm arguing this or the other constituents or residents. And that's how I would have expected that to be presented.

But it was never done in that way, at least as far as you were concerned.

---No, no, not that, not - - -

10 Now, you mentioned that there was an occasion you met with Mr Sidoti at the Bakehouse I think. Correct?---Yeah, I think all the councillors there, possibly not Michael. Possibly not Michael but I'm not sure.

And were there other occasions you met with Mr Sidoti in the presence of the other councillors, particularly McCaffrey and Cestar?---If there were I can't remember them obviously. Certainly not for that specific purpose. Certainly in other meetings or other party-related things, but not for that purpose.

20 And can I ask you this though. In terms of your contact with Mr Sidoti about council matters, was it solely, were they solely concerned with matters relating to the Five Dock Urban Study or do you - - -?---No, not at all, no. There would be a variety.

30 What other matters did you - - -?---Sometimes, you know, it might be a particular item, could be a boarding house or this decision or that decision, so but I would, it was, I can certainly differentiate what I alluded to earlier, that his advocacy on this particular matter was more enthusiastic than others, but I interpreted that as he, he had viewed this matter as potentially electorally sensitive and he thought it was especially important and I thought he was potentially a good judge of that, given he was a state MP, he was dealing with these matters day to day, he'd been a deputy mayor, he was linked to the state Ministry for Planning, so I certainly took those representations with, with that in mind.

Did he somehow allude to that, that this was electorally significant?---Not directly, but I guess him introducing me to, you know, people at the Chamber of Commerce, et cetera, I, that, I, that's an inference I made, that there were certainly interests that thought this was an important decision.

40 Now, I just want to take you to a chain of emails. Perhaps if we could go to page 684. This is a chain of emails that has the heading Meeting. You see that?---Yep, yep.

And if you go down towards, if you go to page 686, you can see another version of the chain of emails.---Yep, yep.

If we could just go to page 687, you can see that the first email that seemed to have kicked it off was an email from Ms McCaffrey, where she was

asking Mr Sidoti whether she'd missed an email, "Do you want to arrange a meeting with us re the town centre?" Do you see that?---Yep, yep.

So plainly Ms McCaffrey was seeing whether or not Mr Sidoti wanted to meet with you, Councillor Cestar and Councillor McCaffrey about the Five Dock Town Centre, correct?---Yep, that seems right.

10 If we go back to page 686, there are various responses. The first one, of course, is from Mr Sidoti himself, saying that "Yes, great, any time that suits. Cheers, JS." And then there's some further to and fro between him and Ms McCaffrey. And can you see that at some point Mr Sidoti has indicated to Ms McCaffrey that you and Ms Cestar are good for tonight at 6.30? That would be 9 July. And Ms McCaffrey has indicated that she would see him then, see you there. Do you see that?---Yep, that's correct.

20 And if we could then go to – if we could go to page 690. This is a, again this appears to be part of the same email chain, in a sense, but a different copy of it. And but you can see you say, "Ran late again there" at 6.40. So it appears that at least at three minutes past 6.00pm on 9 July, you were still on your way to the meeting.---Okay, yep.

So is it likely that that's a meeting that you did attend?---Yeah, where - - -

To discuss the town - - -?---Possibly. Yeah, I'm not sure. Is that at his office?

Not the, not at – no, this is at his head office.---Okay, yep.

30 So there were times when you attended meetings with Mr Sidoti at his office to discuss the town centre?---This particular one was not – if it was discussed, it's not terribly memorable.

40 Now, the matter was to come back before the council on 20 October, 2015. That is, following the public exhibition that took place in July of 2015. And I just want to take you to some emails. Firstly, if we could go to page 740. Can you see here there's an email from Mr Sidoti to yourself, Ms Cestar and Councillor McCaffrey in which Mr Sidoti has indicated that he would love to meet before next council meeting as a group. Any night that suits, strictly half-hour, any dates preferred. Do you see that?---Yeah, I can see it.

Now, can I ask you this, was there any issue before the council that Mr Sidoti discussed with the three of you – that is, yourself, Ms McCaffrey and Ms Cestar, not Councillor Megna – other than the town centre?---No, not that I remember.

So, and in respect of the town centre, is it the case that at least from this point on or in October 2015 onwards, his main focus was on that block between Barnstaple Road and Second Avenue?---I believe so, I believe so.

I couldn't say for sure. But, I mean, certainly (not transcribable) again how I, the broad sweep of it that I took on was that he thought a section of it, the town centre could have been expanded, and that was in the broader interests of small business in the area.

And so is it likely that at this meeting he was again discussing with you the prospect of extending the B4 mixed-use zone to that block?---Possible, probably.

10 To cover the entirety of that block?---Probably, probably.

And that was the particular interest he had, correct?---I would imagine so.

And you maintain though that at all times you understand, even at this stage, that he was only ever doing so on behalf of constituents?---Yeah, absolutely.

Can we go then to page 751? Can you see this is a chain of emails between yourself and Mr Sidoti of 15 October, 2015, so three days after that earlier email I took you to?---Yep, yep.

20

And do you see at the bottom of the page you can see the email from Mr Sidoti which says, "Hi councillors. Know you're busy. Have to meet before Tuesday as a group. Any time, any place. Please respond. Cheers, John Sidoti MP." Do you see that?---Yep, yep.

Sent from his parliamentary email account. You've indicated, "Sunday evening or Monday evening for me." Do you see that, initially?---Yep, yep, yep.

30 A little bit further up the page, about just over a third of the way down the page, at 3.43pm on 15 October, you've indicated, "John, it actually looks like I will be out of town next Tuesday evening now. Will miss the meeting unfortunately. Might be left to Helen and Mirjana. Apologies, TA." TA being your initials?---Yep, yep.

So you're indicating to him, "Look, actually I'm probably not going to be able to make the council meeting." Is that right?---It appears so, yep.

And do you see what his response is?---Yep, yep, yep.

40

He says, "Mate, without you I am fucked."---Yep.

"We won't have the numbers." Do you see that?---Yep, yep.

So was there some expectation that Mr Sidoti had that the three of you would be voting as a bloc?---Well, I, that's certainly not how I saw it but even there where he says, "You," I interpreted that as him, as a state MP representing his constituents and he thought this particular decision was

important, you know, for the community et cetera. I certainly didn't see that

You did see that the reference to, "Without you I am fucked," was a reference to the fact that his interests would be - - -?---No, no, no. I certainly didn't read that as him saying, "Well, this is me and my properties." No, not at all. That would be highly improper.

10 Well, so what did you think he was referring to when he used the word, "I'm" that he was fucked?---Well, I think, I mean, absolutely, if I am, if he is, if you're a state MP and you feel like you have various people or your, you know, your constituents that, that you believe want a certain outcome or think would be beneficial, so I read that as him seeing this decision as potentially important or sensitive to the wider constituents as he saw it.

20 So is this the situation, that the representations that Mr Sidoti was making to you and your fellow councillors, as you perceived it, was about having the three of you vote, as Liberal councillors, as a bloc, in the interests of the constituents that he said he was representing?---Yeah, absolutely, yeah. Absolutely, yeah.

30 Even though those constituents and interests might be contrary to the interests of those constituents who may have taken the time to make submissions to council in quite significant numbers against the very kinds of things that he was pushing for?---Look, absolutely. And that's something, you know, certainly I was thinking of. So at that stage I'm like, well, okay, he's making a certain judgement, which I interpreted as being linked to his view of what he thought was interests, interests of constituents. There was obviously a council view and they were intentioned, they were intentioned definitely. So, certainly at that stage, I'm like, well, okay, it's interesting he thinks this and he certainly has qualifications, you know, being in planning, he was state MP, so I thought it was an important representation. And he's from our side of politics.

As a state MP, did you not consider that his duty was to represent all constituents within the Drummoyne state electorate?---Absolutely. But that's exactly what I thought he was he was doing here.

40 Well, was he not, on this, representing the interests of some constituents, you knowing full well that the views that had been expressed by a large number of other constituents were quite different?---Sure. And that's important information but this is, this is him seeing a different view and he would get information from his own sources and so I, again, I saw him looking at us – that way interpreted this was, he was looking at us and saying, "You haven't quite advocated small-business interests as well as you might have."

So what role of it was – what was it part of his role, as the state MP, was it to be telling you, as councillors, how you should go about voting on matters?---Well, you're right. I mean, I don't think I ever, I don't think at any stage did I see it as some sort of direction. Like, I certainly wouldn't take it.

10 You never saw any of these representations as a direction?---Well, that's certainly not how I would have – he may have offered it that such, but I certainly wasn't going to take it as such. So I think through the – you know, here's one view and then there's a whole set of other processes, be it fellow councillors, the council itself, and it would be very dependent on how that process kind of played out before – you know, I wasn't – the reality is, you know, as a fairly experienced councillor and not a property developer or planner, I don't have expertise to go, okay, what John's saying is absolute bollocks or it's absolute truth. So this is really new information and new representations, which I thought were of significance, given his standing and his qualifications in the arena.

20 And again you maintain that you had no knowledge at that time that his family had property interests within that very block?---No.

And would that not have changed your view about the appropriateness of him even making these kinds of representations?---Absolutely. Absolutely. Without, without question, without question. And if I can add, even though you've not asked this, even through these proceedings where my fellow councillors have raised suspicions that they did start thinking that to some extent, that was not something that they had communicated to me.

30 THE COMMISSIONER: So could I, just looking back, it's apparent what you've said, that you saw him as representing constituents who you've termed as the small business community, and he – you've earlier said – was very enthusiastic in pursuing the interests of the small business community or the business community in relation to what he was seeking by way of an extension of the B4 zoning. That right?---That's correct.

And looking at it now, Mr Sidoti was not on council, of course, that right? ---That's right.

40 He was the local member.---Yep.

He had no standing to be telling councillors what to do or how to vote. That right?---That's right, yep.

Because to do so would be interfering with other public officers in their performance of their public functions, is that right?---Sure, yep.

Well, don't you see there's some difficulty here? Firstly, if it's as you saw it, him backing one group of constituents, firstly, against other constituents, is that right? That's what he was doing?---Potentially, yep.

He was campaigning in effect, is that right, for the interests of what you call the business community, is that right? That's as you saw it?---What he saw it, yeah, that's how I interpret it, yeah.

10 At the very same time, he would necessarily then be against the interests of the constituents who held a different view to the business community, that right?---Absolutely, yep.

And as well as having that perhaps divided loyalty issue, it was the issue that he wasn't, he had no legal standing as an official of the council, is that right?---Yep, that's correct.

With no power to be trying to persuade them to use their, to exercise their public functions, is that right?---That's correct, yep.

20 Well, now looking back on those issues, it's apparent, I think, that this hadn't occurred to you, that he was in a position where there were real questions about whether he had any standing to be doing these things, is that right?---I saw him at the time as - - -

No. No, no. No, no. Just stay with me.---Oh, sorry, yep. Okay.

30 Did it or did it not occur to you that there were certain issues or problems associated with what he was setting out to do, as you saw it?---The key problem at the time, I felt, was just it felt intrusive and the words I've used, you know, especially enthusiastic. You know, I know other councillors have used a "barrage". I wouldn't say I experienced as a barrage. I didn't see it as improper that he, as the state MP, who had strong experience in planning, could be an adviser, as such, to us.

You used the word "intrusive".---Yeah.

Intrusive in what sense was it, did you see it?---Well, it was, I remember it was just unusual at the time that the - - -

40 No, what did you mean when you used the word "intrusive"?---I think what I meant was that we'd be going about our day-to-day lives and we'd get quite regular, unusually regular and consistent communications.

Did you mean to suggest he was being intrusive? That is, Mr Sidoti. ---Yeah, that's right, yeah.

Intrusive in what sense? In relation to what?---Probably more at a, just a personal level. I just remember that it was unusual that, his level of communication.

Well, now looking back on what you've been talking about here, that on the one hand he's in effect supporting one group of constituents but not the others, given as I think you now see it, that he had no standing to be able to tell councillors or to even influence them to do what you saw he seemed to be doing, do you now see problems?---Well, absolutely. I certainly now see
10 problems, but - - -

But you didn't before?---I think at the time I thought - - -

No, no, hang on.---Oh, yeah, sorry, yeah.

But you didn't at the time, is that right?---I would say so, no. I think at the time - - -

That's all right, I just want to – go on. You want to, what did you want to
20 add?---I didn't think the nature of his advocacy was inappropriate, and to some extent I had sympathy for it, yep.

Well, what about trying to get Liberal councillors to get together to vote in a group? Is that okay?---No, it isn't. No, it isn't.

Well, now looking back on it, it doesn't seem as though that struck you as being improper, is that right? You didn't see it as improper.---I think at the time the nature of his communications – and again, I can't speak for the other councillors – they, we were taking them with a grain of salt to some
30 extent.

I see.---Well, okay, that's a suggestion, yep, we, we get that you're passionate about this issue and that's, and, you know, you have significant experience - - -

Let's not stray off the point, please.---Okay, go on.

You were taken to the last email in which he said, "Without you, I'm
40 fucked. Won't have the numbers." That's an indication that he wanted you, your vote, didn't it, to produce a certain outcome?---Yep, yep.

Do you see anything, any difficulty with him saying that to you and the other councillors?---Well, I certainly do now, but I think at the time - - -

Yes, what do you see wrong with it from your point of view?---I guess improper influence and suggesting we should vote as a bloc without exercising independent judgment.

Now, at the time when this email came through, had you realised that? That it was in some way improper to be doing, to be issuing or urging by way of request that you vote, otherwise he won't have the numbers?---Not entirely. I think for me I probably felt a little bit guilty that I may not make this meeting, and what seemed like an important decision for the constituents.

I'll put it again. Did you at the time see anything wrong with what he was doing in trying to canvass your votes? That is, you and the other Liberal councillors.---Um - - -

10

Well, did you or didn't you?---I thought it was a reasonable part of being the state MP that he would discuss matters of importance that come up at council.

No, listen, listen, stop avoiding my question, please.---Yep.

Listen to it again. I'll put it a third time, okay?---Yep.

20

This is not being critical of you. I just simply want you to focus on the point.---Yep.

When he said in the email, "Without you I'm fucked. Won't have the numbers," did it occur to you at the time there was anything wrong with him saying that to you and the other councillors or not?---No, I didn't, no.

All right. That's all I wanted to know.---Yep.

Thank you. Yes, Mr Ranken.

30

MR RANKEN: So you said a moment ago that you felt guilty that you might not be able to make that meeting, correct?---Yep, yep.

And in fact was it not the case that you rearranged things so that you could make the meeting?---Yeah, I think so, yeah.

And did in fact attend the meeting, correct?---I think so, yeah.

40

Because Mr Sidoti had implored upon you to do so, correct?---Yeah, to some extent. Made me feel like, okay, well, this is obviously quite important.

Well, just going back to page 751, the chain of emails. Do you see the top email he has said, "Please reconsider. You know how important this is." You see that?---Yep, yep.

And if we go to 753, we see a subsequent later response there, "Okay, might have to reschedule, is doable." Do you see that? That's from you, correct? ---Yep, yep.

And if we could go to 755, you can see that he's thanked you and that he really appreciates it. Do you see?---Yep, yep.

Now, at the meeting of the council on 20 October, 2015, there was a report that had been prepared by council staff that dealt with the exhibition outcomes report that had been prepared by Studio GL. I won't take you to the exhibition outcomes report itself, but if I could just briefly touch upon a couple of matters in the council staff report. Firstly, if we could go to page 933, do you see there that's the first page of the report that was prepared by Ms Ferguson for the purpose of the 20 October, 2015 council meeting, and it refers to the fact that the revised planning controls for the Five Dock Town Centre were publicly exhibited in June and July of 2015. Do you see that?---Yep, yep.

And that there were 389 submissions that had been received, do you see that?---Yep, yep.

And the primary issue that was raised in the submissions related to the proposed eight-storey height limit and the impact of this height on the public and private domain.---Yep, yep.

So that's the overwhelming bulk of submissions, and I want to suggest to you, if we go to page 934, you may see that under the heading of Building Height, do you see that heading about two thirds of the way down the page?---Yep, yep, yep.

The vast majority of submissions commented that they did not support increasing the height, the building height from four storeys to eight storeys, and that was 94 per cent of submissions.---Sure, yep.

Do you see that?---Yep.

And if we could also then go to page 938, on the particular issue concerning rezoning of the western side of Waterview Street between Barnstaple Road and Second Avenue, we can see that's dealt with here under the heading Land Between Second Avenue and Barnstaple Road, do you see that? ---Yeah, I see it, yep.

You might wish to just read those few paragraphs to yourself.---Yep, yep.

What I want to suggest to you is that effectively what council staff were doing were noting and endorsing the lack of support in Studio GL's report for any rezoning of the Waterview Street site and observing that the area was further away from the core of the centre, and that there were no public benefits arising from its rezoning. Do you agree with that?---Sure, yep.

So this was yet another occasion on which this issue about the rezoning of that block had been considered by the experts and council following submissions by the public. Correct?---Yep, yep.

And ultimately rejected. Do you see that?---Yep, yep.

10 And then if we go to page 939, just dealing effectively with recommendations 1 through to the 3 – this is the council’s staff recommendations – I want to suggest that effectively what the council staff were recommending was that council endorse the planning proposal for finalisation. Do you agree with that?---Yep, sure, yep.

And to make the LEP and approve the draft DCP.---Yep.

So and if that step was taken or was to be taken by council on 20 October, 2015, then that would put an end to this whole question of rezoning, correct?---Yep, yep.

20 And that would be the end of it. It would just go – the matter could proceed to finalisation of the LEP and the DCP, correct?---Yep.

Now, when we get to the meeting of 20 October, 2015, what we see – this is at page 944. We can see that the matter was discussed or commenced consideration at 6.15pm when Councillors Fasanella and Megna declared their pecuniary interests and left the room. Do you see that?---Yep, yep.

And then there is a list of a number of persons who addressed the meeting, including a Helena Miller from MG Planning Pty Ltd, correct?---Yep, yep.

30 I want to suggest to you that she was the planner representing Deveme Pty Ltd and Anderlis Pty Ltd.---Okay, yep.

And you can see that Ms McCaffrey proposed, and you seconded, a resolution for the matter to be deferred pending the preparation of an addendum report setting out in tabular format the advantages and disadvantages of the alternative max height options presented in the consultant’s exhibition outcomes report. Do you see that?---Okay, yep.

40 And what was to be considered really, or what was to be done by council staff as a result of that resolution, was that the Studio GL’s consideration of advantages and disadvantages about various maximum height options were to be presented to councillors in a table format, correct?---Yep, sure.

It was no part of that resolution that there would be consideration of the issue of rezoning from B4 mixed-use – from R3 residential use to B4 mixed-use, correct?---Okay, yep.

So the matter was then to come back though, was it not, on 3 November, 2015?---Sure, okay. Yep, yep.

And do you recall whether or not there was in fact, in the interim, a councillor workshop at which there were discussions about the recommendations and possibly about the information that was being presented in the tabular format or you don't have a recollection?---No, I can't remember.

10 Just bear with me one moment. Now, I just want to deal with MG Planning briefly, which was the planners who represented Deveme Pty Ltd and Anderlis Pty Ltd as the owners of 120 Great North Road and 2 Second Avenue. You understood that those particular properties were within that block, correct?---Sure, yep.

And MG Planning were not representing anybody who had interests in other areas within the vicinity, either within the area of the Five Dock Town Centre Study or within close proximity of that area?---Yeah. I don't think so, no.

20 And so could we then go to page 766? Do you see this is an email from Mr Sidoti addressed to you and your fellow councillors who were able to vote on the Five Dock Town Centre LEP? Do you see that?---Yep, yep.

And this is dated 19 October, 2015. Do you see that?---Yep, yep. I see the email, yep.

And that is the day before the matter was to be dealt with by the council on 20 October.---Okay, yep.

30 And Mr Sidoti has referred to, "A one-pager that may help. Cheers." Do you see that?---(No Audible Reply)

And then if we could go to the next page, you will see that – 767, and then over to the next page, 769 – that what Mr Sidoti in fact sent through was a little bit more than a page, it was two pages, correct?---Okay, yep.

40 And can you see that document appears to have been, if we go from the header and the footer of the document, it appears to have been produced by MG Planning?---Yep, yep. I don't remember the document but I can certainly see it in front of me.

You don't recall it?---I don't, I don't remember it, no.

But you accept that it was sent to you?---Yeah, it looks like it was, yeah.

And that you see that it's requesting an amendment to the draft LEP to controls to include not only that part of the land on the western side of

Waterview Street between Second Avenue and Barnstaple Road but also an area on the other side of Great North Road and the other side of the business centre, sorry, the town centre altogether, being on the eastern side of West Street to the south of Henry Street. Do you see that?---Sure. Yeah, I can see it.

And to your knowledge nobody had raised that as an issue for consideration, or certainly MG Planning had not raised that as an issue previously. Correct?---It didn't sound familiar, no.

10

And had Mr Sidoti ever spoken about constituents in respect of that?---Not that I remember.

The only constituents that Mr Sidoti ever indicated to you he was representing were constituents who had an interest in relation to what was happening on that block of Waterview Street between Barnstaple Road and Second Avenue. Correct?---I believe so, I believe so, yeah.

20

So yet here he is forwarding to you this one-pager with some suggested inclusion of not just that block but another block to be part of the B4 mixed-use zone, with some key reasons Do you see that?---Yeah, yeah.

And then over the page there's a recommendation, "It is recommended that council amend the proposed LEP to include the subject land within the B4 zone." Do you see that?---Yeah, yeah.

30

So did you see this or perceive this as effectively Mr Sidoti suggesting to you and your fellow Liberal councillors a recommendation that the three of you should make or seek to pass through council at the meeting?---If we did I don't think I would have taken it. I certainly wouldn't take it at face value. I saw it as part of his broad communications regarding this issue which we kind of, we looked at and sort of went, okay, thanks.

Was there not any part of you that was concerned about the fact that there was suddenly an additional site that was being suggested by Mr Sidoti? ---Possibly, but I don't, I don't remember that occurring to me at the time.

40

Is that because the focus of Mr Sidoti's representations when he spoke to you about it or communicated with you about the Five Dock Town Centre Study was always squarely upon that block of Waterview Street?---I think so, I think so.

Now, as I said, the matter when it came before council on 20 October was deferred on the motion that you seconded but Ms McCaffrey had proposed, and then the matter was to come back before the council on 3 November, 2015, so two weeks thereafter. Correct?---Yep, essentially.

And is this the situation, and presumably as one of the councillors who was involved in the proposing and seconding of the motion you had a particular interest in what would happen as a result of that motion. Correct?---Sure, yeah, absolutely.

So is this the situation, that you expected that council would go away, council staff that is would go away and they would prepare the information in a table format and you would be able to consider it and then make the final decision about the finalisation of the planning proposal? Is that - - -?
10 ---Look, the information that I may have received from Sidoti, I would have always though, okay, well, this is going to go through a process, I can speak to my councillors, I'm going to be partially influenced by senior councillors and then council staff, Labor councillors (not transcribable) so I think all the information I was getting, I thought, okay, thank you, but in terms of where it might go, I knew it was going to have layers from there on that would potentially direct me more appropriately, if you like.

So, well, was this the situation, that you just, as at 20 October you were concerned to simply defer making that decision because you couldn't see
20 any justification for the rezoning of that block, correct?---Probably, yeah, probably.

But you were aware that Mr Sidoti had a particular concern about the rezoning of that block.---I think so. I think that sounds right, yeah.

So you were happy to see the matter deferred because that at least meant that you hadn't made a decision that was contrary to what Mr Sidoti was pressing for?---I couldn't tell you why it occurred then, but I mean that's a, that's a possibility, but I certainly don't remember the exact circumstance of
30 why it was deferred.

Do you say that – I mean did either of the other councillors, that is Ms McCaffrey or Ms Cestar, express to you any senses or any views about what they thought about Mr Sidoti's representations to them?---Not in – only in the sense that we felt it was more than we might have wanted, he was especially enthusiastic, this kind of – and you know, I know they used the term barrage. So it's more of the regularity and I guess the nature of it, but certainly not in the form of this was inappropriate advocacy or this has some overlap with his private interests.
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But that's in terms of your understanding, correct?---Yeah, yeah, yeah, yeah.

But this is the position, is it not, that each time this matter came up before the council, you received a number of emails or other communications from Mr Sidoti, correct?---It's possible, yeah.

And the frequency of that communication would increase in its intensity just prior to the matter coming before the council.---Yeah, I think that's fair to say.

Is that how it was?---I think that's fair to say, yeah.

So increased intensity in terms of how regularly, like how - - -?---Yep.

One after the other, correct?---Yep, that's correct.

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And so the number of communications, the short period of time within which a large number of communications would occur.---Yeah, that's correct. I think that's fair.

And the various forms of communication.---Yeah, I think that's fair.

Email, texts, calls. Was that how it was?---Yeah, yeah, I think that's, I think that's fair to say, yeah.

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Okay. With respect, would you agree that does sound like a barrage of communications?---That's, that's not an unreasonable word, yep.

So your fellow councillors' characterisation as it being a barrage is not one that is misleading in any way.---I don't think so, no.

THE COMMISSIONER: Mr Ranken - - -

MR RANKEN: Sorry, I hadn't noticed the time.

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THE COMMISSIONER: I'll let you go through until 4.15 and then I think we'll need to think about adjourning.

MR RANKEN: Yes.

THE COMMISSIONER: So, Dr Ahmed, it may be – it's looking likely that you will need to return tomorrow.---Of course, yep.

Probably earlier the better, maybe for you as well as for us.---Yeah, yeah, I'd be open to as early as you'd like, yep.

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All right. We'll talk about that in a moment. You go on.

MR RANKEN: Yes, thank you, Commissioner. So just moving to 3 November of 2015, I just wanted to take you to some email correspondence between yourself and your fellow Liberal councillors McCaffrey and Cestar. Could we go to page 965? I just want to draw your attention to this chain of emails between yourself and the other councillors. Firstly, at the bottom of

that page, can you see there's an email from yourself on 1 November?
---Yep, yep, yep.

So this is just two days before the meeting, correct?---Yep.

So you would have had the report that was prepared by council staff in advance of the meeting, correct, by this stage?---Yep, I would imagine so, yep.

10 And that would have included the additional information that had been requested as a result of the resolution on 20 October, 2015, being that comparison, the advantages and disadvantages in a table format.---I, I would imagine so, yep.

And you said, "Can we just have a clear plan for Tuesday re Five Dock? I am firmly in support of eight storeys." Okay? Now, that obviously was a reference, was it not, to the fact that there had been, the vast majority of submissions that had been received by council as a result of the public exhibition in July of 2015 – that is, 94 per cent of those submissions – had
20 been against the idea of increasing up to a maximum of eight storeys, correct?---Possibly, yep. Possibly.

I've taken you to that - - -?---Yeah, yeah.

- - - where that was referred to in the report for 20 October.---Yep, yep, yep.

And yet you're here in this email suggesting that, well, notwithstanding what those submissions say, that you are firmly in support of eight storeys. Are you able to explain why that was in the face of what appeared to be the
30 clear support of the community for a contrary position?---Again, without remembering exactly, but definitely my broader views, while being on council, was sometimes I did think the decisions were, you know, (not transcribable) it's quite conservative, and there were even some submissions from council saying, well, the market won't favour this. So there was an ideological component to this, I would say. Where I thought, well, if we're going to err on one side, I think potentially there is room for possibly erring slightly on the more development side. I'd already alluded that, I'd already got a sense in most inner city councils, you ask the locals if they want more development, more often than not it will come back as a no. But whether,
40 so I think there was an ideological component to my thoughts there.

An ideological component. Was any of it informed by discussions you had with Mr Sidoti?---Yeah, I'm, he was certainly an influence, there's no question, yeah.

So Mr Sidoti had expressed a view to you that notwithstanding what's in those reports and those submissions from the community, eight storeys is the go?---Well, to be honest, I couldn't tell you the number. But he was

certainly an influence, I certainly saw him as a figure who made me think, one, have we underrepresented again, say, commercial interests. And, and he was an influence in that. So I, there was a part of me that had my own views that perhaps we were being too conservative regarding development, that I don't think we can accept local submissions as absolute gospel, that that was the be all and end all. And he was certainly an influence. Certainly not the be all and end all of the influence, but he was a influence.

10 THE COMMISSIONER: And when you say that, was he an influence on you coming to the view you expressed in the email about eight storeys? ---I'm sure he was a influence, yeah. I don't think he was the definitive influence, but he was certainly a influence.

But he was an influence. An influence by him in what respect, or how? ---Again, him as the state MP representing constituents. So I thought me as a councillor, and as a Liberal Party councillor, it was my job to potentially represent commercial and small business interests to, to some extent, to err on that side, and his advocacy represented a view that we perhaps didn't do that adequately. That's how I interpreted it.

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And was the fact that he was the local member and speaking as such an influence or - - -?---Oh, absolutely, that was the, that was the absolute, that was the most significant influence, no question.

MR RANKEN: Now, just to deal with this email chain, so we can close off on this aspect of the matter, do you see that Ms McCaffrey has responded to you to say – oh, well, firstly, Ms Cestar has asked if she could call you, “Can I call you, Tanveer?” And then Ms McCaffrey has said, “Do we have an option to meet beforehand? I have another motion which may solve

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problems.” Do you see that?---Yep, yep. Now that suggests that Ms McCaffrey at that time had a motion that she was seeking to raise with you and Ms Cestar that might solve some problems that were perceived, there were perceived to be, correct?---Yeah, yep.

Now, given the evidence that you've given about the intensity of communications that you were receiving from Mr Sidoti whenever these sorts of matters came up, this matter came up before council, do you have a recollection as to when you received this email that you understood Ms McCaffrey by the reference to problems to be referring to the problem of Mr Sidoti being on your backs?---Look, to some extent it was more his view, more his viewpoint. So I, to some extent I'm looking at that – again, me with a certain level of inexperience, I'd take what Mr Sidoti said, but then I have to look towards my councillors and council. So an email like that is, probably concurs with my position, where he, she's basically giving it a degree of legitimacy. That like, okay, well, maybe John has a point here, but there, and there's a room for a compromise. And that's how I would have interpreted that, that email. That, okay, look, we're hardly going to,

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you know, cave, we, we're hardly going to cave into everything he wants, but perhaps he has a point, and maybe we can reach some sort of compromise here.

All right, so this was effectively then a way of assuaging Mr Sidoti in terms of what he was trying to press you for without necessarily giving in completely and making a decision that reflected that which he was pushing for. That is, we'll look at it again.---Yeah, yeah, I think that's fair to say.

10 So is it likely then that the proposed resolution that Ms McCaffrey had – or is this your recollection – was one that sought to revisit the issue of the rezoning of that part of Waterview Street?---Yeah, I think that's fair to say. I looked at that email, and as I said, one, it gave a degree of legitimacy to Mr Sidoti's advocacy, but also I knew that then then that would go to council, and if it was completely illegitimate, council would dismiss it.

When you say it gave a degree of legitimacy to Mr Sidoti's advocacy, do you mean to say that it enabled his advocacy?---I wouldn't necessarily use that word, but it made me think of Helen, of her seniority, and I was
20 certainly – because this was unusual, these were unusual interactions, and I hadn't had this experience. Like, I didn't actually have a set of experience to determine how normal or abnormal this was. So in my mind, I was going, okay, well, this is, what's going on here? So Helen, as being the most senior councillor at the time, because Councillor Megna was, wasn't allowed to be involved, so for me that was an important signal, that there's, okay, this isn't completely ridiculous, whereas if they came back and said, look, just, just shut up shop, we're not, you know, just don't even engage, then I, I'd probably be partially led by that. But that gave a degree of
30 legitimacy to what was going on and I thought, okay, let's see how this plays out and we'll see what council says.

Now, then, at the meeting on 3 November, 2015, I just want to take you to the resolution that was passed on that occasion. If we could go to page 990. We can see that's the page from the minutes that deals with the matter. And do you see that firstly there's a part A, do you see that, to the resolution?
---Yep, yep.

And we can go over – I want to suggest that that part A effectively does reflect the recommendations of the council staff. But if we go over to part
40 B, which is on page 992, do you see there's suddenly an additional aspect to it?---Yep, yep.

Which is that “A separate report be prepared to investigate the zoning, heritage, development controls for” and then there are three sites mentioned, correct?---Okay, yep.

Now, up to this point, as I understand your evidence, the only site that Mr Sidoti had shown any interest in was the land between Second Avenue and

Barnstaple Road on the western side of Waterview Street, correct?---Yeah, I think that's - - -

But here we see there were two additional sites, correct?---Yep, yep.

Now, is this the situation? Were you aware that those two are additional sites? Or was it in your mind that those two additional sites had been included as part of this resolution in order to make it appear as if the matter wasn't all about the Waterview Street site but that there were other sites that were being considered as well?---That's not how I knew about it, no.

Now, do you have an understanding as to who it was that proposed this particular resolution, this part to the resolution?---I can't actually remember at the time, but I mean now you obviously link it to the email that Helen sent, et cetera, and the reality is, you know, I've heard previous submissions. But at the time, I would have taken that, again, a degree of legitimacy. Here's council presenting us with options, which then makes me think, well, okay, well, what John was saying wasn't completely off the wall. Here we are getting options from council staff who, as we've discussed, I respect. And so suddenly this was like, oh, okay, this is being presented as an option.

Well, do you see in relation to that resolution that, whilst you voted in favour of it – together with Councillors Kenzler, McCaffrey, O'Connell and Tsirekas – Councillor Cestar, for one, voted against.---Yeah, yeah, yeah.

You see that?---Yep.

As did Councillor Tyrrell.---That's right, yep.

Now, could you just bring up – and I note the time, Commissioner, but if I could just deal with one matter.

THE COMMISSIONER: Yes.

MR RANKEN: If we could go to page 969. Now, this is an email chain between – well, the first of the emails involves an email sent from Ms Cestar to you, Mr Megna and also, I would suggest, Ms McCaffrey.---Yep, yep.

That's her work email address. And do you see that the subject is page 10 of report? Do you see that?---Yep, yep, yep, yep.

What I want to suggest to you is that that effectively is a reference to the fact that what we see in the body of that email is an extract taken from page 10 of the report that had been prepared by council staff for the purposes of the meeting on 3 November, 2015. Do you accept that's likely?---That's correct, yep. Yep, yep.

And do you see that what she has indicated – well, she’s simply just quoted. Ms Cestar has just taken out and quote verbatim that “The part of Waterview Street between Barnstaple Road and Second Avenue is further away from the core of the centre and there are no significant public benefits arising from its rezoning. The expansion of the B4 mixed-use zone to land between Barnstaple Road and Second Avenue is not supported.” Correct?
---Yep, yep.

10 Now, what I want to suggest to you is that what Ms Cestar was indicating was, well, council staff say there’s just no merit in this.---Sure, yep.

No significant public benefit, correct?---Yep, that’s what she’s alluding to, yep.

Now, note that there is no reference to either of the other areas of land that were ultimately the subject of part B of the resolution.---Yep, yep.

20 She’s dealing squarely with the area of land that Mr Sidoti had an interest in.---Okay, yeah.

Correct?---Yep.

And Ms McCaffrey’s response is, “Well, we need to make it supported. I’ll talk to you about it. When is the best (not transcribable) and number to ring you on.” See that?---Did I receive that email?

No.---No, I didn’t, no.

30 And I’m not suggesting that you received that email.---Yeah, yeah, yeah.

I’m suggesting that that was Ms McCaffrey’s response.---Yeah.

And do you see that Ms Cestar’s response to Ms McCaffrey was, “Well, we need to argue significant public benefit, what is the significant public benefit for any of it?” Do you see that?---Yeah, yeah, I mean they’re curious emails, yeah.

40 What I want to suggest to you is that Ms Cestar had real doubts about any public benefit arising in relation to the rezoning that was being pushed by Mr Sidoti. Correct?---Yeah, I think that’s fair to say, yeah, I think that that was her view.

And she ultimately expressed that view by voting against the resolution. Correct?---Yeah.

Commissioner, that might be a convenient time.

THE COMMISSIONER: Yes, very well. Dr Ahmed, we're going to resume tomorrow at 10 o'clock. If you'd be here then we'll get you away as soon as we can - -?---Thank you very much.

- - - after 10.00, but maybe so I think before lunch I'd imagine we'll get you away.---No, that's all right. Thank you very much.

MR RANKEN: I would expect so, Commissioner.---Thank you.

10 THE COMMISSIONER: So I'll adjourn.

THE WITNESS STOOD DOWN [4.26pm]

AT 4.26PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.26pm]