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PUBLIC
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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 20 APRIL, 2021

AT 2.00PM

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THE COMMISSIONER: Mr Ranken.

MR RANKEN: Thank you, Commissioner. Now, I want to move on to the property at 124 Great North Road. Your parents through Deveme Pty Ltd acquired that property in 2017. Is that correct?---Correct.

10 And were you aware of that transaction occurring?---Yes.

At the time?---Yes.

And was that property introduced to your parents through Mr Georges as well?---That's correct.

And on that occasion was it a situation where on behalf of your parents you approached Mr Georges suggesting or seeing whether or not the owner may be interested in selling to your parents?---Yes.

20

And so you've had some discussions then obviously over a period just dealing with all those acquisitions by your parents in the Five Dock area from 2014 through to 2017 about acquiring properties in the Five Dock area.---There were discussions, yes.

Yes, with your parents, between you and your parents.---Oh, yeah, oh, definitely. Sorry.

30

And this idea to acquire properties within that one block of the Five Dock area, where did it come from?---I, I don't think there was – it wasn't a plan or anything like that, it was just mum and dad had sold another property and had a lot of money in the bank and were living off the interest that was pretty poor, and they made a decision then to, to put money back into property because it was just losing value, and it was natural because they owned a parcel there, the largest parcel that they've had since 1992.

Son 120 Great North Road was the largest parcel of land they'd owned since 1992. Is that correct?---640 square metres, yes.

40

Apart from that block of land, is this the case, that the only other land that they owned over that period, excluding their house obviously, was the property at Andrew Street, West Ryde?---Correct.

And that's the property you were referring to that was sold by your parents. Correct?---Correct.

And is it your evidence that the decision to start acquiring properties in the Five Dock area was as a result of the sale of that property, your parents

having extra money in the bank, as it were, that was simply gaining interest and that it might be better used to purchase properties in the same block as the existing property at 120 Great North Road?---Yes. The initial intention was to develop 120 on its own and they were prepared to do that.

But do you say that those discussions about that plan about purchasing other properties on that block, only occurred after they'd sold the property in West Ryde?---No, I think those discussions were ongoing before and after.

10 So, well, a moment ago you told us that the idea for purchasing properties within that block at Five Dock arose because your parents had sold a property and they had a lot of money in the bank that was simply gaining interest and so it made sense to purchase other properties in the same block as 120 Great North Road, which was the largest block they had owned since 1992. Correct?---Correct.

20 So it follows then that the suggestion in your answer to my question was that the idea about purchasing additional properties in that block only arose after they had sold the property in West Ryde.---It didn't only arise from that. It arose from the fact that if they did it they would have had the money to construct on 120 anyway, so if it happened, it happened, if it didn't, it didn't.

But I'm not asking about the decision to develop 120, I'm asking about the decision to acquire other properties on that block. Do you understand?
---Yeah, I do. I'm not sure that was the determining factor.

30 Well, then why did you refer to that as being the impetus for the decision to acquire these other properties?---Because that would be the financing of any construction there at 120 and anywhere else.

And I didn't ask – my original question wasn't directed to the development of 120, it was directed to the acquisition of other properties in that block at Five Dock.---I can't answer that, I don't - - -

40 Well, you had discussions with your parents over this period, there must have been some discussion about what the intention was or what was prompting them in their retirement to suddenly go on a spree of acquiring properties in that same block.---The, the, the impetus of all that was the, the potential loss of their tenants. The tenant hadn't given notice but it was pretty well-known they were struggling to pay the rent and so something would have had to have been done, either re-rent out or look at developing the property, and I think that was the plan, to redevelop the property.

So again I did not ask you about redeveloping the property, I asked you about the acquisition of other properties in the Waterview Street block.---In the Waterview Street block?

Yes.

MR NEIL: Well, Commissioner, that wasn't what the questions were about, it was about Great North Road.

MR RANKEN: No, it was about – sorry, it was about that block in Five Dock, which includes what I've been referring to as the Waterview Street site in all the questions of the other witnesses.---I'm referring to Great North Road. Sorry. With regards to the Waterview Street block, I don't think mum and dad had any interest there other than the 2 Second Avenue.

So let me get this straight then. The decision to acquire the other properties on Great North Road was a decision made with a view to possibly redeveloping that site.---Redeveloping 120, yes.

Not just 120, but the other properties that were being acquired, correct? ---122, which properties are we referring to?

122 and 124.---Yes.

Let's just deal with that.---Yes.

And do you say that 120 – that 2 Second Avenue was never a part of that strategy? That is, as strategy of acquiring properties with a view to developing them.---Yes.

2 Second Avenue had nothing to do with that whatsoever?---Nah.

Now, you said – and do you now say that that strategy was one that was set upon prior to your parents selling the property at West Ryde?---Sorry, Mr Ranken, can you say that one more time?

Well, the strategy, the strategy of acquiring other properties along Great North Road was a strategy with a view to developing 120 Great North Road, correct?---You could say that, yes.

And also 122 and 124, ultimately, correct?---Yeah. I don't think it's a strategy, I just think it was a - - -

Well, that was the idea behind it, wasn't?---Yeah. Correct.

Okay, and that's a strategy.---Okay.

An idea that one is trying to put into action, correct?---Yeah.

So there was a strategy about developing the properties along Great North Road.---Yes.

And that was the idea behind the purchases of those properties, correct?
---Ideally, yes.

And you were a part of that strategy insofar as you had some discussions with Mr Georges in relation to the acquisition of 120 Great North Road.
---Yes.

Whether or not that was an approach by you or an approach by him.---Yes.

10 And at least insofar as 124 Great North Road is concerned, you were also – you were the person who approached Mr Georges about the purchase of that property.---That was discussed when, when they purchased 122.

So you discussed with Mr Georges also the possibility of purchasing 124 at that time?---At that time. In the presence of my mother and father.

But that was you who discussed it with Mr Georges.---And my mother and father.

20 So whether or not it was in your presence of your mother and father and your mother and father were also participating in the discussion, you were a part of that discussion with Mr - - -?---Yes.

So you were a part of the strategy to acquire properties with a view to developing those properties on Great North Road.---Part of the strategy, yes.

Yes, you were involved in that, correct?---Yes.

30 And you were also involved in the engagement of Mr Kudinar and his firm in respect of the designs for the development, as part of the DA that was lodged in 2019.---Yes.

So, and you had been a part of strategy with your parents, had you not, from its inception. As in from when the, from the time that your parents first decided upon doing it.---No, I think that's, that's not entirely correct. My, my parents have always wanted to develop property. They've developed property all their lives.

40 Well, they came to you at some point, so that you would play the roles that we've already outlined.---Yes.

And at that point, they must have divulged to you what it was that they were hoping to do.---Oh, yes. Definitely.

Yes, so you were – so that must have been, must it not, at the very least prior to the purchase of 122 Great North Road.---Yes. I'd agree with that.

THE COMMISSIONER: Your parents retired in 2007?---Eight.

Eight. 2008. So these properties were purchased, 120, sorry, 122 in 2015, and the other one, 124, in 2017.---Correct.

Some years after they had retired.---Well, retired from, from 80-hour weeks, yes.

Well, retired from work.---No. Mum can't retire.

10 Was she engaged in any income-earning work activity after 2007?---No, I, oh, this, this was her activity. This was her pastime.

Please.---Not paid, no.

Answer my – do you not want to answer my question?---I do want to answer your question.

20 Did your mother, after she retired in 2007 with your father, then take up some income-earning activity whether as an employee or in any other capacity?---No.

Thank you.

MR RANKEN: And do you say though that at least as at 1 May, 2015, when Deveve Pty Ltd acquired 122 Great North Road, you were aware of your parents' intentions of developing the Great North Road properties? ---Yes.

30 But do you also say that that intention did not extend to any intention to include 2 Second Avenue as part of any such development?---Yes.

Are you sure about that?---It was never their intention. It was included afterwards but it was never intended.

When you say it was included afterwards, that was at the point of lodging the DA in 2019. Is that what you say?---Correct.

40 And only included because you say that the council suggested that it should be included, there should be some duplex that was developed on the site or something?---Or anything on the site, yes.

And that that was some requirement that the council only raised with you or your parents in 2019.---With the architect.

Or with the architect - - -?---Correct.

- - - in 2019?---Correct. It might have been '18. It was a pre-lodgement so it's prior to the DA but just prior.

But as part of that process?---Yes.

And you had not engaged the architects to come up with any designs that would incorporate 2 Second Avenue prior to that time?---I haven't engaged but it may have happened as part of the course of the DA.

10 As part of the course of the DA. At what point do you think it might have happened, aside from the point involving the council requesting it, do you think that 2 Second Avenue may have been under contemplation?---No, I just think when they design they look at the block as a whole.

So - - -?---So perhaps there could be block diagrams or shadow diagrams or something of those lines but - - -

20 When you talk about the block as a whole, do you mean the entirety of that block that is bound by Great North Road to the west, Waterview Street to the east, Second Avenue to the south and Barnstaple Road to the north? ---Within those two blocks. Perhaps not the whole lot. They may have. They may not have.

They may have, but might they have just included designs in respect of 122 and 120 and 2 Second Avenue?---120, 100 and - - -

22 and 2 Second Avenue.---It's possible. I'm not sure.

30 So that would suggest that prior to the, if that occurred that would suggest that prior to the acquisition of 124 Great North Road there were in contemplation the possibility of developing 2 Second Avenue as part of the development of 120 Great North Road.---I don't think it was ever part of, that was ever, that was always about rent protection. The house was purchased to protect the rent of 120. That's all that was about.

Are you sure about that, that after - - -?---Oh, that's the best of my knowledge, yes.

40 That may have been the impetus at the time it was acquired, that property, but did the decision as to what to do with the property change after its acquisition?---Not that I'm aware of.

Well, you were involved in discussions with your parents about what they wanted to do with these properties.---Yes.

Are you saying that you didn't have any discussions with them about the possibility of including 2 Second Avenue in the development of the properties?---Yeah, I don't, I, I don't think so other than potentially a driveway widening, that's all.

And do you say that you were not part of the original decision to start acquiring properties with a view to developing 120 Great North Road?
---That was a family decision. I would have been part of it but it's a family decision, yes.

So is this the situation, your parents, who you knew had always had or dabbled in a little bit of property development from time to time. Correct?
---Property investment I'd say.

10 Well, property investment.---Yeah.

But you knew were interested at some point in time in developing 120 Great North Road.---Me?

Yes, you were aware that they had some interest.---Yes.

A long-standing interest. Correct?---Yes, yes.

20 But there would have been some family meeting that you attended, or gathering where you discussed the property at 120 Great North Road?---We discussed it, yeah, from time to time.

And there was a family decision or a family discussion about the possibility of developing the site.---Yes.

And that discussion included discussion about acquiring other properties within that block, that might be included in the development.---Yes.

30 And that was a family decision in which you were involved.---Well, I was involved in it, yes.

And just in relation to the property at West Ryde, that was a property at Andrew Street in West Ryde, was it not?---Yes.

And was it acquired initially by your parents' company Deveme Pty Ltd in about 2002?---Oh, I'm, I'm not sure which, which entity that mum and dad bought it in.

40 When they acquired that property, they didn't do anything to develop the property?---They did.

Oh, they did.---They did.

So they acquired the property, and did they then develop it into a number of villas?---Yeah, they, it was one house and then they demolished the house and built six villas.

Six villas. And then they sold that property, did they, in 2016?---Oh, I, I take it that's the date, yes. I'm not 100 per cent sure.

Well, were you aware of the price they paid for it when they purchased it in 2002?---I, I don't remember the price, to be honest with you.

And if I suggested the amount of \$1.3 million, would that sound about right?---Yes.

10 Do you recall the price at which the sold the property in West Ryde in 2016?---Between six and seven million.

THE COMMISSIONER: Sorry, how much?---Between six and seven million dollars.

MR RANKEN: So it was in fact \$6.86 million.---That sounds right.

20 And that property was held by Deveme Pty Ltd in its capacity as a trustee of the Sidoti Family Trust?---I'm not sure the set-up, how it was held and everything.

Are you aware, though, that as a result of the sale, obviously there was a significant capital gain that had been realised?---I'm aware of that now.

Are you saying you weren't aware of it at the time?---I don't recall ever being aware of it, nah.

30 Were you aware that part of that capital gain was distributed to beneficiaries including an amount of \$720,000 to your wife?---I only recall that as a part of the hearing. I don't recall it any other time.

You don't recall it ever being brought to your attention that there was this significant income that your wife needed to account for, in her tax return? ---It may have, but I, I don't remember it, but I think I would have if it was to that sum of money.

If it was \$720,000, correct?---Yes.

40 And do you say that – well, do you accept that if you were aware that income such as that was recorded in her tax return, that that would be something that you would be required to disclose to parliament? Or to the Department of Premier and Cabinet, at least?---And that was in 2000 and - - -

For the year ending 2016.---Depending on the set-up now of the company.

Depending on the set-up of the company?---Yeah.

If it was a distribution to your wife - - -?---A distribution, yes. You would have to do that.

- - - as a beneficiary?---Yes.

10 And do you accept that you did not disclose to the Department of Premier and Cabinet or parliament the fact that your wife had received income in the amount of 720 – or, sorry, \$360,000 being that which was recorded in her tax return?---I'd agree with that. But the, the identity of the property was never hidden. There was declarations of 13 Andrew Street, West Ryde.

I didn't say about the property. I said about the income received as a result of the sale.---Sure. The income received that I didn't receive, yes.

Not your income. It was income that was recorded in the tax return of your wife.---Yeah, I know. But I hadn't received it.

Correct?---Correct.

20 And you knew that you were required to provide or disclose the details of any income that was received by your spouse?---Yes.

And that included any income that was received by way of distribution from a trust.---Yes.

Whether or not that was received by way of cash in the bank or otherwise. ---Well, I've realised that now, yes.

30 But is your evidence that you knew it should have been disclosed, but because it wasn't actually physically received, you didn't disclose it? ---No.

Is your evidence that you actually didn't even know that the income had been recorded?---Correct. And if, if it had been, I still wouldn't have known because I didn't know the set-up. If I knew about the trust and the beneficiary then it would have been an obligation to disclose it.

40 Well, if you knew about the fact of the income there would have been an obligation to disclose it.---Correct.

Regardless of whether or not you knew it was through the Sidoti Family Trust or otherwise.---Correct.

Correct?---Correct.

THE COMMISSIONER: Why didn't you?---Because I didn't know I was receiving income.

But you knew that your wife had put in a tax return - - -?---Yes.

- - - declaring the income by way of a distribution of \$360,000.---No, I wasn't aware of that and I - - -

What were you aware of?---That I've got a bank account that, a joint bank account of my wife and I know what's in, in that bank account and that's all we own, that's all we have, so there's - - -

10 Let's go back to square one. Your wife put in a tax return disclosing a distribution following the sale of the West Ryde property.---Yes.

And you understood that related to a capital gain which was attributed to her by way of that distribution on the sale of the West Ryde property.---Yes, I, I, yeah.

And that she was under an obligation to disclose it to the Tax Department and that she did.---Yes.

20 Well, knowing that she had to disclose it as income received by way of a distribution, which she did disclose, and as night follows day, you were also aware, as I understand your evidence, of the fact that she had declared that distribution which had been a benefit to her and therefore - - -?---Oh, well - - -

- - - it was classed as, properly classed as by law as the income of your spouse. Correct?

30 MR NEIL: Well, I object to that. The introduction of a legal proposition, Chairman, ought to be at least the subject of a separate question and not included in a multifaceted question.

THE COMMISSIONER: I think I can put it again without it, Mr Neil, because she wouldn't be paying it by way of a gift to the Australian Taxation Office, it was obviously under the law. But anyway, you knew your wife properly declared the distribution to the Tax Office.---No.

You didn't know?---No. That's, that would have been the accountant.

40 When did you find out that she had in fact disclosed that she had distribution from the sale, resulting from the sale of the West Ryde property?---I don't recall it. I don't recall distributions.

You do recall though your wife declared an income in a tax return in the amount of \$360,000, didn't you?---Well, I heard it today, yes.

So is this right. You've lived with your wife continually from two thousand and say fourteen to the present?---2014?

You've been man and wife living together over that period of time?---Yes.

2014 right through to 2021?---Yes, yes.

And the first time you heard that she had declared to the Tax Office a distribution consequent upon moneys received on the sale of West Ryde, was today. Is that what you're saying?---Well, in the last few weeks I've come across it when speaking to the accountant of recent, but I wasn't
10 aware of the 700,000, if you were to ask me six months ago, I wouldn't have said to you, you know, there's an arrangement in there to do your tax and I wasn't aware that it was being distributed to, to my wife.

MR RANKEN: What about the fact of having to declare the fact of your wife receiving any income?---Well, if I knew, I would.

Well, you understood your wife was putting in tax returns for the financial years that ended 30 June, 2015, 30 June, 2016, 30 June, 2017 and 30 June, 2018, didn't you?---Yes.

20

You knew your wife was not actually gainfully employed in those years. ---Correct.

So if she was putting in a tax return she must have been receiving income from somewhere.---Well, I didn't think of it that way. I thought it might have been - - -

Well, one doesn't put in a tax return if one doesn't receive income, do they?---Sure, but I wasn't thinking of it that way. I was thinking of it that it
30 must have been the set-up of mum and dad's arrangement and she may have had an obligation to sign things.

You must have appreciated - - -

THE COMMISSIONER: What do you mean by saying "I didn't think of it that way"? That is, your wife putting in tax returns for the years just mentioned, what do you mean you didn't think of it that way that she was declaring income in her tax returns over those years?---Well, there's no income. Because I've got a bank account. We've got a shared bank
40 account. That's, that's what I look at. I wasn't looking at anything else. I wasn't aware. I'm hardly ever there, you know, when the accountant comes. He leaves the documents. Sign the documents. Send the documents back.

Well, if she wasn't declaring income what was she declaring?---I would have thought it might have been some sort of obligation with companies that you had to sign.

What sort of obligation?---I don't know.

MR RANKEN: What company did you understand your wife to be an office holder in that would require her to sign documents relating to the tax affairs of that company?---I'm not sure. I'm not sure.

The only company she was involved in was Betternow Pty Ltd. Correct?
---Correct, but I'm not sure where that falls with everything else, yeah.

10 Well, you do know though that Betternow Pty Ltd was the trustee of the JAFS Investment Trust.---Yes, yes.

You were a director of that company as well. Correct?---Yes.

So you must have had some involvement in respect of the financial statements of that company, did you?---I don't look at them. This, as an MP you don't scratch your head. You haven't got time to do anything. This is on top of everything else.

20 THE COMMISSIONER: Mr Sidoti, just pause there.---Yeah.

Think about the question and answer it, would you.

MR RANKEN: Well, you were a director of Betternow Pty Ltd.---Yes.

And so was your wife.---Yes.

They were the only, that was the only company of which you were both directors at the time. Is that correct?---At what time?

30 This is going back to - - -?---'14 or '15.

Financial years ended 2015, 2016, 2017, 2018.---Yeah, I think so, yeah.

So you understood the kinds of things that your wife might be doing in respect of that company.---I never thought about it.

40 So is it your evidence that you simply did not appreciate that your wife was putting in an income tax return because she was receiving income?---I was never there when she was signing these things. I wasn't privy to it all.

So are you now saying that you weren't even aware she put in income tax returns. Is that what your evidence is now?---No. My evidence is that she, that the accountant would come around with documents to sign every year.

You understood that some of the documents included your wife's own personal income tax returns.---Well, one would think but I never thought of it.

Well, if your wife was not gainfully employed, then she must have been receiving income from somewhere.---Yeah. I wasn't aware of the income she was receiving.

But you must have been aware that she was receiving income.---But, no, I didn't even think about it.

You didn't even make the inquiry?---No, no.

10

Because you knew that you had to declare your wife's income or disclose your wife's income. Correct?---Well, I thought she was the housewife. That's why.

But you must have turned your mind to the issue of, oh, my wife's putting in an income tax return, does that mean she's received income that I might need to disclose to parliament?---I never turned my mind to it because I was working ridiculous hours.

20

So you didn't turn your mind to the possibility that there might be obligations of disclosure that you needed to attend to as part of your – in order to discharge your responsibilities in your roles as a parliamentary secretary and/or minister?---I didn't at the time, no.

THE COMMISSIONER: You realise though that the duty of disclosure is an extremely important duty by a member of parliament.---Yes.

And particularly a minister.---Yes, very much so.

30

Well, if it be the case that you're well aware that your wife was declaring income to the Tax Department over various years, and knowing how important disclosure of pecuniary interests is for ministers and for members of parliament, including spouses' income, why would you not have given that important matter your attention no matter how busy you were?---It should have been.

Okay.

40

MR RANKEN: And what about your attention to your own tax affairs? Now, Mr Zaccagnini would attend upon your wife and your parents at your parents' house each year to deal with tax returns, correct?---Yeah, if not there, would have, mum and dad would have come to our place.

And there was often times when you were not present when Mr Zaccagnini attended, correct?---Yes.

But documents would be left for you in respect of your own personal tax returns, correct?---Yes.

And you would check the information in those tax returns before you actually signed them and returned them to Mr Zaccagnini for lodgement?
---I'd sign them, and, and I would look at them briefly, but I wouldn't go into any detail.

So you wouldn't read them to assure yourself that the information that was recorded there was correct?---No, because the only form of income I had was my, my parliamentary wage, so there wasn't much to, to know about.

10

Well, you would need to check that that amount was correctly recorded, for one.---Oh, there was not much to check, because they take it out before you make it, so - - -

But you would want to check that the income tax return form that had been completed by your accountant accurately reflected your income.---Well, I probably should of, but I give all, all those to, to Tony, so he'd do it all for us.

20

So do you say that these are also documents that you don't really read, you just sign?---Sorry, I thought you were going to show me something.

I'm going to show you – but your tax returns, are they also documents you don't really read, you just sign?---Pretty much.

Are there any documents that you actually read before you sign?---I read all documents except for these ones.

30

And also other documents that you executed as a trustee - - -?---Yeah, I, I - - - of the Deveme Superannuation Fund?---Look, I, I thought that was all part of my arrangement when I worked for my parents.

So if we just could bring up in the disclosure brief page 2520, please, this is your individual tax return for the year ended 30 June, 2016. I just want to take you to firstly page 2521. You can see there's an indication of your total income or loss. If we could then move through to page 2522, do you see towards the bottom of that page, there's some details identifying your spouse as Sandra Sidoti? Do you see that?---Yes.

40

And if we then move to page 2523, do you see there there's a part of the tax return that details Spouse Income Review?---(No Audible Reply)

Do you see that? That's what's on the page?---Oh, the bottom, yes. Yes.

And that's for Spouse Income Review, and your spouse's total there is identified as \$360,001?---Yes.

And do you say that you weren't aware of this figure appearing in your tax return for the year ended 30 June, 2016 when you completed it and sent it back to Mr Zaccagnini for lodgement?---Yes, that sounds right.

Because you just didn't read it before you signed it.---Well, it didn't mean anything to me.

10 It didn't mean anything that your tax return included on it information that your wife had received income in the amount of some \$360,001?---I, I, it didn't, oh, didn't even cross my mind, because she wouldn't have \$360,001.

For one, if you'd seen that, and you had no idea as to where this was coming from, it might have sparked in you a question, what is this about, correct? ---Perhaps.

20 And it would have put you on a line of enquiry with Mr Zaccagnini to understand, "What's this reference to 360,000 odd dollars being received by my wife who doesn't actually work?" other than obviously the important work of home duties?---Yes.

And that might have brought to your attention the fact that she had received a distribution, correct?---Well, I, I didn't go past the figure, so how could I go to the part for distribution?

Well, on your evidence you didn't even get to the figure, you just signed the tax return and sent it off.---I may have seen it but I don't recall.

30 THE COMMISSIONER: Well, it's possible, isn't it, that you did see it because - - -?---No, not that figure.

You know on the cover sheet if tax returns it usually says, the accountant says, he in effect, or she, is relying on information supplied by the taxpayer and then it also records the taxpayer making a solemn declaration that the tax return is accurate. You know what I'm talking about?---Yes.

40 So, there is an example of a document where there is a lot riding on truthfulness, so the Tax Department and revenue doesn't get defrauded, and you're conscious of the reason for the tax returns stipulating that requirement that the taxpayer has the personal responsibility to declare the truthfulness of what's in his or her tax return. You've always been aware of that I trust?---Yes.

Well, wouldn't you then, with your tax returns, act accordingly to check and make sure that your declaration is correct?---Well, I should've.

Do you say you never did it or just not this year that's on the screen, 2016? ---Well, I don't – well, I would have if I did my own tax. That's why I've got an accountant.

Well, the accountant can't read it for you, can he? He can prepare it and he can bring it to you, or bring it to your wife to give to you, and it's up to you then to assume some personal responsibility at some point before it goes back to the Tax Department, or before it goes to the Tax Department. That's the situation, isn't it?---Yes.

10 Well, isn't it, knowing how important it is, especially when you hold a public office, to make sure that you're not even inadvertently misstating something in your tax return, that you would have checked your tax return, in particular you would have checked this one, 2016?---I should've.

Perhaps not thoroughly enough but you would have checked it, wouldn't you? You wouldn't just sign it and send it off?---Well, I would have checked but I don't see a figure there for 360,000, I, that doesn't jump out at me.

MR RANKEN: Do you recall that, in fact, as a result of the tax returns that were lodged by yourself and your wife, there was a debt that was required to be paid to the Tax Office for that year?---Well, yeah, it would follow on, knowing that now, yes.

Especially seeing that amount?---Yes.

And I dare say you are not in arrears with any debts that you or your wife have with the Tax Office?---Then?

Or even as at today's date?---Not with the Tax Office, no.

30 I mean, you and your wife have ensured that all debts with the Tax Office have been paid promptly, is that correct?---Well, if there were, yes.

So if there was an assessment that was conducted in respect of this income that identified an amount that was payable to the Tax Office, you would have been aware of the need to pay that?---Yes, I think, yes.

And you would have taken steps to ensure that it was paid?---Well, one would think, yes.

40 I wonder if we could bring up on the screen Exhibit 36. Do you see, this is a letter from Mr Zaccagnini addressed to you and your wife at your address in Drummoyne?---Yes.

And do you see that it identified the amount of tax that is payable as a result of the assessment for the year ended of 30 June, 2016?---Yes.

And in respect of yourself there's an amount of \$4,718.25, and in respect of your wife there's an amount of \$146,904.45. Correct?---Yes.

Now, the amount that's payable by you is referable to the fact that some amount is payable as a result of your salary from parliament.---I assume so.

That was the only source of income you had in that year?---I think that's the only source of income I've – well, it's the only job I'm doing, yes.

10 And it's the only income you've had since you - - -?---Parliament.

Only source of income you have had since you joined parliament. In 2011. ---Correct.

So this is a letter that was most likely received by you.---Yes, it's addressed to us.

And you would have been then well aware of the fact that your wife owed the tax office, as a result of the assessment for the year ended 30 June, 2016,
20 \$146,904.45. Correct?---According to this letter, yes.

That's an extremely large amount of money to owe the Tax Office if one is not gainfully employed. Correct?

So you must have been aware, at least as at 27 January, 2017, that your wife had received income that had required tax to be paid.---I wasn't aware of that.

30 Well, what did you, what did you do or what arrangements did you make in order to ensure that these debts to the tax office were paid?

MR NEIL: Well, I object. Firstly, he hasn't accepted the premise, but there's no obligation on this witness to ensure that his wife pays any tax.

THE COMMISSIONER: No legal obligation, no, but probably some form of obligation to make sure that the family doesn't get itself into strife by not paying. There would be a sense of obligation to make sure that one or other of them attend to it, surely.

40 MR NEIL: Well, Commissioner, I won't add to what I was going to say, other than I think the witness said that he accepted the letter was addressed to him, I don't know if he went further than that.

THE COMMISSIONER: Well, it's addressed to both of them. I thought he said he agreed, as I understand it, that it was most likely received by you you, was the question put. Yes, I'll allow the question. Just put it again so that Mr Sidoti knows what it is.

MR RANKEN: What steps did you take to ensure that these debts were paid to the Tax Office?---I don't recall even having a debt of \$146,000 under my wife's name. I don't recall that at all.

Do you know how that debt was paid?---No.

THE COMMISSIONER: Would you not have any idea? It's either come out of some account either you or your wife operated, surely, or somebody else's account, some benefactor or somebody. Presumably it was paid. Can you assist in suggesting where - - -?---I'm not sure.

- - - the amount that had to be paid on 21 March, 2017, came from?---No, I'm not sure.

MR RANKEN: So you maintain that you had absolutely no knowledge of this debt to the tax - - -?---Yeah, I didn't think we had a debt to, to the tax office, not of that sum anyway.

THE COMMISSIONER: I can't understand why you wouldn't know, because the normal human reaction would be when you get a letter from your accountant saying they are due for payment on 21 March, 2017, that tends to sort of focus the mind, doesn't it, that if you don't pay it there could be some unpleasant consequences. Are you sure you don't remember receiving this letter?---No.

I think you accepted most likely you did receive the letter, but given that you had to pay it by 21 March, 2017, you would have surely turned your mind to where am I going to get the money from, which account will I use. Is your evidence still that you have no recollection?---No, all I could think, if I'm going to pay \$146,000 in tax of my wife, there must be a larger sum, and we've never had a large sum like that. So I don't know what the arrangement is here at all.

MR RANKEN: And do you say you didn't have any conversation with your wife where she might have brought it to your attention?---No.

Why is it that you laughed a little then in your answer?---Because it's a large sum of money.

If your wife had seen that amount as being owed by her, would you accept that she would most likely be shocked to – if she had no foreknowledge that she had a tax debt of this kind?---You got a tax debt of that kind, means you've earned, you've earned a lot more than that somewhere along the line, but I don't know.

Well, we've seen the distribution of the income.---Yeah.

It was \$360,001. Correct?---Mmm, and is that in her account, is it?

No, that was the income that she was disclosed in her tax return and is recorded on your tax return as income she'd received.---Sure.

That's likely the income that's the basis of, the reason for the tax debt of \$146,904.---Mmm. No, I'm not aware of it.

10 But having been taken to those figures, and being aware that that represents the proceeds of sale from the West Ryde property, you understand that the way it has come about, that your wife has had a tax debt of that amount?---I do now, yes.

Even though the income itself was not physically received in any bank account that the two of you operated.---Yes.

20 Now, I want to now turn to a different topic. And I want to ask you some questions about your role as the member for the seat of Drummoyne. In your role from time to time you are required, are you not, to liaise with the other levels of government?---Yes.

And would that include liaising with the Federal Member for Reid?---Yes.

That's the federal seat that takes or has within it the seat of Drummoyne? ---Yes.

And do you also from time to time have cause to liaise with members of the City of Canada Bay Council?---Yes.

30 And the City of Canada Bay local government area, would you agree, takes up the entirety of the seat of Drummoyne?---Yes.

And in fact, there's a little bit of the City of Canada Bay local government area that sits outside of that electorate.---Yes.

So the constituents of the City of Canada Bay are effectively one and the same as the constituents of the seat of Drummoyne.---Yes.

40 And insofar as liaising with the different levels of government, from your position as a member of the State Parliament, is it that if there are matters that are really within the realm of the Federal Parliament or federal issues that are raised with you by constituents, you would take steps to have them referred to Mr – well, when he was the member, Mr Laundry's office? ---Depending on what they are. Sometimes there's, there's overlap.

Sometimes there's overlap with state issues, is that what you're saying? ---Yeah. Yep. But generally, yes.

But insofar as there was overlap, you would need to at least let the federal member be aware of the issue, that it was being raised?---Yes.

Because it might require some input from the federal member.---And often I would with the federal member share issues that weren't, but his, it, it's nice for him to know because constituents don't differentiate. So if they come to me for something that's his responsibility and vice versa, we tell each other.

10 Sorry, so there are some times – do I understand from that evidence or that answer that you are saying that there are some issues that might be raised by constituents that actually have nothing to do with the federal level, but you might raise it with him anyway?---Yes.

And is that because you might anticipate that it's a matter that could be raised with the federal member?---Yes.

20 Equally though there are occasions, are there not, when the federal member might be contacted by a constituent or constituents about an issue that really is a state issue?---Yes.

And in those circumstances, would his office get in contact with your office to ensure that your office dealt with the matter?---That's the way it usually runs, but it doesn't always happen. So if they're complaining to him about public transport, which is a state obligations, they'd sometimes go directly to the Minister for Transport. But generally the protocol should be - - -

30 If it's to do with public transport, though, that might be because public transport is a particular issue that transcends the boundaries of particular seats. It's very rare that public transport is something that's confined wholly within the one state seat. Correct?---Yes.

A bus route starts in one seat - - -?---And finishes in another.

Finishes in another seat.---Yeah.

Correct?---Yeah, correct.

40 So one can understand why the federal member might refer something of that nature directly to the Minister for Transport. Correct?---Yes.

So what my question was really directed to was issues being raised by constituents with the federal member that do relate to state matters but that are only concerned with the seat of Drummoyne or does that not really occur?---No, I think it's a combination.

So with that in mind then, as far as your liaising with the federal member, it's more the case of you drawing to his attention or her attention issues that

are federal issues that have been raised by constituents, rather than the other way around.---Yeah.

But, however, particularly in the circumstance that you find yourself in as the Member for Drummoyne, where the City of Canada Bay takes up the entirety of your electorate, are there often times when you need to liaise with the local government tier?---Yes.

10 And is that because there are times when constituents might raise with your office issues that are really issues that local government should be dealing with?---Yes.

And that might include such issues as something to do with the parking in the area.---Yes.

Or trees and things of that nature.---Yes.

Possibly to do with development applications.---Yes.

20 At least, and I'm trying to confine myself to the period up to 2017 at least, just - - -?---And more.

And beyond. And when constituents came to you with those issues from time to time you would contact councillors to ensure that those matters were addressed.---Yes. Either/or. Sometimes councillors, sometimes through my staff to council staff.

30 But insofar as you liaised with council staff do you say that that was done usually through your staff?---Generally, yes.

And as far as liaising with councillors themselves, would that be done directly from yourself to the councillors or would it be done through your staff generally?---A bit of both. I generally would ring the councillors.

You would generally ring the councillors.---Mmm.

Would you email the councillors from time to time?---Yes, but more so phone. More so phone. Quicker.

40 And as far as the selection of councillors who you would contact, obviously it wouldn't matter necessarily what party they were a member of. ---Depending on the issue.

That said, you had a relationship though with Liberal councillors.---I have a decent relationship with some Labor councillors as well, professional relationship.

A professional relationship with Labor councillors.---Mmm.

Are we talking about the City of Canada Bay?---Yes.

So just for the City of Canada Bay Council were there times when you would refer issues that constituents had raised with you to Labor councillors?---Oh, yeah, regularly.

10 Oh, okay. And in particular which Labor councillors would you - - -?---In the last five years I'd say the mayor.

That's Angelo Tsirekas.---Yes.

And what about other Labor councillors?---Tony Fasanella I used to and that's pretty much the main ones, yeah.

But would it be ordinarily the case - - -?---And Michael Cantali when he was on there. He was an Independent.

20 When was Michael Cantali a member for - - -?---It would have been when, when the Liberals had four on council, the election before that. He was on council for about 20 years consecutively.

Sorry, do you mean that he was on the council prior to the point at which the Liberals - - -?---Got four.

- - - got four?---So when he retired there was no Independents and Liberal picked up their fourth.

30 And that was in the 2012 election, correct?---'12, '16, that sounds correct.

When Dr Ahmed was successful in obtaining - - -?---Yes, that, that makes sense, the timeline.

You were aware at the time that you actually became the Member for Drummoyne that on the City of Canada Bay Council there were three Liberal members, being Mr Megna, Ms McCaffrey and Ms Cestar?---Sorry, what year was that?

40 This was when you first became a member of parliament in 2011.---Oh, in 2011. Yes, that sounds right.

And then in 2012 there was a council election that resulted in the Libs picking up an additional councillor spot and that was done by Dr Ahmed?---Correct.

And so insofar as you may have referred matters onto the Independent councillor, whose name I can't - - -?---Michael Cantali.

Michael Cantali?---Yes.

I would have mispronounced that if I had guessed it. But Michael Cantali would have only been in that period between March 2011 and sometime in 2012?---Ah hmm. That sounds right.

But Michael Megna was a councillor that you know independent last time of his role as a councillor and independently of your membership of the Liberal Party, correct?---Yes, yes.

10

You've known Mr Megna for most of your life, haven't you?---Yeah, I have. I'm just trying to, but I've known Helen back to the days of Concord, many years ago I met Helen.

I didn't ask about Helen McCaffrey.---I thought you said the other councillors.

20

No, I was just asking about Mr Megna for the time being.---Oh, okay. I thought you mentioned all of, did I have any knowledge independently of council.

Councillor Megna. No, I'm just dealing with one at a time.---Okay, sorry.

Mr Megna.---Yes, I've known Michael outside of politics.

Your families are quite close. Is that correct?---Yes, I would say that.

30

I think your parents came from the same village in Italy, or the same area in Italy?---Yes, yes.

And was one of Mr Megna's parents your godparent?---Yeah. So he became a sponsor when I was, confirmation, many years ago.

A confirmation sponsor?---Confirmation, yeah.

And that's quite a significant position to have, or a role in your life, to be your confirmation sponsor?---(No Audible Reply)

40

You wouldn't agree with that?---Oh, it's, it's, yeah, I guess it would be.

But in any event, you obviously had a relationship with him within the context of the Liberal Party?---Yes.

Now, let's talk about Ms McCaffrey. You've known Ms McCaffrey, I think you said, since the days she was on the Concord Council?---Correct.

And that was in the early 90s?---Yeah. My, my parents were going to build a function centre there many, many years ago and that's where we met her, and Michael Cantali was on that council.

So that was before the amalgamation of Drummoyne and Concord?---In 2000, correct.

She was a member of the council at that time and did you have some dealings with her at that time?---Well, my family had met her, yes.

10

And was that through the Liberal Party?---Through the Liberal Party, yes.

So, is it the case that you are not the only member of the family that is a member of the Liberal Party?---I think my whole family is members of the Liberal Party.

Were your parents members of the Liberal Party before you joined the Liberal Party or have they subsequently become members after you pursued your political career?---They've subsequently but they were many years ago.

20

So your parents were members, then they perhaps let their membership lapse?---Correct.

And upon you putting your toe in the water in, what, 2008, they rejoined, did they?---I think so. I think that's the way it worked.

And your sister has since, has she also joined the Liberal Party?---She did. She, she only, she joined because she moved to the area.

30

And so Ms McCaffrey you've known since the early 1990s when she was a councillor with Concord Council?---Yes.

And your relationship with her though, was it principally around the fact of your both being members of the Liberal Party?---Principally, probably yes but she, she's active, she's a member of Rotary, so I would cross paths with her. She's very active in the Concord area.

So she's very active in the Concord areas in the community. Is that correct?---Yes.

40

And she always has been.---Yes.

She's always been a very active member of the Liberal Party.---After 2000 of the Liberal Party, yes.

After 2000 the Liberal Party.---Because I don't think she was a member.

So once she'd joined the Liberal Party she continued to be active in the community.---Yes.

And an active member of the Liberal Party.---Yes, I'd say so.

And once she joined the council, that is the City of Canada Bay Council in 2004, she was an active Liberal councillor?---Yes.

And she continued to be an active Liberal - - -

10

THE COMMISSIONER: Was she a well-regarded councillor?---I think so, she's a good person, I think so.

Conscientious woman dedicated to the cause of being a councillor.---She took her job very seriously.

MR RANKEN: And in fact it came to the point in 2016 where she became the Mayor of the City of Canada Bay. Correct?---Yes.

20

And that was because she was in the position of the deputy mayor at the time.---I'm not sure that's the reason.

Well, do you recall the circumstances in which she became mayor in 2016? ---I do.

Do you recall that Angelo Tsirekas, who was the then mayor, that he resigned in order to pursue the possibility of a federal political career? ---Yes.

30

And that means that it was necessary for a new mayor to be appointed. ---Yes.

And by that stage she had been in the deputy mayor position. Correct? ---Yes.

40

And as a result of being in the deputy mayor position with Mr Tsirekas's resignation she would be the presiding member, sorry, presiding councillor at any meetings.---No, I don't understand, my, my understanding was that wasn't correct, it would go to a vote, and going to a vote the Liberals would have more, and I think Michael, having been the number 1 all the time, my understanding was they were going to support her because this was going to be her last term.

Oh, is that so?---That was what I heard, yes.

THE COMMISSIONER: Who did you hear that from?

MR RANKEN: Who did you hear that from?---From Michael Megna. This was going to be her last term back then.

THE COMMISSIONER: And did you ever go to her and say, oh, Helen, I believe you're - - -?---No, it's not my business.

But you knew she was running in 2017.---I came to know she was running when I wrote a reference for her.

10 So could it be that Michael Megna's account that she was going to retire was completely wrong?---I think that's an exceptional chance that that's what happened.

MR RANKEN: So what I want to suggest to you is this, is that you are well aware, are you not, of the way in which council proceedings are conducted? ---Yes.

You've been a councillor yourself. Correct?---Correct.

20 And you knew, did you not, that Ms McCaffrey was the deputy mayor at the time that Mr Tsirekas resigned from position as mayor. Correct?---Correct.

And you understood, did you not, that it has always been the situation that where there are equal, is an equal number of councillors who are to decide a particular issue, that in the event of a split, that is an even split, then the presiding councillor is the one who has the casting vote?---Correct.

30 You were no doubt then aware that upon Mayor Tsirekas resigning his position, Ms McCaffrey became the presiding councillor. Correct?---Yes.

By reason of her being the deputy mayor. Correct?---But as I said, I don't think that's the reason, but I'll accept it. If you can show me that I'd accept that.

What, you don't accept that she was the deputy mayor or - - -?---No. My understanding is it goes to a vote but it was uncontested.

40 And do you understand that the reason why it was uncontested was that effectively it was an obvious outcome in circumstances where there were four Liberal councillors and three non-Liberal councillors?---Oh, yeah, I understand that.

And the casting vote rested with Ms McCaffrey as the deputy mayor? ---Correct.

Either way you cut that, that's going to end up with a Liberal person being the mayor.---Yes.

And the position might have been different if the presiding member, if the deputy mayor at the time of Mr Tsirekas's resignation, was Mr Kenzler. Correct?---(No Audible Reply)

Well, think about the permutation there, just for a moment, Mr Sidoti. You're a political man.---Yes.

You understand politics.---Yes.

10 You understand how the numbers work.---Explain it?

Well, okay. You've got four non-Liberals, four Liberals.---Yes.

If Councillor Kenzler had the casting vote, as the deputy mayor - - -?---Oh, yes.

- - - then the likelihood is that it would not have been a Liberal councillor who became the mayor as a result of Mr Tsirekas' resignation, correct? ---Oh. Yes.

20

Yes, you understand that.---Yes.

That's simple politics.---But, but, but, sorry, I'm, I'm confusing something here, are you saying that the, the, the mayoral position becomes the mayor purely and simply out of the, the, the, the deputy being left there? Is that what you're saying? Regardless if it's Labor or Liberal?

No, Mr Sidoti. What I'm suggesting to you is that as a result of Mr Tsirekas' resignation - - -?---Yes.

30

- - - and the fact of Ms McCaffrey being the deputy mayor at that time - - -? ---Yes.

- - - that meant that it was a foregone conclusion that it would be a Liberal councillor who became the Mayor of City of Canada Bay.---(not transcribable) agree with that, yes.

Yes, so that is the reason why, is it not, that Ms McCaffrey was ultimately – became the mayor unopposed?---Yes.

40

Because the numbers were in.---Correct.

And there was no way that the non-Liberal councillors were going to have a non-Liberal mayor.---Correct.

And that was something that you were conscious of at the time?---Not particularly, but I, I came to know, yes.

You weren't paying attention to what the position was as far as the makeup of the council at that time?---No, that, I would have been told when it happened, yes, as the local member.

Surely you were interested in what was happening at the local government level - - -?---I would be, but I, I wouldn't have - - -

- - - as far as the control of the council?---Yes.

10 I mean, when you were elected to parliament in 2011, it was a great victory for the Liberals, wasn't it?---I hope so, yes.

Well, you considered it a great victory.---I did, yes.

The seat had been held by Labor for a number of decades, isn't that correct? ---Yes.

And it was perceived to be a great victory.---Yes.

20 And no doubt that increased your cache, as it were, within the Liberal Party. ---My - - -

That you wrested this seat away from Labor after so many years.---Yes.

And that increased, did it not, your standing within the party.---Yes.

And then in fact in 2015, was it not the case that you in fact increased the majority by which you held the seat?---Yes.

30 Was that in fact contrary to what had happened in other areas of the state? ---Yes.

So you were in 2016 riding a wave of success, as it were, electoral success? ---Well, I wouldn't have been thinking about it in those terms but – get on with the job, yes.

And you were keen to see that replicated, were you not, at the local government level?---I'd want it at every level, yes.

40 Yes, so obviously you would have been interested in what was happening then at the City of Canada Bay, correct?---Oh, yes. Yes.

And what happened in 2016 was the unique opportunity for the Liberals to achieve the holding of the balance of power in that council.---Yes.

So it was more than just a passing interest. You were actively interested in finding out, in knowing what happened there.---No more than any other election, no.

Now, can I ask you this though, over the period that Ms McCaffrey was a councillor with the City of Canada Bay Council, were your dealings with her principally as a result of your membership of the Liberal Party and in your role as the member for the seat of Drummoyne?---Yes, as well as a Liberal Party member, yes.

So as a Liberal Party member and also as the Member for Drummoyne, correct?---Yes.

10

You didn't have any other social contact with Ms McCaffrey.---Outside of Liberal Party functions, no. Some community functions, I was often invited to, that were - - -

And they would be functions, though, that you were attending in your capacity as the Member for Drummoyne, correct?---Oh, yeah. Yes. Yes.

So again, that was in the context of you being the Member of Drummoyne, correct?---Sure. Correct, yes.

20

And were they also functions that Ms McCaffrey was attending in her role as a councillor with the City of Canada Bay Council?---Yeah, I would say that's accurate.

So, the nature of your relationship was either things to do with the Liberal Party or things to do with your respective roles as the councillor and member of parliament?---I would agree with that, yes. Yes.

30

And can I then ask you about Ms Cestar, Mirjana Cestar. She was a member of the same branch of the Liberal Party as you were, is that correct?---Yes.

She is no longer a member of the branch, correct?---Yes.

But she does continue to be a member of the Liberal Party, to your knowledge?---Yeah, I found out at one, one of the last meetings that she was over at Concord West.

40

Now, you knew her to be, at least at some stage, she was the treasurer of the Drummoyne branch?---Oh, the branch, yes, not the SEC, the branch, yes.

She was, at least in 2017, she was the treasurer?---Yeah. It meets three or four times a year, yep.

Sorry, the branch meets?---The, the Drummoyne branch meets irregularly as a minimum requirement.

But do you know for how long it was that Ms Cestar had held the position as the treasurer of the Drummoyne branch?---No.

But she was someone who was actively involved in the branch?---As active as, as any other member, yes.

10 THE COMMISSIONER: Well, that entailed her, didn't it, attending to street stalls to assist indeed your position come election time?---Yeah. I, I think there was, it was an unwritten rule but I, I think, an obligation that if you held a position you probably have to do a little bit more. Yes, she would help.

But whether it is rule or an – sorry?---She would help, yes.

Whether it was rule or an obligation, she used to campaign for you in helping out at street stalls and that sort of thing?---Yes, yes.

20 So she was a loyal Liberal Party member in displaying that sort of engagement?---I think so. Yeah. Yes,

And did she also have a – is she well regarded as a councillor, or far as you could see?---I think so, yeah.

MR RANKEN: She had been on the City of Canada Bay Council since 2008?---Yes.

And so you had worked with her at least from 2011?---Yes.

30 And from time to time were there issues that might be raised with you that were of a local government matter that you in fact referred to Ms Cestar to deal with?---I had, yes.

And were there matters that she raised with you from time to time that were concerned with state issues?---From time to time, yeah. Not, not that often.

Now, is this the position, that often times – sorry. I withdraw that. The electorate of Drummoyne and the City of Canada Bay has a, and has historically had a, large community that is of Italian heritage?---Yes.

40 And you yourself obviously are of Italian heritage, is that correct?---Yes.

And Mr Megna is also of Italian heritage?---Yes.

And was it often the case that constituents who were members of the Italian-speaking community would seek you out to raise issues that related to local government matters?---Yes. Anyone, they would seek out anyone of the same nationality.

And no criticism with it at all, but you had quite a high profile in the local government area, correct?---And that probably why I got so many enquiries from local government.

And not just because you were the local member but also because your family had been part of the community for so long?---As well as the electoral office being in the centre of Five Dock, which is a lot more accessible too, where councillors don't have an office.

10 So you mean council, as in the City of Canada Bay Council?---Correct.

Is that because the suburb Five Dock is where the majority of the Italian-speaking population of the City of Canada Bay reside, in that area, rather than, say Drummoyne or Concord West?---No.

Okay.---A large proportion, a larger proportion might be Five – but there's a hell of a lot in Concord and Drummoyne as well, but there are a lot in that area, yes. It's 12,400. It's one of the largest demographics in the area.

20 In the Five Dock area, you mean?---In the City of Canada Bay.

But, anyway, your family also, or your name also had some degree of profile because of the function centre as well.---Yeah, prior to politics, that would be fair to say, yes.

A lot of people knew of the Sidoti name because of its association with the function centre.---Yeah, I'd agree with that.

30 Many people had their significant family events and functions at the function centre over time.---Yes.

As members of the community.---Yes.

And particularly members of the Italian-speaking community.---Yes.

And was this the position, though, often when those members of the Italian community would seek you out to raise matters of local government issues, that you would refer them on predominantly to Mr Megna?---Yes.

40 And one of the reasons, not the only reason, but one of the reasons was because he was an Italian speaker himself?---No. That wasn't the reason.

That was never a reason? So - - -?---No.

- - - it never entered into your mind, when an Italian speaker who was a constituent came to you with an issue that was a local government issue, that it might be worthwhile sending this to Mr Megna because he speaks Italian as well, whereas the other councillors don't?---No, it wasn't that. It

was because Michael was one of the only ones self-employed. He was, and, and was in Five Dock, so he was very accessible. Whereas when I'd had, when I'd run other councillors, often you get the phone call the next day or after hours, so if you want something quite simply fixed quickly and, and you sort of get an understanding of what can be fixed slowly and what can be fixed quickly, I'd call Michael.

10 So you didn't ever turn your mind to, well, because he's an Italian speaker, he'd be a good person to refer this person to because they speak Italian as well?---Not unless he's going to talk to them personally. But often it could be, you know, a very minor issue of a tree, so once I refer it to Michael, then I, I own the problem then because they can't keep coming back to me.

So then, but from what I'm understanding from your answer is that you don't turn your, never turned your mind to whether or not it would be good, it was a good thing to be able to refer it to Mr Megna because he spoke Italian?---No. Not, not, not for that, no.

20 So that was not necessarily a prerequisite for you as far as a councillor to refer issues to?---Not to refer issues to, but to have a community link with a multicultural group is an added advantage, but not for the reason you said.

But in any event, you say now, do you, that because if they came into your electoral office in Five Dock, he's just down the road, he's self-employed, it's easy to refer him down there?---Well, it's easy to – well, I wouldn't in that sense. If it was complicated and they wanted to speak to a councillor about an issue, I could give them Michael's number or Michael would, would, I'd give the details to Michael and he could then sort it out with whichever director or council member he has to sort it out with.

30 You could do that with the other councillors as well.---Oh, yeah, I could.

So, again - - -?---And I have in the past.

So, again, but I was talking about the situation with Italian, members of the Italian-speaking community.---Well, yeah.

40 And a large number of the persons who came to you with council matters were members of the Italian-speaking community, correct?---Sure, but I don't just represent one community.

I understand that.---Yes.

But I'm asking about that one community for the time being.---Yes.

You would refer them to Mr Megna.---Not purely and simply on the basis of their nationality. If they can't speak English, yes.

I didn't suggest that purely and solely on that basis, but one of the reasons was because he was an Italian speaker as well.---Well, it helps, yes.

And you said before that they would often seek you out because they would seek someone out from the same group.---Yes.

10 So it would make sense, then, to pass that on to someone who was from the same group, who could assist them with that.---Well, it wasn't a thought in my head. I just, just wanted the problem solved. Not really fussed who solves it, as long as someone solves it.

So one of the things you were aware that the council was responsible for were planning matters, correct?---Yes.

And - - -?---Sorry, councillors?

The council.---Yes.

20 Council as in the City of Canada Bay Council, correct?---Yes.

And that included planning, development applications, correct?---That's no longer a - - -

I'm talking sorry, I should have been more specific. Let's deal with the period from 2012 until 2017, shall we?---Yes.

30 I want to confine myself to that period because let's deal with the period where the council you included, each of Mr Megna, Ms McCaffrey, Ms Cestar and Dr Ahmed, okay, so we're dealing with that issue, with that period. During that period the council had responsibility, did it not, for development applications?---Yes, you'd have to refresh my memory what year that ceased.

Yes. Certainly by 2019 they were still doing development applications, is that correct?---I don't think so.

Didn't you submit your development application in respect of the Great North Road properties in 2019?---To the council staff, yes.

40 Yes.---But who determines it?

We're talking at cross purposes. At some point there was a change whereby council - - -?---Council.

The political arm of council.

MR NEIL: Could I object again. It was not this witness's application.

THE COMMISSIONER: I think Counsel's referring to his application put in in 2019 as trying to get a time marker as to when the councils were still doing the development application approvals.

MR NEIL: Well, that may be, but that may be leading my learned friend into some degree of in exactitude because he keeps putting to the witness that it was the witness's application.

MR RANKEN: I'm happy to rephrase that.

10

THE COMMISSIONER: I'm sorry. I see what you mean.

THE WITNESS: I didn't own anything in 2019.

MR RANKEN: I'm happy to rephrase that. I apologise if that was the impression that you received.

THE WITNESS: That's what I thought.

20 THE COMMISSIONER: Can't we cut through? What was the date when the legislation took approvals out of the councils?

MR RANKEN: Yes.

THE COMMISSIONER: Do you know, do you remember?---No. There's, there's, there's a couple of different, there's over a certain amount and under a certain amount.

It's after 2017 though, wasn't it?---(No Audible Reply)

30

MR RANKEN: You don't recall?---I've got it written somewhere.

THE COMMISSIONER: We can put in train an enquiry and we'll find out but I think proceed on the assumption, if you will, that councils were still doing development approvals at least up till September 2017. If I'm wrong in that, I'll let you know. But I'll have those instructing you make the enquiry.

40 MR RANKEN: Yes. And we'll clarify that perhaps overnight, if not before.---Sure.

Leaving development applications themselves aside, there are other planning issues that the council was dealing with in relation, in the period 2012 to 2017?---Yes.

And that included looking at Local Environmental Plans and Development Control Plans for particular locations within the local government area, correct?---Yes.

And obviously, one of those areas was the town centre of Five Dock?
---Correct.

You understood, did you not, from your time when you were a member of the Burwood Council, that it was important that councillors making decisions in respect of planning matters do so impartially?---Yes.

And independently?---Yes.

10

And on the basis of what is considered to be in the public interest?---Yes.

Did you also understand that, to that end, that councillors would be assisted by the use of professional council staff?---Yes.

Potentially, external experts and consultants that might be engaged by, from time to time, by the council staff to inform proposals for any changes that there might be suggested to LEPs and the like?---Yes.

20 When you were a member of the Burwood Local Council, was there a code of conduct?---Yes.

Do you remember any steps taken by yourself to become informed about the content of that code of conduct?---Yes.

What were the steps taken?---A workshop, I was pretty well informed at the time.

30 When did you first become aware of the code of conduct, when you first became a member of that council?---Yes. When I first became a member, correct.

THE COMMISSIONER: Mr Ranken, just before you get going on this segment, it occurs to me Mr Sidoti's been in the witness box since earlier this morning. We are going to sit on later, that is for another hour. Whether or not it would be advisable to take a short break, well, the witness's point of view and others, a matter for you, but - - -

40 MR RANKEN: I'm happy to do so.

THE COMMISSIONER: Mr Sidoti, would you appreciate having a short break?---I'm at your disposal, whatever you'd like to do.

I'll take a 10-minute break.

MR NEIL: We'd join in with the idea of a short break, Commissioner.

THE COMMISSIONER: Yes, very well, we'll take a 10-minute break.

SHORT ADJOURNMENT

[3.30pm]

THE COMMISSIONER: Yes.

10 MR RANKEN: Yes. Thank you, Commissioner. Now, Mr Sidoti, I was asking you some questions about your time on Burwood Council and your familiarity with the code of conduct that was adopted by the Burwood Council. Do you recall being present at a meeting of the council, that is the Burwood Council, on 24 February, 2009, when it adopted the model code of conduct that was then proposed in accordance with section 440 of the Local Government Act 1993?---No, I don't recall.

20 Well, I wonder if we could go in Exhibit 24, to page 44. And do you see that that's the front page of the minutes of the meeting for 24 February, 2009, and we can see your name as one of the councillors who was in attendance, correct?---Yes.

This was before you had become the mayor though, correct?---Yes.

And if I could take you then to page 46, do you see – sorry, when it comes up. Page 46, there is an item 15/09, "Adoption of council's code of conduct within 12 months after the ordinary election." Do you see that?---Yes.

30 And it says, "Summary. This report recommends the adoption of the code of conduct for Burwood Council following the ordinary election as required by the Act." And it was carried unanimously. Do you see that?---Yes.

And just in terms of the code of conduct, if we could go back to page 18. I want to suggest to you that this was the form of the code of conduct that was being considered and you can see that from the top of the page where it refers to item 15/09.---Yes.

And do we take it then that prior to voting on the matter, you would have read through this code of conduct and considered it?---Yes.

40 Could we then go to page 22? There is a heading at page 22 of the code of conduct of Key Principles and the first of those key principles is 4.1 Integrity. Do you see that?---Yes.

And it says that, "You must not place yourself under any financial or other obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties," correct?---Yes.

And if I could draw your attention then to 4.3, which is the key principle of selflessness, that, "You have a duty to make decisions in the public interest.

You must not act in order to gain financial or other benefits for yourself, your family, friends or business interests. This means making decisions because they benefit the public, not because they benefit the decision-maker.” Correct?---Yes.

10 And then 4.4 refers to the key principle of impartiality that, “You should make decisions on merit and in accordance with your statutory obligations when carrying out public business. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits. This means fairness to all, impartial assessment, merit selection in recruitment and in purchase and sale of council’s resources, considering only relevant matters.” Do you see that?---Yes.

And would you agree that any conduct that was directed to undermining a councillor’s ability to act in accordance with these key principles would be a very serious matter?---Yes.

20 And would undermine, amongst other things, the confidence that the community might have in the integrity of decisions made by such councillors?---Yes.

Can I also then go within that code of conduct to the next page, page 23? Do you see there’s a guide to ethical decision-making and in particular there is a heading for Conflicts of Interest? Do you see that?---Yes.

30 And it provides there with some information as to what to do if you are unsure. It says, “If you are unsure as to whether or not you have a conflict of interest in relation to a matter, you should consider these six points. Do you have a personal interest in a matter you are officially involved with? Is it likely you could be influenced by a personal interest in carrying out your public duty? Would a reasonable person believe you could be so influenced? What would be the public perception of whether or not you have a conflict of interest? Do your personal interests conflict with your official role? And what steps do you need to take that a reasonable person would expect you to take to appropriately manage any conflicts of interest?” Do you see that?---Yes.

40 And if we could then go to page 25, and if I could draw your attention to the subheading Development Decisions, 6.8 in particular, “You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development/assessment process.” Correct?---Yes.

Would you agree though that that paragraph, and the paragraph after at 6.9, seems to be directed predominantly towards issues concerning development applications?---Yes.

But even so you would agree, would you not, that when it comes to decisions about changes to Local Environment Plans and Development Control Plans and the like that councillors would still be required to give effect to those key principles of integrity, selflessness, and impartiality that I took you to before?---Yes.

And that was something that you were aware of at least from the time of the adoption of the code in 2009, correct?---Yes.

- 10 And whilst you were never a member of the City of Canada Bay Council, it was likely, was it not, that a similar code of conduct had been adopted by that council?---More than likely, yes.

I'm not suggesting that you had gone and read the code of conduct that was adopted by the council following the elections in 2012.---The principles.

But the key principles would be reflected, you would expect, in that code of conduct.---Yes.

- 20 Now, you became aware, did you not by at least late 2013 that the City of Canada Bay Council had undertaken a study of the Five Dock Town Centre?---Yes.

Now, when did you first become aware of the fact of such a study being undertaken?---I don't recall.

Was it before the council moved to endorse the study as it was reported by Studio GL in their lengthy report?---I, I would have known about the study probably shortly after. I can't give you a date.

- 30 Is it not likely, though, that given your position as the local member for Drummoyne, and also the fact of your electoral office being in Five Dock at Great North Road, that you would have had some knowledge of the fact of the study around the time it was in fact being conducted?---Yes.

Because it was the case that there were quite a number of community engagement activities that were undertaken as a part of the study, correct?---Yes, yes.

- 40 And also your family having had the function centre in Great North Road for some time, you would have, were no doubt interested to see what the study was looking at.---I recall I was notified, a letter under the door.

A letter under the door of your electoral office, are you saying?---Correct.

But does that mean that your parents would have been notified by a letter under the door of the function centre, even though they weren't actually the occupier of the function centre?---It's possible.

But in any event, if they hadn't become aware in some other way, you certainly would have brought it to their attention?---Yes, more than likely.

Well, were you aware about the kinds of impetus that had set in train a situation where the council had decided to undertake this study?---Yes.

That there were concerns about declining economic activity in the Five Dock Town Centre.---Yes.

10

And that there were concerns about empty shops, was that - - -?---Yes, it'd been a long, long-held concern.

When you say long-held, presumably it was a concern that you had?---Oh, it was a concern the whole community had.

It may well have been the whole community had it as well, but you had a concern about that, did you, as well? You shared the concern that the community had?---Yes, certainly.

20

And when you say long-held, for how long had you had that concern?---I was seeing a lot of shops – Five Dock had just never gone ahead in leaps and bounds like other precincts in the City of Canada Bay.

And when you are referring to other precincts within the Canada Bay local government area, which particular precincts are you referring to?---Majors Bay Road, Concord, was a very vibrant, active local community with parking at the doorstep, angle parking at the doorsteps, they had some nice little commercial strips with some offices, Five Dock had, had a lot of potential but it just, it just was looking tired.

30

And anything that might improve economic activity within the seat.---Yes.

But you also recognise, don't you, that you also had an interest because anything that was done in the Five Dock Town Centre may have an impact on your family's property interests.---On my family's property interest, yes.

Well, you plainly recognised that, did you not?---Yes.

40

So you had a personal interest in the issue that was distinct from your interest as a member of parliament.---Yes.

And did you perceive that that meant that you potentially had a conflict between your personal interest in the impact that anything that was done in relation to Five Dock might have on your family's property interests, and representing the interests of the Five Dock community at large?

MR NEIL: I object to that.

THE WITNESS: No.

MR NEIL: Well, I withdraw the objection in light of the answer.

MR RANKEN: You didn't consider that your personal interest in the potential impact on your family's property interests in the area created any conflict with your obligations or duties as a parliamentarian?---No.

10 And so do you consider that you could pursue or take steps to advance your family's property interests in respect of the Five Dock Town Centre study without that conflicting with your broader obligations to the community as a parliamentarian?---I think you could manage a conflict if there was one, yes.

Well, that would seem to recognise that there was a conflict or a potential for a conflict. Correct?---A potential, yes.

20 And the potential for the conflict might be because your family's property interests and what might benefit that might conflict with what was being pursued in the interests of the community at large.---But you'd have a conflict if you're making the decision. I'm not making decisions so I haven't got a conflict.

No, but if you were to pursue, if you were to take active steps to advance your family's property interests, that might conflict, might it not, with your obligations to represent the interests of the community at large?---I don't think so, I'll always represent my community, its interests at heart, above anything else.

30 Even above your family's property interests?---Most definitely.

THE COMMISSIONER: There were two sets of interests, weren't there? On the one hand you had, as you've said, your personal interest associated with your family's property interests and as that might be affected by the town plan study, and then you have the potential interests of other constituents who live in the council area who may be affected by the, for better or for worse, by the Town Study Plan.---I can - - -

40 You've got two sets of interests - - -?---Yes.

- - - which potentially could clash, couldn't they, or conflict?---Potentially, yes.

And there would be a need to ensure that any personal or private interest doesn't conflict with the public benefit from the study.---Yes, I'll agree with that.

MR NEIL: I object to this Commissioner. A real issue may have to be faced, and it may be a matter for submissions, as to what is a conflict of interest or a potential conflict of interest for a member of parliament exercising his duties in the parliament or making some decision as a member of parliament, as against he happens to be a member of parliament who takes an interest in what's happening locally and makes his views expressed, or reacts to requests from constituents. In my submission, in due course, that is an important matter that you will have to consider.

10 THE COMMISSIONER: Indeed, I agree with you. But then you have to consider, in the context of conflicts of interest, the question of the role of the decision-makers as against the role of those who might want to influence the decision-makers. In that scenario the person who might be making representations for change may not be making any decision, they're just making representations or submissions or lobbying. The decision-makers are, in this case, the council of course, or councillors and it's their decision-making can be impacted by things that happen before the decision is made.

MR NEIL: That may be, but I am concerned to point out, and I'll keep this
20 short, while the witness is in the witness box, that the question of the representor having a conflict of interest may in fact be illusory. There may in fact not be a conflict in the representor. The question of a conflict in terms of the councillors is a separate matter.

THE COMMISSIONER: But what of the situation of creating a situation where councillors are put into a conflict of interest situation by the representor doing something?

MR NEIL: Well, that again is a matter for submissions in due course and
30 that's a question of how we approach the terms of reference. But I'm just at pains to try and avoid a situation where the person is making representations but not acting as a member of parliament in the parliament is said to himself have some sort of conflict. The witness has said potentially but I want to guard against something being promoted that doesn't arise as a matter of fact or as a matter of law.

THE COMMISSIONER: Yes, all right. I accept what you say. I won't
40 press my line of questioning at the moment any further. This issue may bubble up in other ways as we go but we'll deal with it as we reach each point.

MR NEIL: Thank you, Commissioner.

MR RANKEN: If I might ask this way, Mr Sidoti, you do recognise, do you not, that there was a very real possibility that your family's property interests might differ to the interests of other constituents within Five Dock?--I don't understand that.

Well, let's do a kind of stark example. Let's say your family wanted to see significant changes to the LEP that would allow a significant increase in floor space ratio and height controls for the Great North Road properties. Okay?---Yes,

And there was a body of the constituency within Five Dock who were of the view that they did not want any changes to the heights or the floor space ratio because they were concerned about heights and overshadowing and the like, correct?---Yes.

10

In that instance, there would be a stark contrast between the interests, your family's property interests and what you would like to see achieved, and what those other constituents wanted. Correct?---No. It's not correct.

MR NEIL: I object.

THE COMMISSIONER: He's answered in the negative anyway, so - - -

THE WITNESS: It's not correct.

20

MR NEIL: Well, I still just want to put on the record, Commissioner, the point that I want to make, that confining the question in that way doesn't allow for the realistic position that there may be other constituents who view the matter, of their interests, in the same way the Sidoti family might view their interests. It's not an all-or-nothing matter.

30

THE COMMISSIONER: That may be so, Mr Neil, but at the end of the day it's going to turn on evidence as to whether there, on the evidence, could be said to be at least the potential for a conflict to arise between constituents as put in the question by Counsel Assisting last. It may be, you might contend there is no evidence for which you could establish there was even a potential conflict. It depends on the evidence. It'd depend, for example, on the assessment of the outcome of the consultants' investigations and assessments, and the evidence concerning public exhibitions that took place on what was being proposed, and such like matters, and - - -

40

MR NEIL: Yes, and different experts. Could I just submit that I'm not going to keep repeating these objections, but I just want to make it clear that I'm not conceding that the matter's as simple as my learned friend is putting to the witness, and perhaps we can in due course return to this issue, certainly in submissions.

THE COMMISSIONER: Yes, well, if it's of any comfort, Mr Neil, I'm in furious agreement with you. It's not a simple issue. But I think Counsel Assisting, as I understand it, is trying to proceed incrementally or - - -

MR RANKEN: That's so.

THE COMMISSIONER: - - - stage by stage, rather than putting a global proposition to the witness, so - - -

MR RANKEN: Sorry, Commissioner. Yes. That is so.

THE COMMISSIONER: So I don't see any inappropriateness nor certainly do I see any unfairness at all to the witness. If I perceived there was, of course I'd stop the questioning. But there's no, in my view, reason not to permit questions of the kind last put.

10

MR NEIL: If it please the Commission.

MR RANKEN: In any event, I think which was answered in the negative.

THE COMMISSIONER: Now, I think Mr Sidoti in any event answered it in the negative.

20

MR RANKEN: Yes, in the negative. So, it – well, perhaps I'll just move on then. You understood though, did you not, that the purpose of the Urban Design Study was to firstly ascertain what the views of the community was at, well, sorry, the local community, the Five Dock community that is, in terms of what they wanted to see for the Five Dock Town Centre. Correct? ---And – Five Dock and beyond, yes.

But also seeking to strike a balance between what the community might want as far as the look and feel of the centre was and how to stimulate economic activity, correct?---Yes.

30

It's not always easy to ascertain what that might be, correct?---Yes.

Because on the one hand, greater economic activity might be stimulated by allowing for a greater amount of development in the particular area, correct?---Yes.

However, the extent of that development might be contrary to what the local community actually wants to see as far as the look and feel of the town centre, correct?---That's possible, yes.

40

On the other hand, it may well be that what the community is saying they want, as far as the look and feel for the town centre, might not be something that will generate greater economic activity.---Right.

Because what they're looking for is something that would not allow for greater economic activity, correct?---Yes.

And they are not easy matters to resolve, would you agree?---Yes.

And that's one of the reasons why a council such as the City of Canada Bay Council might engage external consultants who are experts in urban design to undertake a study of the kind that was undertaken in order to achieve or come up with some proposal that seeks to meet those sometimes competing objectives.---Yes.

And that's what was done over the course of 2013 by the external consultants engaged by the City of Canada Bay Council namely HillPDA, ARUP and Studio GL?---Yes.

10

Did you read the report that was prepared by Studio GL and those other organisations as a result of the study that was undertaken?---Yes.

It was a lengthy report, was it not?---Yes.

It comprised of some almost 300 pages in length?---I can't remember how many but it was lengthy.

Now, there was within that - - -

20

THE COMMISSIONER: Wasn't it 673 pages in length with annexures?

MR RANKEN: I think with annexures it may well be. I have – the background report I think commences at page 68 of Exhibit 24 and continues to about page 300 - - -

THE COMMISSIONER: It's a pretty lengthy report on any account.

30

MR RANKEN: Yes. It had taken place over the course of 2013?---Yes.

So it was lengthy in terms of the time, correct?---Lengthy, yes.

It involved a fairly large degree of community consultation?---Yes.

40

THE COMMISSIONER: Were you reading the report to try and make your own assessment as to, firstly, the value of the report from a more general, broad public interest point of view and, secondly, insofar as it may have affected, excuse me, the family properties?---No, I just read it broadly and the community purpose. I grew up in Five Dock I was always interested in Five Dock. It was a cultural hub and always wanted to see it go ahead.

MR RANKEN: So when you read the report, you didn't have in mind at all the prospect of your family or the impact it might have on 120 Great North Road?---No.

Do you say that despite the fact that you were aware that your parents had always held some, a desire to develop 120 Great North Road at some stage?---No, because in 2013/2014 I didn't own anything.

Not you but your family?---They're citizens, they're entitled to own or do whatever they like.

Right. Mr Sidoti, are you suggesting that you didn't even turn your mind to the fact that this could have some relevance to 120 Great North Road?
---Not particularly, no.

10 Even though you knew your parents had an interest in potentially developing that site at some stage?---No, I didn't look at it that way I just - -
-

Surely as the dutiful son that you were, you would have been interested in that?---My community is first and foremost my priority.

I'm not suggesting that it wasn't. I'm suggesting that you surely turned your mind when you were reading this report as to what it meant for 120 Great North Road?---Well, it's what it meant for the whole centre.

20 Are you denying that you, it was no part of your consideration of that report that you were interested to see what it meant for 120 Great North Road?
---No, what I'm saying is, I'm interested in the whole centre. It's not a development application specific to one parcel of land.

I understand that, Mr Sidoti. I'm asking you whether or not - - -?---I know what you're asking me but I'm answering you, no, specifically to one property, no. The whole centre.

30 So it just didn't enter your mind at all?---It may have but it didn't register.
Didn't even register?---Well, what for? I'm, I'm, I'm there for my community.

THE COMMISSIONER: Having read the report, what was your assessment of it, were you - - -?---I didn't read it in great detail. Like, I read it over but I didn't read it in intense detail. My initial thought, Commissioner, is that what you're asking when I read it?

40 Yes. What your assessment of the report was, whether you thought it was, firstly, A) comprehensive, B) whether it seemed to address the key relevant issues and, C) whether you thought it analysed things in an impressive manner or not.---I think the principles behind it were, were sound.

But what about the detail of the report, so far as you read? Were you impressed by that or did you think you had misgivings about it or - - -?
---No, I don't think I had misgivings. I, I just think that these reports start one way and they finish another. It's a, it's a living document open to change all the time.

MR RANKEN: Well, the report is not open to change.---No, but the report is there to stimulate the community's responses, to see what they do like, what they don't like, whether they agree, whether they disagree, if they want more, if they want less.

10 THE COMMISSIONER: Would you agree that a project like this, it's a major project affecting the whole town centre, that it be conducted in a robust and public manner from start to finish?---Yes, I would agree with that.

So that the study should be one in which, where consultants are engaged, those reports should be made public?---From the consultants, yes, definitely.

That there should be a public exhibition of the study and the plan it was proposing?---Oh, I think that's statutory. I'm happy to be corrected if I'm wrong.

20 And that there should be reports by council staff on the results of the report or the results of public exhibition and those council reports made public?
---Yes, I understand that's the process.

That the deliberation concerning the Town Centre Study and plan should be dealt with in open session of council meetings?---And workshops.

And workshops?---Yes.

30 Well, they're not public but at least they're open in the sense that there is dialogue between representatives of council and those who might want to have particular issues run to ground or examined?---That's my personal view, yes.

That there should be an opportunity then, in the deliberation stage, that councillors should all attend meetings and participate in public deliberation of the subject matter of the report, that is favourably or unfavourably?
---Yes.

Critical positive or critical negative?---Yes, I agree.

40 So from start to finish, the whole process should be, at every stage, dealt with openly and in a public manner. Would you accept?---And transparently, yes.

And transparently, yes. All right. Thank you.

MR RANKEN: And I think you said in answer to one of the questions from the Commissioner a short while ago that you considered the principles on

which the report was based were sound?---Yes, I think it was a, a, a fair report, yes.

It was a fair report and the conclusions - - -?---Sorry, not – in my view, my humble view, with limited town planning and urban experience, yes.

I understand. So from your reading of the report. You considered though that the principles upon which it was based were sound?---Yes. It was done for all the right reasons.

10

And you considered that the conclusions therefore that were expressed in the report were also reasonable, sound conclusions?---Well, there's a, there's a, there's a lot of work done within that one-year period that you sort of bypassed.

A lot of work done within which period are you talking about?---With that report. So 2013 to 2014, is that where you're referring to?

20 I'm talking about the report itself that was completed or was dated 10 October, 2013.---Yes, a lot of work.

There's a lot of work that went into that?---Yes.

And you read that report, that was the report you read?---Yes, yes.

And you considered that the principles that upon which it was based were sound?---I, I agree with the principles that, you know, they were all looking to improve the centre.

30 And you agreed with the process, did you not, that was undertaken by the external experts that had prepared the report?---Yes.

Including the community engagement process?---Yes, and that was an extensive process.

You agree that was extensive?---I do, looking back, yes,

Do you agree that involved meeting with various stakeholder groups?---Yes.

40 Including people and groups that had an interest in the town centre, such as building owners, tenants and owners of other services within the town centre?---Yes.

And also engaging with people who use the town centre on a daily basis, that is people who work in the area or live in the town centre?---Yes.

And also other people who might use the town centre as required, for example when they visited it only for particular reasons. Correct?
---Yeah, I wish there was a bit more engagement from outside, but yes.

Do you mean engagement by persons outside of the town centre?---A bit further and beyond.

But there were a number of stakeholder workshops that were conducted. Do you agree?---I do.

10

There was community sessions that were undertaken in Fred Kelly Place, which is within the town centre itself. Correct?---Yes.

And there was also a collaborative community map that was used, I think that was done online.---Yes.

There was postcards that were distributed to the local area about the matter.
---I don't doubt you but I don't recall that, but anyway - - -

20

There was advertising placed in local publications, posters in local shopfronts and meetings with key stakeholders. Correct?---Yes.

And that included meeting with members of the Five Dock Chamber of Commerce - - -?---Yes.

- - - to ensure that the wide range of views that needed to be taken into account could be taken into account.---That would be the aim, yes.

30

And there was a process of community engagement and consideration of those community engagement activities, and then further rounds of community engagement. Correct?---Yes.

So it wasn't just a one-off period of community engagement and then they went off and did a study, there was, well, let's throw out these ideas for consideration and then people could have some feedback in respect of that.
---Yes.

40

Did you yourself ever participate in any of these activities?---Yes. I came across when they did something in Fred Kelly Place. I recall one of them took place in a library and I remember attending a Chamber of Commerce function as well.

And that was all during the course of this report being prepared.---Between 2013 and '14, yes.

I'm talking prior to the report being issued in October 2013.---Prior. It was around that time, yes.

And I'm talking about engagement activities that were being undertaken by the persons, that is the external experts who had been engaged to do this study.---Sorry, my understanding was the council were doing some of that for, for the people doing the report.

Council did have some involvement in assisting with the logistics of putting on the various community engagement activities. Is that the - - -?---I think, yes, correct.

10 But you understood that the process was in fact being driven or being framed by the external consultants?---Yes.

And when you say you participated in some of those activities, you referred to one in the library. Can I ask you though about the function that you attended with the Chamber of Commerce. Was that a function you attended prior to the report or are you talking about a meeting of the Chamber of Commerce that was held - - -?---April.

20 You're talking about the April 2014.---April 2014, correct.

So you didn't attend a function prior to the report coming out involving the Chamber of Commerce?---I don't recall.

You don't recall.---No.

But when you gave your answer before that referred to the Chamber of Commerce, what you had in mind was in fact this - - -?---'14.

30 - - - meeting in 2014.---Yes.

Which necessarily was after the report had come out.---Yes.

40 Now, one of the things, or what do you recall about some of the recommendations that had been made by the external consultants in respect of the way forward, as it were, for the town centre?---I recall that the recommendations from memory were to expand the commercial, the width of the centre because it's quite narrow, and there was a focus around council, council properties, classified I think as the centre of activity, with an emphasis on Fred Kelly Place being an open space, a meeting place, and, and associated community benefits that come with that.

And what about – when you say expansion of the area of the town centre, do you mean expanding that part of the town centre that was considered to be mixed-use in terms of zoning?---Yeah, that's, that's my recollection.

And what about issues concerning building heights and the like?---From the report?

Yes.---I think the report, from memory, was talking about – and like, I, I, I stand to be corrected – that I, I don't think height, a greater, a, a lot greater height that what there was there was proposed. My understanding was, it was 15 metres and had been for many, many years, and there wasn't a lot of activity, and they proposed to go slightly higher.

And do you recall to what height they proposed?---I don't recall. Five or six storeys. I think it was already between four and five.

- 10 And in fact, was it in fact the recommendation that the centre's height limit be altered to 16 metres from 15 metres with a 14-metre street wall height?
---Yes, that sounds correct.

And a recommendation that there be a requirement for 3.6-metre-high ground floors?---Yes.

So a little bit of an uplift in terms of the height, but not a huge amount.
---Yeah, you'd have to refresh my memory on how much height, I – well, you just did – on, on, I, yeah, I don't recall any further than that.

20

And do you recall what recommendations if any were made in respect of the floor space ratio?---I recall it was the same.

And do you recall what the floor space ratio was prior to the study?---I think it was, I think it was 2.5.

Okay. And then - - -?---And, and please correct me if I'm wrong, I think it was 2.5 originally and it was 2.5 afterwards.

- 30 In terms of what was being recommended by the report?---Yes. Am I correct there, or - - -

But that's what you remember from your reading of it.---That's what I remember, yeah.

So they were particular matters that you had turned your mind to, is it, when you were reading the report?---I didn't really. I, I started turning my mind to it as people started then responding.

- 40 Responding in what way?---As, so, what period are we up to now? Two - -

I'm just talking about 2013 when the report came out in October.---Okay, so at that point, that they, there wasn't too much happening. That was pretty much just filtering through to the community and, and anyone interested.

And then do you recall that at the meeting of the council on 26 November of 2013, it was resolved, unanimously, to endorse the report that had been prepared by Studio GL?---I recall that.

And to put out the report for a public exhibition.---Correct, I, I think they're following a process now, yes.

So having received the report from the external consultants you were aware, were you not, that the council staff prepared a report for the councillors?
---Oh, that, that would have been, yes.

10 And that report was provided to the councillors together with the external experts' exhibition study report to assist them in making a decision as to what to do next, correct?---A decision to then go to public exhibition to get feedback, yes. Yes.

Yes, and that's very standard though, is it not?---Yes, I think so.

In terms of the way councils work, correct?---Yes.

20 And particularly if you've engaged an external expert that's undertaken all of this work and produced a fairly large document reporting on the study, that council staff might then digest and summarise and synthesise that information so that it was readily digestible for the councillors, correct?
---Yes.

And make recommendations based on what is contained in the external report. Correct?---Yes.

30 And that was all done, if you'd accept from me, after the report had been completed in October 2013, and prior to the meeting of the council on 26 November, 2013. Correct?---Yes.

And did you read the reports, or the report, that had been prepared by council staff to assist councillors at the meeting of 26 November, 2013?---I don't recall.

I mean, is it likely you did or more likely that you did not?---It's possible. I don't know.

Okay, it's possible.---Possible.

40 I mean, was it something that you regularly did, that is read the reports that were prepared by council staff in advance of council meetings?---Not so much so but this is, remembering this is one of the biggest projects every undertaken in Five Dock. So - - -

So ordinarily, for most matters coming before council, you didn't pay much attention to what reports might have been prepared in respect of those matters?---No. Unless it's a, it's a, it's a major community issue and people would come to complain or, or, you know.

And in that period between, let's say, 2012 to 2017, the Five Dock Town Centre Study in what came to be known as, what I refer to as, the associated planning proposals, was a very significant matter before the council, correct?---Yes.

Perhaps the only other equally significant matter was what was going on in respect of Rhodes, that is R-h-o-d-e-s, correct?---Yeah, yeah. Rhodes, Rhodes is huge.

10

But that's a matter that had been going along for some time even before the Five Dock Town Centre Study, is that right?---And still continues.

And is still continuing. But they're the two major issues for the City of Canada Bay Council as you understood it?---And Parramatta Road, Parramatta Road strategy is huge.

Parramatta Road.---Ah hmm. Part of the WestConnex urban renewal at Parramatta Road that goes through three or four electorates. It's huge.

20

So those are the three main council issues that were of sufficient importance to warrant you perhaps paying more attention to the reports that were being prepared than perhaps other matters?---Oh, no, I wouldn't say that. I would say the, I, I, I pay attention to all matters but these are three that are significantly large that have impacts on the entire community, not just pockets. So - - -

30

That being so, is it more likely than not that you read the report that had been prepared by council staff to assist the councillors in advance of the meeting on 26 November, 2013?---I, I don't recall that meeting. I take your word for it.

I'm not asking – well, assuming that the meeting occurred on 26 November, 2013, is it likely that you read the report prepared by council staff?---It's likely. I don't recall but - - -

Commissioner, I just note the time.

40

THE COMMISSIONER: Yes, very well.

MR RANKEN: I am coming to the substance of that report but I think I will be a little – it won't be a five-minute matter.

THE COMMISSIONER: Yes. Very well, we'll adjourn. I have in mind sitting on until 4.30 tomorrow afternoon. Does that occasion any difficulties, Mr Neil?

MR NEIL: No, Commissioner.

