

WITNEYPUB01430  
21/04/2021

WITNEY  
pp 01430-01493

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC  
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION WITNEY

Reference: Operation E19/1452

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 21 APRIL, 2021

AT 10.00AM

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

THE COMMISSIONER: Mr Ranken, ready to proceed?

MR RANKEN: Yes, Commissioner, we are. We can continue with the evidence of Mr Sidoti.

THE COMMISSIONER: Yes, thank you. Mr Sidoti, thank you. Mr Sidoti, I'll have the oath readministered, if you take the Bible. My associate will attend to that.

THE COMMISSIONER: Yesterday I made a declaration under section 38 of the Independent Commission Against Corruption Act in respect of the evidence of Mr Sidoti. That declaration continues to apply to the evidence today. Yes, Mr Ranken,

10 MR RANKEN: Yes. Thank you, Commissioner. Now, Mr Sidoti, I want to move onto the report that was prepared by staff, that is the council staff, in advance of the council meeting on 26 November, 2013, where the council considered the report that had been prepared by Studio GL and others, arising from the Five Dock Town Centre Urban Design Study. And to that end, if we could bring up page 58 of Exhibit 24, you can see that that's the first page of the report that was prepared by Marjorie Ferguson. She was the chief author, at least. You can see that the initials MF?---Yes.

20 And was Marjorie Ferguson someone who was known to you?---I don't think I've ever met Marjorie. I may have but I don't think I've met her personally. I've seen her name on documents before.

Now, the Commission has received evidence that reports like this, together with the other papers at the council meetings, were generally made available via the council's website from about the Thursday or at least the Friday prior to the relevant meeting in respect of which, or where the item was to be discussed and decided upon. Is that something that you were aware of? ---Yes.

30 And that those papers, so reports such as this, were accessible by members of the public?---Yes.

And is that something that you, from time to time, did in respect of matters coming up before the council, that is the City of Canada Bay Council? ---Yes.

You would access the website to read the relevant reports?---Yes.

40 And did that include, from time to time, reports relating to the Five Dock Town Centre Urban Design Study?---Yes, and often they were sent to you if you, or your consultants, if they made a submission, so interested parties were generally included.

So interested parties were generally sent the reports independently of having to access it on the website. Is that what you're saying?---Anyone that made a submission in the past generally was included in anticipation of a meeting.

Prior to the meeting of November 2013 though you yourself had not put any submission in.---'13. No, I don't think so. I don't recall.

This was the first occasion that the council was coming to consider the report that had been prepared by Studio GL so it's unlikely that you would have made a submission at that, a formal submission.---Yeah. I, I don't recall but that sounds right, yes.

You hadn't made any formal submission during the course of the design study itself, had you?---Me personally, no.

- 10 And you hadn't engaged, either you in your own capacity or on behalf of your parents hadn't engaged any consultants at that stage to make any representations in respect of the Five Dock Town Centre Urban Design Study as at late 2013.---Yes, that's correct.

And you weren't, by virtue of holding the position as the state member you weren't automatically provided the council papers.---I don't think so, no.

I'm not suggesting that you should or that you would have.---No.

- 20 So if you read this report it is likely that you would have done so, is it not, by accessing the website and reviewing the report in that manner?---Not sure.

Do you have a recollection as to whether or not you did in fact access this particular report and read it before the meeting on 26 November, 2013?  
---No, I don't recall.

But it's possible but you're not sure.---I have read it but I don't know if it was at that time.

- 30 You may have read it after the meeting as well. Is that - - -?---That's possible, yeah.

Is it likely that you read the report though prior to attending the meeting with the Chamber of Commerce in April 2014 to which you referred earlier in your evidence?---Yeah, more than likely, yes.

So certainly by 7 April, 2014 you would have been aware of the contents of this report?---Yes.

- 40 So you can see there's an executive summary, it's on page 58 of Exhibit 24, and it refers to the fact that "Following an extensive community engagement process with the Five Dock community, the Five Dock Town Centre Urban Design Study has now been completed," and that "The study provides a bold and exciting vision for the long-term prosperity of Five Dock and seeks to ensure that the centre continues to provide a strong focus for the community, is a better place to live and work, creates improved

opportunities for investment, is easy to get around and provides an enhanced built environment.” Do you see that?---Yes.

And if we go to the bottom of that page you can see that there’s a reference to the fact that “The study builds on previous work including the Five Dock Town Centre Strategy 2012, which explored the economic factors that influenced the centre and identified actions to enhance its vitality into the future.”---Yes.

- 10 And if we go to the next page that it records the fact that “One of the key recommendations of that strategy was to consider the town centre from an integrated design perspective by undertaking the Urban Design Study to ensure that any potential changes to the existing planning controls such as building scale, density and height were carefully considered.”---Yes.

Now, as far as community engagement is concerned, you can see that there’s a subheading towards the bottom of page 59 that outlines some of the engagement activities that were conducted.---Yes.

- 20 And I went through some of those with you yesterday in your evidence and I won’t go over the particular dot points that are identified there, but do you see that it refers to the fact that “The engagement activities were conducted in two distinct phases”? That’s the sentence immediately above the dot points on page 59. “Engagement activities were conducted in two distinct phases.”---Sorry, is that where that little cursor is?

Yes. Can you see where the cursor is?---Two distinct phases. Oh, at the last line. Yes.

- 30 Yes, the last sentence before the dot points.---Yes.

And if we go to the next page, there is an outline of the initial phase of community engagement?---Yes.

And that included a community participation event that was held on 1 June, between 11.00am and 2.00pm in Fred Kelly Place. It also included three community and stakeholder workshops on 5 and 6 May, 2013, which were attended by 44 people, and that included a mix of business owners and local residents. Do you see that?---Yes.

- 40 And in fact that forum was to provide for a more in-depth discussion about what people liked and didn’t like about the current Five Dock Town Centre as well as their ideas for the local area. Do you see that?---Yes.

And then there is a reference to the online collaborative map that we spoke about yesterday, and a reference to the fact that that in fact was available over a period of three weeks and there were 399 visits to the website, 246 of

which were by unique visitors, and resulted in some 290 comments being submitted in respect of the collaborative map. Do you see that?---Yes.

And it also identifies that in that initial phase of community engagement, there were views and comments that were sought from members of the Five Dock Chamber of Commerce?---Yes.

10 And that, you would agree, of itself was a fairly extensive, wide-ranging process of community engagement, to ascertain the variety of views that might exist in respect of the Five Dock Town Centre?---Yeah. As, as of seeing this document, yes, initially I didn't, I wasn't aware of, to, to the extent, but yes.

And after outlining that initial phase of community engagement, there were then identified a number of themes which you see are listed or summarised under the subheading Key Themes. Do you see that?---Yes.

20 And the first key theme that is identified there is, "Maintaining the friendly village feel of Five Dock." Do you see that?---Yes.

And the second is, "Working to Five Dock's strengths," and the third was, "Creating a focus or heart for the community in the town centre." And then there are a further seven, and when one goes over to page 61, there is a tenth point on page 61.---Yes.

30 Now, that was all part of the initial phase of community engagement and then there was a second phase of community engagement that the study undertook, which resulted from, firstly, considering those keys themes and creating 12 seed ideas that were created to encapsulate those main themes and to generate some conversation about what steps might be involved to bring those ideas to life. Would you agree with that?---Yes.

And the second phase of community participation included another drop-in event in Fred Kelly Place from 9.30am until 12.00pm on 20 July, 2013. ---Yes.

40 And that resulted in – sorry. Part of that, there was a list of the key themes and the seed ideas, that is, and they used what was known as a "dotmocracy" activity where, where people who attended could put dots next to the particular ideas that they liked or disliked so that they could express their views that way, correct?---Yes.

And the ideas that were most popular were, "Encouraging night-time activity and expanding Fred Kelly Place," as well as, "Green and tree-lined streetscapes."---Yes.

There was also three community stakeholder workshops held on 20 and 25 July and there was, again, the use of the collaborative map tool.---Correct.

And that resulted in 292 visits to the website by 200 unique visitors, with close to 100 comments being made.---Yes.

And it also refers to the fact that there was, in addition to those, a special meeting that was held with the Five Dock Chamber of Commerce to both obtain feedback on the seed ideas and to provide an additional opportunity for the Five Dock Chamber of Commerce to provide input, correct?---Yes.

10 So, again, that second round of community engagement was itself fairly extensive?---Yeah, yes.

And involved a particular special meeting with the Five Dock Chamber of Commerce to obtain the views of it and its members?---Yes, it was stakeholder engagement, yes.

And the Five Dock Chamber of Commerce represents the local businesses in the area?---Local businesses, owners and occupiers, yes.

20 So that would include the owners of retail shops and the like?---Yes.

Shopkeepers and owners of property in the Five Dock Town Centre Study? ---Yes.

Then if we go to page 62, it refers to the – this is where the report summarises what the study found as far as its recommendations, at which could be summarised into four key themes, and the particular key theme I want to focus on is the third, which is identified as, “Urban and built form.”  
30 And if we go to then page 63, you can see that urban and built form is, or the recommendations, are summarised under that subheading, Urban and Built Form on page 63. The first dot point is concerned with, “Quality new development.”---Yes.

And do you see it makes the comment that, “The existing controls were drafted on the assumption that a majority of floor space would be utilised for commercial purposes. However, for a mixed-use development, the controls facilitate odd outcomes. Resulting buildings appear squat, with deep floor spaces that can have poor residential amenity and limited access to sunlight and ventilation, and so a new building envelope is recommended  
40 that facilitates better amenity for residents and improved architectural outcomes.”---Yes.

And then moving over the page, just continuing with that dot point, “To facilitate that, the study recommends that the centre’s height limit is increased to 16 metres and five storeys, with a 14-metre street wall height and a requirement for 3.6-metre-high ground floors.” Do you see that?---I do.

But it also continues on to say, “It is suggested that on larger sites or where amalgamation has occurred, an additional storey should be permitted, allowing six storeys.” Do you see that?---Yes.

So, I think you told us your understanding was that, prior to the study, the recommendations of the study, the height limit was 15 metres, so it was only a modest increase to 16 metres or five storeys, correct?---One metre more, correct.

- 10 But the study was also suggesting, though, that if you had larger sites there should be some consideration to allowing for a sixth storey?---Yes.

It also refers to B4 mixed-use zone and, “The recommendation of expanding the width of the centre core by creating additional mixed-use areas along West Street, south of Henry Street, and between Garfield Street and Kings Road, and along Waterview Street, south of Second Avenue.” Correct?---Correct.

- 20 And the position was, though, let’s deal particularly with the Waterview Street side, is prior to the study, there was a block that was south of Second Avenue that had, part of it was split-zoned down the middle between the Great North Road side and the Waterview Street side, correct?---Correct, exactly the same as the next block, yes.

Well, it was a little bit different, wasn’t it? Perhaps if we could go back to page 232. Now, you can see on page 232, where it was proposed to expand the B4 mixed-use zone. Do you see that?---Yes.

- 30 Now, you can see though, can you not, that the pre-existing B4 mixed-use zone extended for part of the way up Waterview Street because there was a car park there?---Oh yes, where the car park is, correct.

So that car park was part of the B4 mixed-use?---Correct.

And that was between First Avenue and a position a little way along Waterview Street, correct?---Correct.

- 40 So, it wasn’t the same as the block, it wasn’t exactly the same as the block that was north of Second Avenue in the sense that there was at least part of that block which fronted Waterview Street that was already zoned as mixed use?---Well, yeah, a council car park, yes.

So then if we could go back to page 64, the B4 mixed-use zone, I’ve taken you to that recommendation. And it says, “This will allow the centre to grow over time and provide additional pedestrian connections.” And that reference to pedestrian connections was partly to do with what was happening on the other side of Great North Road in order to facilitate



pedestrian access over to the school. Correct?---Yes, I'd say that's correct, yes.

I just want to draw your attention to the bottom of that page where it refers to economic analysis and it says, "To strengthen the commercial rigour of the study, HillPDA was engaged to test the financial viability across three sites within the centre. The outcomes of the testing demonstrated that the proposed building envelopes combined with the existing floor space ratio will attract investment and redevelopment." Now, just pausing there. The  
10 existing floor space ratio was one of 2.5. Correct?---Yes.

2.5:1, I should say.---Yes, yes.

And so essential what has happened is there's been some feasibility analysis that has been conducted by study HillPDA, which has taken into account the proposed increase to 16 metres and it has looked at the existing floor space ratio and has found that that would attract investment and redevelopment. Correct, that was the finding?---Yes, what's what it said, yeah.

20 And if one goes to the next page, page 65, it goes on to say that "An analysis of the relationship between FSR building height and viability has also", it actually said "be", it should say "been undertaken to confirm that the proposed planning controls are appropriate to the town centre and will facilitate investment and improve building designs." Do you see that?  
---Yes.

So it hasn't just all been about the Urban Design Study and looking at those planning proposals in a vacuum. There's also been some economic analysis that was done by HillPDA to see whether or not you would actually  
30 properly attract, how to best properly attract investment and redevelopment of the area. Correct?---Yes.

Then if we could then move on to – I'll skip over the next part which is about financial impact to the council because there were certain things that the council would need to do in order to facilitate some of the recommendations in the study such as acquire certain private land and the like. Correct?---(No Audible Reply)

40 And I want to move to the next page where it identifies next steps. And do you see after the dot points that appear under that subheading there's a paragraph that says that "The recommendations involve the potential rezoning and acquisition of private land and have implications for leaseholders on council land. It is important that affected property owners are notified expeditiously and the recommendations discussed with them." Correct?---Yes.

And that would be an obviously appropriate course for the council to take. ---One would think, yes.

And it also suggests in the next paragraph that “A draft Development Control Plan, or DCP, has been prepared for discussion purposes at this stage and it is intended that the draft DCP be exhibited with the Urban Design Study on a non-statutory basis to provide further guidance on how the Urban Design Study could be implemented.” Do you see that?---(No Audible Reply)

10 You would understand the thinking behind that is, well, there’s this Urban Design Study but what is it going to mean in terms of the actual development control plans that might be put in place. So this is another piece of information in terms of a draft DCP that can assist interested parties and the community to understand how the matter might progress further. Correct?---The key word discussion, yes.

Yes, for discussion, exactly. For discussion.---Yes.

20 To enable them to be better informed when they put in any submissions they may wish to put in in response to the exhibition of the report.---Yes.

Because this of course is all happening on a non-statutory basis at this stage because there’s no planning proposal that is being considered to be put forward to the department at this stage. Correct?---Correct.

They’re still in the study stage.---Yes.

30 And it goes on to say that “The draft DCP will be of particular interest to property owners as it details how improvements to the built form of the town centre could be achieved.” And it goes on at the bottom to refer to the fact that, “The following documents will also be prepared for council’s consideration at this time,” that is following the public exhibition and taking into account what might come from that public exhibition.---Yes.

And one of those would be, “The planning proposal to amend the Canada Bay LEP and a Development Control Plan as well as a financial strategy including potential amendments to the Development Contributions Plan and a cross-departmental Implementation Plan.” Do you see that?---That’s on the same page?

40 Sorry, those dots points are over the next page.---Okay.

And then so finally you have the recommendation below of council staff, which is to endorse the Five Dock Town Centre Urban Design Study and to place the draft Five Dock Town Centre Development Control Plan on exhibition with the Urban Design Study on a non-statutory basis and then the council to notify the property owners and leaseholders affected and that there would then be a further report to council following that exhibition. Correct?---Yes.

And you would agree, would you not, that that, all of that is sound in terms of its reasoning and its approach to how to proceed further with this issue of the redevelopment of the Five Dock Town Centre?---At that point, yes.

And you are aware, are you not, that the council at the meeting on 26 November, 2013, voted unanimously in favour of a resolution that gave effect to these very recommendations. Correct?---'13, 2013?

10 Yes.---Yes, I think that's correct.

And that included Councillors Ahmed, Councillors Cestar and Councillor McCaffrey?---Yeah, unanimous would mean everyone present at the meeting, yes.

THE COMMISSIONER: I'm sorry, I can't hear you.---Unanimous, everybody at the meeting, yes.

20 MR RANKEN: Everybody at the meeting who was able to vote.---Correct, sorry.

You were aware, and maybe you were or you were not at this time, but as at November 2013 were you aware that Councillor Megna had declared a pecuniary interest and therefore did not participate in any discussions about the matter at council meetings or any voting on the matter?---I, I knew he and, owned property by himself or his family in the town centre, yes.

30 But did you know that he had actually, as a result of that, declared a pecuniary interest?---At some point I did. I'm not sure at that point, but - - -

You're not sure if you knew at that point.---Yeah, but subsequently I would of.

But you would have – the knowledge that he and his family owned property in that town centre area would have been something that you were aware of though?---Yes.

40 So I would expect you would have assumed that he would declare a pecuniary interest that would preclude him from voting.---Yes.

So you would never have thought that he could possibly vote on the matter. ---I had a discussion with him at one point, so I wasn't sure, because I had a discussion with a councillor somewhere else to do with whether you could or you couldn't, because a DA generally is for a specific property but an LEP is for multiple properties, so sometimes you can do an area-wide LEP and if everyone lives in that area and you declare an interest, you can never vote on it, so you can never get anything approved, and when I was on Burwood Council an LEP took years because it was not possible to vote

because everybody either lived in the town centre or owned something there so you couldn't get a quorum.

So you thought then at some stage during this process that there was a possibility that Mr Megna might be able to vote or participate in decisions relating to the town centre?---I had a discussion with Michael and it was brought up in evidence.

10 Are you referring to a discussion that Mr Megna referred to in his evidence?  
---Correct.

And as a result of that discussion he went and obtained legal advice.---Yes, he said that to me. I never saw it.

20 Well, he had declared a pecuniary interest in the matter by 26 November, 2013, so is it likely that your discussion with him about that would have been earlier on?---It's possible. It may have come after that. It was still at the preliminary stage, it was really about a plan and then proceeding to, to go to more discussion and something that would be going for years.

Well, perhaps you could assist us then with the terms of this discussion that you had with Mr Megna, because Mr Megna had, at least by 26 November, 2013, already declared that he had a pecuniary interest in the matter and did not participate in the discussion or the voting in respect of the matter on 26 November, 2013. Now, that would suggest that if the discussion between you and Mr Megna occurred after that date, then he might have – he was under the apprehension that he could not vote but you might have had a different view. Is that how it happened?---No, I, I don't recall it.

30 Did the discussion involve you asking him, "Look, are you going to vote on the, or participate in discussions about the Five Dock Town Centre study?" and him saying, "Well, no, I think I've got a pecuniary interest," and you questioning him? I just would like - - -?---It, it wasn't, it wasn't inquisitive or questioning, it was just a, a point brought up and I understand he clarified. And even when you get advice, at the end of the day, if the advice is incorrect, ultimately the decision will fall on the councillor. So, for whatever reason he took that and that was it. Never came up again.

40 But the discussion you had with him, at the commencement of the discussion, there was a difference of opinion between yourself and Mr Megna, was there?---I don't think there was a difference of opinion. He just sought advice over it.

But was he expressing a view in the discussion that he didn't think that he could participate because of his family's pecuniary interest in the matter?  
---Yes, I think that was the case.

And you expressed a view that you thought that it might be possible that he could participate?---Yes.

And, what, did you suggest to him that he should perhaps go and seek some advice?---I don't recall if it was me or himself. I think it was himself, just to, to clarify the point.

Anyway, having taken that advice, he ultimately did not change the position?---Yeah, it seems that way, yeah.

10

And so he continued to claim a pecuniary interest in the matter and didn't - - -?---Correct,

And why was it that you were interested in exploring that with Mr Megna as to whether or not he might vote on the matter even though he appeared to have a view already that he had a pecuniary interest?---Well, it wasn't, it wasn't of any particular significance. It was just inquisitive.

20

Well, it must have had some significance because it caused Mr Megna to go and seek further advice about it.---It was only, it was brought up in the context of an LEP in Burwood where nobody could vote.

Sorry, so are you saying that this conversation that you had with Mr Megna was brought up in a different discussion that had nothing to do with the Five Dock Town Centre but some discussion about an LEP in Burwood?  
---Correct.

30

Burwood, which at that time was not part of the Drummoyne electorate?  
---Next door, correct.

Burwood, which at that part, you were not a councillor of?---Correct.

So what on earth were you doing discussing an LEP on Burwood that led to a discussion then about whether or not Mr Megna might have a pecuniary interest that prevented him from participating in decisions about Five Dock?---It was a discussion and that's all it was, between two colleagues.

40

It just doesn't seem to make a lot of sense, with respect, Mr Sidoti, and I just want to explore it. Is this the situation, that the discussion was in fact about the Five Dock Town Centre issue and whether or not Mr Megna could vote, but in the course of that discussion you made reference to something that had occurred in relation to Burwood?---Correct.

So the discussion wasn't originally about the Burwood LEP, it was always, initially about the Five Dock Town Centre Study, correct?---No, it was about both.

Well, what prompted the discussion was the fact of the Five Dock Town Centre Study. Is that not the position?---No, similar principles, that's all.

10 But what you were talking about was whether or not Mr Megna was precluded from participating in discussions and decisions about the Five Dock Town Centre Study because of his pecuniary interests, correct?---No, no. What I'm saying is that it was a simple discussion that took place between two colleagues, and you seem to be making it into something that, that wasn't there. It was a very simple discussion. He was right or I was right.

I'm just trying to work out what the discussion was.---And he got advice and it was, it's his prerogative to take whatever advice he got. That's where it ended.

But I'm just - - -?---It never came up again.

20 Mr Sidoti, I'm just trying to work out what the, what was the discussion, how the topic arose where you were talking about pecuniary interests and the extent to which they might preclude someone from participating in decisions and discussions about such matters.---Because my understanding were at some point there was a change in the code, so at one point councillors could vote on properties that they owned within an LEP, and then I understand the government changed the rule there.

30 Well, that's not answering my question, that's talking about some understanding that you have about a change that occurred in respect of the code. I'm asking you about the discussion that you had with Mr Megna in which the issue as to whether or not he was precluded from participating in decisions and discussions about the Five Dock Town Centre Study was raised and you expressed your view as to the possibility that he might be able to participate, notwithstanding the pecuniary interest and he expressed his view that he was precluded from doing so.---No, that's not exactly correct. What it was about was, at one point a councillor in New South Wales could vote on something within an LEP. They couldn't vote if it was specific to a development application for a property that you owned, and at some point that regulation or law changed. That's how the discussion came about.

40 So you were discussing - - -

THE COMMISSIONER: Where did this discussion take place?  
---Informally in a café.

And approximately when?---Oh, I don't recall the date.

Was it before or after for example the first meeting of council which we've been taken to on the Five Dock, sorry, on the Drummoyne Town Centre

Plan Study?---I, I couldn't tell you. I couldn't give you an answer. I'm not sure.

Do you know who he got advice from on the question, who Mr Megna sought advice from on the question as to whether he should declare an interest?---No. He said to me that he was getting legal advice on it.

And you don't know whether that time-wise was before the first council meeting on the Five Dock Town Centre Plan?---No.

10

MR RANKEN: Thank you, Commissioner. Now, are you aware that the town centre, sorry, the Five Dock Design Centre – sorry, I withdraw that. Are you aware that the Five Dock Town Centre Urban Design Study and the corresponding planning proposals were publicly exhibited during December 2013 and January 2014?---I'd assume yes, they were.

And if you hadn't already read them at that point, prior to that point, you would have read them over the course of that?---I read them at some time. I don't recall the date I read them.

20

Because the matter was to come back before – the matter was initially expected to come back before the council in early May 2014, but in fact came back on 20 May, 2014.---This was after exhibition?

Yes, after exhibition, yes.---Yes.

And you understood that from the recommendations that had been made by council staff that had been unanimously adopted at the November 2013 meeting, that following the exhibition of the proposal there would be a report that would be prepared that would effectively summarise the detail of submissions that were received.---Yes.

30

And you were a person who was entitled to make submissions, were you? ---Yes, I think community, anyone's entitled to make submissions.

Did you make any submissions at that time?---At what date?

This is following the public exhibition in December 2013 and January 2014. ---I don't, I don't think so. I don't recall.

40

But you did take an interest in the design study?---Yes, definitely.

And on 7 April, 2014 you attended and addressed a meeting that was held at the Five Dock Chamber of Commerce. Correct?---Correct.

And you were invited to attend that meeting, were you not, in your capacity as the state member?---Yes.

The Honourable Craig Laundy MP was also invited to attend and address that meeting. Correct?---Yes.

And also present was the mayor, Angelo Tsirekas.---Correct.

And Mr Tsirekas he also addressed the meeting. Is that correct?---Correct, and Councillor Fasanella as well.

10 And Councillor Fasanella was present as well.---Yes.

But was Mr Megna present?---I don't recall Michael being present to be honest with you and that was half the problem.

That was half the problem.---Mmm.

When you say that was half the problem, half the problem with what?  
---There was no representation from the Liberal councillors.

20 At the meeting with the - - -?---With the Chamber of Commerce.

Well, did you raise with Mr Megna the possibility of him actually attending?---No, the invite didn't go – I only accepted the invitation that would have come to me. I wasn't aware of whether it went anywhere else.

But the meeting of the Chamber of Commerce wasn't only to discuss the Five Dock Town Centre Study, though, was it?---No, no.

30 There were a number of - - -?---Business related.

There were a number of issues and topics that the Five Dock Town Centre Chamber of Commerce wanted to raise in that meeting, not only matters relating to the Five Dock Town Centre Study. Correct?---Correct. They were looking for collaboration between all levels of government I think.

But they were also looking to hear from yourself and Mr Laundy, were they not, about such things as electricity and land tax costs?---Yes.

40 They were the particular issues at a state and federal level that were seen to be affecting small businesses in the area.---Yes.

And that was the principal reason that you and Mr Laundy were invited to attend that meeting. Is that not the case?---No. I think the main reason for people attending was the Five Dock Town Centre Plan.

Now, I wonder if we can go to page 350, Exhibit 24. That's the minutes of the meeting of the Five Dock Chamber of Commerce on 7 April, 2014. Do you see that?---That's part of it, yes.



Well, that's the first page of the minutes.---Yes.

And in fact the minutes go through to about page 355. You don't need to do that immediately but we will go to various parts of it.---Sure.

10 And do you see that the first thing that is recorded after the welcome and apologies is the details of who were present which included Mr Di Giacomo and Mr Glen Haron. They were the president and the vice-president. Is that correct?---Yes.

And then it also shows the other persons in attendance, which included the three persons I mentioned, as well as Councillor Fasanella, who you mentioned. Correct?---Yes.

And there was also a member of staff from the Canada Bay Council, Ms Kelly. Do you see that?---Yes.

20 And after that it records the, or summarises the effect of what the president, that's Mr Di Giacomo, said when he opened the meeting or his report to the meeting. Do you see that, to president?---Yes.

And the dot points that we see after that summarise the effect of what he addressed the meeting about initially.---Yes.

30 And the second dot point refers to the fact that "The purpose of state and federal members' attendance is to discuss the current issues that have been affecting small businesses, namely, electricity and land tax costs." Do you see that?---Yes.

So the principal purpose for you and Mr Laundry to be present there was to speak to the members of the Chamber of Commerce about those issues so that they could raise their concerns about things such as electricity and land tax.---Yes, that's what it says there.

Those things that are affecting small business. Correct?---Yes, part of the things, yes.

40 And then there is a reference after that dot point, two dot points down there's some correspondence that's referred to, in particular the third bubble point, if I could call it that, is a letter to yourself regarding 186 Great North Road and invitation to chamber meeting. Now, 186 Great North Road, that's not a property that's within the town centre of Five Dock, is it? ---I'm just trying to figure out what it, what it is. What - - -

It's north of Lyons Road.---Oh, yes. I know the site.

Was it the former bowling club?---Correct.

So that's something that's quite separate to the Urban Design Study?  
---Well, that was a planning proposal.

I understand it's a planning proposal, but it's something that existed separately to the Five Dock Town Centre Study?---Yes, because it's outside of the centre.

It's outside the area, yes.---Correct.

10

So we can put that to one side. And then if we go to point 3, there is a number of points that were raised in relation to the Urban Design Study. Do you see that?---Yes.

Now, those points that are recorded there, were they matters that the president or members of the Chamber of Commerce were outlining in relation to the Urban Design Study?---Sorry, can you put that different way? I didn't understand that.

20

Well, do you recall – because you were present at the meeting and we weren't, so in a sense we're reliant upon your recollection as best you can as to who was the source of the dot points that we see that commence on page 350 and continue over to page 351 about the Urban Design Study?---It looks like the president.

It would appear so, would it not? Certainly someone who was a member of the Chamber of Commerce outlining the detail as to what they understood the study meant and its implications and the Chamber of Commerce's views about it?---That's what I take, that's how I would take it, yes.

30

Now, just staying on page 351, the fourth dot point refers to the fact that one of the many features of the report was to look at consolidating and incentives to increase the floor space ratios?---Yes.

So there was a recognition about that.---Sorry where is that?

That's the fourth dot point on that page.---Oh, on the top of the page?

Yes, fourth from the top, where that - - -?---Yes.

40

And then if we go to the fourth-last dot point above the heading that's your name.---Yes, "The study"?

Yes, the dot point that commences, "The study looks at three stages." And it says, "Since we've been waiting 35 to 40 years to see change, it is important that we look at achieving change that is viable in the short term at both ends of Five Dock, Queens Road and Lyons Road." Do you see that?  
---Yes.

So that was a view, was it not, that was being expressed by the President of the Chamber of Commerce as representing the Chamber of Commerce's position, that we need to be careful to make sure that the development is viable?---Well, that's the way I interpret it but I can't, sort of, speak on his behalf, but that's the way I would have interpreted it from the minutes.

And you're interpreting it from the minutes of a meeting that you were in attendance to.---Correct.

10

And so we're grateful for the assistance you're able to give us with that. If we go to the second-last dot point above the heading that is your name, we see it says, "One of the chamber's recommendations was to rethink the consolidation aspect, anything over 1,500 square metres, to ensure quality development. Floor space ratios should be looked at. If it isn't increased, development will not occur." Do you see that?---Yeah, chamber's views, yes.

20

And that was a view that was being expressed by the Chamber of Commerce that there needed to be some encouragement of amalgamations because there were quite a number of small parcels of land that were unlikely to be developed without there being some amalgamation and some increased floor space ratio and increased height, correct?---Correct, because there aren't any large parcels, there were very limited large parcels anywhere in the town centre, other than council.

And that was the view that was being expressed there by the Chamber of Commerce, correct?---Yes.

30

And are you aware, or did you subsequently become aware, that in fact at a councillor workshop that was held the very next day, a view was expressed by a number of councillors that there should be some incentive to encourage amalgamation of sites, including the possibility of increased floor space ratio and increased heights?---I don't recall the workshop the next day, but I, I do remember this meeting vividly. It was quite heated. There were a number of other shopkeepers there and it was, it was a heated meeting.

Well, I'll come back to the meeting.---Okay.

40

But I just want you to stay with my question. My question wasn't whether or not you recalled actually attending the council workshop because you wouldn't have.---No.

That wouldn't have been something that you would have been invited to attend, correct?---Correct.

But are you aware of the fact that there was a councillor workshop the next day?---Not from memory.

But you've been in the Commission whilst there has been evidence about that.---I, I would have been, yes.

Do you recall the evidence of Mr Dewar?---I do.

He said - - -?---Date-wise I wasn't aware next day, but, yes.

10 Well, he gave evidence about the fact that in particular Councillor Kenzler, who was a Labor councillor, was very much in favour of a bonus provision that would allow an increase in floor space ratio and heights to encourage amalgamated sites, correct?---Yes.

And a number of the other councillors who attended that workshop have indicated or given evidence that there was a view amongst the councillors that that needed to be looked at, correct?---Yes.

20 And you're also aware, are you not, that following that council workshop, council staff did in fact prepare a draft proposed bonus provision?---At that workshop?

No, following that workshop. As a result of those issues being raised by councillors.---Yes.

And that would reflect the view that was being expressed by the Chamber of Commerce?---Yes, that would be consistent, yes.

30 Now, perhaps we might get back to the point that you wanted to make, which was that this meeting – I assume you're talking about the meeting of the Chamber of Commerce?---Correct.

Was very heated.---So that was the meeting of the 4<sup>th</sup> of April?

No, this is a meeting of the 7<sup>th</sup> of April of 2014.---7<sup>th</sup> of April, I beg your pardon, yes.

There wasn't a meeting that you attended on the 4<sup>th</sup> of April, was there?  
---No, I just - - -

40 Just want to make sure.---Yep.

So we're just dealing with the 7 April, 2014 meeting that you attended and addressed. You say that that meeting was quite heated?---Yes.

And there were a number of shopkeepers present as well, correct?---Correct.

Whose names apparently are not identified as being present on - - -?  
---Correct.

- - - the, as being in attendance, is that right?---Yes.

And you say that they expressed some views that were different to what is recorded there by the president or as having been – sorry, I withdraw that. Do you say that they expressed some views that were different to the view that is expressed at the dot point that I’ve taken you to concerning one of the chamber’s recommendations?---No, there was a presentation by the council staff, a council staff member, and it presented all these really nice pictures, you know, beautiful buildings and ultramodern designs with leafy trees and everything. And the problem was all these wonderful plans that were presented, the chamber’s view was that it would never happen by increasing the height by a metre or not changing the floor space ratio. Because the whole idea was it never changed, so how, how is all this vision going to happen when there’s no changes and no, no incentives or it was just sort of a plan?

Do you see where, or are you able to identify in the minutes where it is recorded that there was a presentation that was given by a member of the council staff that showed those designs?---No, I, I, I recall it because, vividly, because Glen Haron contacted me and, and I spoke to him that, that evening.

THE COMMISSIONER: Are you sure it’s the same meeting you’re talking about?---Yes, I recall it vividly.

Who made the presentation on behalf of council staff?---I think it was Stephanie Kelly ‘cause she was in charge of that area, but I can’t be a hundred per cent sure.

Do you know what her field of work is?---She’s been there a long time, but I think at the time it may have been, she was always involved in community engagement with the council. I can’t give you any specific role.

Did she specialise in some area within council? Was she a planner, was she an administrator or what was she?---I don’t know her actual role.

What was her surname again?---Kelly.

MR RANKEN: She was the Manager of Business, Arts and Place Making, was she not?---Possibly.

She wasn’t a planner.---I, I don’t know.

It would seem rather odd, would it not, that the fact of her providing such a presentation was not recorded anywhere in the minutes?---Depends who was taking the minutes. I don’t know.

Are you sure that in fact there was any such presentation?---I remember it vividly, yes.

And just so that we're clear, the view that was being expressed by these shopkeepers, one of whom I think you said was Mr Haron, was it?---Yes.

Are you able to name any other of the shopkeepers?---I remember seeing Caminiti, the butcher.

10 Sam Caminiti.---There was a lot of shopkeepers there. I think there were too many, that's why they haven't listed them, I think they were sort of - - -

I'm not asking for why they hadn't listed them, but I'm just wanting you to identify who these shopkeepers are. Sam Caminiti.---Was a butcher.

Mr Haron.---Yeah, Mr Haron, yes.

20 And those two gentlemen expressed a view that increasing it by one metre was not going to be enough. Is that right?---Yes.

What view did they express?---Well, everybody in the room wanted to talk about floor space. That was the elephant in the room and that was something that nobody was talking about from the, from the council presentation.

Well, Mr Di Giacomo, the president, he raised the issue of floor space ratio. ---Sure, but he's not from the council.

30 No, but he's identified that one of the chamber's recommendations was to rethink the consolidation aspect, "Anything over 1,500 square metres to ensure quality development floor space ratio should be looked at. If it isn't increased, development will not occur." Do you see that?---Yes.

So the view that was expressed by the Chamber of Commerce, as recorded in these minutes, was that you did need to look at floor space ratio but in the context of recommendations to rethink the consolidation aspect, that is amalgamation of properties.---Sure.

40 So that was the context in which floor space ratio was being raised by the Chamber of Commerce. Correct?---Well, I, I, you'd have to ask Joe in the context of how, how that came up, but I'd take your word for it.

Well, that's what's recorded in the minutes.---Sure.

We assume the minutes are an accurate record, as best as can be made, of the substance of what was discussed.---Sure, one would think, yes.

THE COMMISSIONER: Well, you were there.---Yes.

So does it accord with your recollection that the issue raised and discussed at the meeting concerned floor space ratios in the context of amalgamation of sites?---My, my recollection, yes, that it was brought up in the context of nobody wanted to talk about floor space ratio, we wanted to talk about everything else other than the floor space ratio, and I think that's where the Chamber of Commerce, and I think it's acknowledged by the mayor as well, that it was a view shared that he'd been told about floor space ratio.

10 MR RANKEN: Well, let's deal then briefly with the mayor. He spoke after you, but I'll come back to what you had to say.---Yes.

But if we go to what the mayor had to say, that's recorded at page 353, and before we get to the particular topic that you've raised, you can see the third dot point refers to the fact that the council is committed to funding for the economic study and now the Urban Design Study, it's currently finalising submissions, numerous meetings have been held to get to this point with stakeholders, businesses, residents and users who have submitted what they think should be the future for the Five Dock, report to be finalised at the  
20 beginning of May. Minor tinkering has occurred with the report. Don't want to see empty shops and vacant blocks as it does rubbish the area. Urban activation will not take in, will not only take in owners' and developers' point of view, and there's a point in relation to connectivity, and then, "Lots of people have raised the issue of floor space ratio. Five Dock has had a very good floor space ratio, however no stimulation, large developments required as well as smaller ones to stimulate the area." Do you see that? So he's expressed a view that well recognises the issue of floor space ratio as having been raised by people. Correct?---Well, it came up that night, that's why he's raised it. It's important to engage with the  
30 audience that were there as elected representatives and that view came up.

So do you say that the reference to "Lots of people have raised the issue of floor space ratio," you now recall is a reference to lots of people at that meeting had raised?---Absolutely.

As opposed to the issue being raised more generally in the course of the Urban Design Study?---Oh well, you'd have to ask him but my, my view he brought it up that, that evening because it was the elephant in the room. Everybody wanted to talk about it.

40 Well, it doesn't sound like it was much of an elephant in the room if everyone was talking about it.---But council didn't want to talk about it.

Well, it was something, what the mayor was saying I would suggest to you is that this is an issue that has been raised and has been looked at.---Well, you'd have to ask Angelo.

Well, I've taken you to parts of the report and particularly the staff report that identified what was to happen with the floor space ratio. Correct?---No, that was, not that it was going to happen that that was a suggestion by Mr Di Giacomo. Is that what you're saying?

No, no, no. But floor space ratio, it's not a situation where floor space ratio was completely ignored by the Urban Design Study, is it?---It, it, they made recommendations.

10 They've looked at floor space ratio. They'd also had HillPDA do - - -?  
---Correct.

- - - undertake some feasibility analysis, and that feasibility analysis had indicated that the existing floor space ratio was sufficient to encourage development subject to there being changes to height controls and the like. Correct?---Sure, but, but you understand that.

20 Yes, I do understand that.---How do you change height and not floor space ratio? If you can't reach the height now, how do you reach it with the same floor space ratio? You run out. The two things are married.

Well, that - - -?---It's, it's a very obvious point.

Well, that depends on a number of other factors as well, does it not?---Well, not exactly, no.

30 It's not a simple equation of greater height necessarily needs greater floor space ratio. That depends on the size of the block. Correct?---Only when you start going over a certain FSR.

It needs - - -?---At 2.5:1 you cannot possibly go higher. It's been 15 metres for 20 years. Show me the 15-metre buildings in Five Dock. They were all specific.

40 And that was one of the problems, was it not, was that the height controls were too low to facilitate building to the floor space ratio?---No, that's not correct. Because if it was 15 metres, you'd have 15 metre buildings. There weren't 15 metre buildings, and that was obvious because the floor space was too low. What council was proposing was to say we want you to have the floor, the same floor space over five storeys as opposed to the two and three storeys that were predominantly in the Five Dock area. So what they're actually asking is the same floor space over multiple levels, which costs a lot more and there's no incentive.

Well, let's then go back to what you had to say about it at the meeting.  
---Yes.



So firstly, you thank the president for the opportunity to speak and then what you said is you don't believe what the chamber is pushing down the bottom end of Five Dock is going to benefit the whole of Five Dock. Do you see that?

THE COMMISSIONER: What were they pushing?---Can I explain that?

10 What were they pushing, just very briefly?---Yeah. So very briefly there was a parcel of land which was open space recreation, a bowling club that sold and the idea was that there should be another shopping centre there, all commercial, which could attract parking for that end of Five Dock and competition to the existing supermarket that wasn't a popular name supermarket - - -

Just leave it at that at the moment.---Perfect.

I think you've identified what it was.---Yes.

20 And your view about it is set out in the second dot point.

MR RANKEN: And just so we're clear - - -

THE COMMISSIONER: Is that right?---It shouldn't be residential was my - - -

MR RANKEN: Sorry, was it shouldn't be residential?---It should have been commercial, an extension to the commercial area. Instead it was 100 units odd.

30 Just so we are clear, when you refer to the bottom end of Five Dock, are you talking about the end down towards Parramatta Road, or are you talking to the end towards Lyons Road?---The end towards Lyons Road which you mentioned, that specific property.

So the property at 186 which was - - -?---Correct.

- - - north of Lyons Road?---Correct.

40 And then you've gone on to say the dot point after that – sorry, there's a dot point relating to the bowling club.---Yes.

That follows on, does it not, from your view expressing the second dot point?---Correct.

And then you said that you “Don't believe that residential development will help the Five Dock strip.”---Correct.

And you go on the next page - - -?---And that's in contrast to the Chamber of Commerce.

And so you were expressing a view that was different to the Chamber of Commerce?---Well, the idea was we're trying to improve the commercial viability of the centre but I think they had a view of putting residential to live in there, which was just, just a view that was conveyed.

10 And if we go then to the next page, we see the third dot point, that the Five Dock density is far too low.---Yes.

And there's a reference to problems with car parking.---Yes.

And then two dot points down, you are the person who raises the view that "Attractive buildings can be built on small and large parcels of land. Variations are important. Not a one-size-fits-all. 3:1 floor space ratio is required." Correct?---Yes.

20 "Unless it is 3:1 and unless the LEP marries with the DCP, the same problems will continue, where you will not be able to reach your floor space ratio maximums with the height level set. It will basically come down to a situation that it will be at the discretion of council." Do you see that?---Yes.

And that's the view that you held.---Well, that was the minuted view. But I'd originally said that it has to be anything above 2.5, because if it was at 2.5 and there's no change, well, you're not going to get any change.

30 Well, where did the 3 – 3:1, that's from you.---Yeah, well, that was minuted. It came to a 3:1. I initially said anything above 2.5, 2.7, 3.

They didn't make up the figure 3:1. That's a figure - - -?---No, no, it came up.

Yes. That's a figure that you mentioned.---But they're the main points, yes.

But that's a figure that you mentioned, correct?---Yes.

40 It wasn't a figure that the Chamber of Commerce mentioned.---No, they mentioned another figure.

And, well, they mentioned another figure and are you able to assist us with what that figure was?---3.5.

So you were suggesting a lower figure than the Chamber of Commerce, you say?---Yes.

And that figure of 3.5, was it mentioned by the Chamber of Commerce during the course of this meeting?---I think it was.

And following that meeting at which the mayor was in attendance, correct?  
---Yes.

And at which the mayor had also acknowledged the fact that the issue of floor space ratio was something that people were raising, correct?---Yes.

10 You contacted, did you not, each of the Liberal councillors on the City of Canada Bay Council with a view to arranging a meeting with the President and Vice-President of the Chamber of Commerce.---That's correct. That evening.

Yes, that evening. So immediately following the meeting, that's correct?  
---Yeah.

20 And did that arise out of some discussion that you had with the Chamber of Commerce – well, sorry, with particularly the President and Vice-President of the Chamber of Commerce?---No, there was a group at the Chamber of Commerce after the meeting that berated me, saying, "Where are the Liberal councillors? This is the party that's meant to represent small business. Where are they?" Their absence was noted.

Sorry, does that mean that the president and the vice-president were not part of that discussion?---I remember the vice-president was, yes.

So there was some discussion with the vice-president?---Oh, yes, definitely. That night.

30 Was the suggestion from you or the suggestion from the vice-president, "Can you arrange a meeting with the Liberal councillors?"---The vice-president asked me.

Well, what about with the Labor councillors?---Well, they were already there.

Well, there was one Labor councillor there.---There were two. There was the mayor.

40 Mr Fasanella had no - - -?---Sure. But the mayor was there.

- - - he had no ability to participate in any decisions.---Sure. But the mayor was there, so he could pass that on to all his colleagues.

So you wanted to pass on to the Liberal councillors, did you, the view that had been expressed by the Chamber of Commerce that there should be increased floor space ratios and heights? Was that - - -?---No.

Well, what was the view that you wanted to express to the Liberal councillors that you felt compelled to arrange a meeting because they weren't at the Chamber of Commerce meeting?---Correct.

Well, what was it? What was the information - - -?---Oh.

10 - - - that you needed to pass on to them?---That the view of the Chamber of Commerce, and particularly from Glen Haron, was that they weren't there and they were missing in action. And that's the, that's what prompted me that evening, as soon as I got home, to send that email.

Okay, so I just want to be clear about that. What prompted you to send an email to the councillors, the Liberal councillors, on the evening of 7 April, 2014, following the meeting with the Chamber of Commerce, was the view that had been expressed that Liberal councillors should have been present? ---Correct.

And that's it?---Correct.

20 Well, what other information did you need to pass on to the Liberal councillors arising from that meeting?---I was just conveying that their absence was noted and probably be a good idea if they could meet with the Chamber of Commerce so they could express their views directly to the Liberal councillors.

30 It might have been of assistance, might it not, to inform the Liberal councillors in your email – which we will come to in a moment – that, “Look, your absence was noted at the meeting of the Chamber of Commerce tonight. I want to make arrangements for you to meet with the Chamber of Commerce because you need to be pulling your weight more,” something along those lines?---Oh, no. I think they should have been present. It was, it's a major plan for the next 20 years. What, you have to be informed on it.

But what was it that you wanted the Liberal councillors to know as a result of the meeting that you'd had with the Chamber of Commerce?---There wasn't anything in particular other than they should be aware of the, the main stakeholder views there from the Chamber of Commerce.

40 So were there particular views that you felt you needed to convey to the Liberal councillors that had come out of the meeting with the Chamber of Commerce?---No. The, the, the reason being was they weren't there, so, and there was a lot of aggression in the room and it was important that the Chamber of Commerce should relay what happened at this meeting to all parties, not just the Labor Party.

Well, can we be quite clear then, because as I understand it, your suggestion is that, well, the Labor Party were aware of what the issues were being raised in that meeting because Mayor Tsirekas was present.---Yes.

And the particular issues that you were concerned about were some issues that were the cause of some aggression in the course of the meeting, correct?---No, I think the very absence of them was, was the main one.

But you did make reference in your answer just now to the fact that there was a fair bit of aggression in the meeting, correct?---Ah hmm, yes.

10 And that was aggression, was it, about the floor space ratio?---No, not particularly.

Well, what was the aggression about?---That there, there wasn't a presence there. Here is a major plan for the next 20 years and there's no Liberal presence.

20 I see. So nothing about the substance of the design, the urban design or the floor space ratio or the heights or anything about that information, or anything?---No. I think there was disappointment from the Chamber of Commerce that there, that there, there were only two councillors at the actual important meeting.

But I just want to be clear though, I just want to be clear, that it had nothing to do with any of the actual information that was imparted at the meeting? ---Well, look, if there was, I don't know. I, I was doing it on an informative basis. "Guys, you're part of the council. There's a lot of people there, stakeholders. You should be part of it."

30 THE COMMISSIONER: If the shopkeepers at that meeting held some united view, you would expect to find that in the responses to the public exhibition process and the meetings with the Chamber of Commerce between it and the council, would you not?---Yes, that, that, that's a fair point, yes.

And you're not putting forward in any way, as I understand it, that there was any particular united view the shopkeepers were voicing at the meeting, is that right?---(No Audible Reply)

Is that right?---Sorry, could you say that again, the question again?

40 Yes. There was no particularly united view being expressed by the shopkeepers at the meeting of 7 April, 2014?---Well, one (not transcribable) that comes from the Chamber of Commerce and the vice-president, that they're representative of their chamber. So it's possible that, you know, everyone's got their own view but I can't say.

In any event, you can't recall any particular, any one item upon which there was said to be a specific point of view being ventilated?---No. The, the only

point was that I think a lot of people wanted to talk about floor space but it wasn't something that was being spoken about.

But beyond that, nothing else you can remember being voiced of concern?  
---No, yeah, the other major thing was, as I said, I think there was a view from the chamber that Labor, the Labor, two Labor, or the Mayor, made an effort to be there but the other councillors didn't and I think that came across very clearly.

10 The reality is you don't know whether the councillors had been invited or not.---I didn't know. Correct. Correct.

And that could have been the obvious – if they hadn't been invited, you just simply say, well, there's the explanation. Nothing - - -?---Correct.

- - - no disinterest on their part.---Yes.

Yes. But in any event, there had been, before this meeting, a public  
20 exhibition and submissions were made by interested parties, putting forward any views they held. So before this meeting, that process had been undertaken.---Yes. And this was just one meeting, 'cause obviously they'd met with the Chamber of Commerce as well.

All right.

MR RANKEN: And you also, though, referred to what is not minuted in the meeting, but the presentation by, you think it might have been Ms Kelly.---I think so.

30 Which showed some designs of tree-lined streetscapes and the like, is that correct?---Yeah, and it may have been pulled out a report.

Out of the report, probably. And is that your recollection, that in fact - - -?  
---Yes.

- - - it was actually pulled from the Urban Design Study?---Well, I, I, they were artist impressions, basically.

40 But they were things that she, that were pulled from the Urban Design Study report, to say this is, this is what the external consultants have prepared, and this is the kind of vision that they see. Is that right?---I couldn't definitively say yes. I want to say yes, but, no, I can't.

But the view that was expressed by the shopkeepers and the other persons present in respect of that presentation was what?---There were a lot of glossy photos, but, but how do you get to that point.

So there were, so what that did is sort of, it raised in, or the view that was being expressed, was it, was one where the shopkeepers and other persons present were saying, “Well, that’s all good and well, but how do we get that?”---Correct.

10 It’s more sort of “That looks ideal, but what are you going to do to get us there?” Is that right?---Correct. And I, actually, and I recall that was shown before the three members. The mayor, myself and Craig spoke, and, and, and that’s why there’s references there, because the feel in the room, I guess, as elected representatives, drew us to try to engage with the view of the room.

But is that – I mean, that’s the extent of the presentation that Ms Kelly provided?---Yes. So I just remember going home rattled.

But the main thing that was rattling you was the fact that there hadn’t been, in your view, sufficient representation by the Liberal councillors?---That was the main thing.

20 And of the Liberal councillors that you knew were on the council, Mr Megna was the Liberal councillor who was most likely to have some connection with the Chamber of Commerce, was he not?---Most likely because he’s got his business there? Perhaps, yes.

He’s someone who actually has a business in the Five Dock Town Centre, correct?---Yes.

30 And he’s also someone who actually owns property in the Five Dock Town Centre, correct?---Well, not sure if it’s him or his parents, but, yes.

His family, he or his family own property in the Five Dock Town Centre. ---Sure. Yes.

So he’s, not only he works there, he runs a, he’s a business owner there and his family has property there, correct? Yes?---Sure.

Each of Dr Ahmed, Ms Cestar and Ms McCaffrey, none of those persons worked in the Five Dock area at the time, did they?---Not that I know of, no.

40 None of them owned property in the area?---Yes, not that I know of.

So of all the councillors that you might have expected to have been in attendance, it would have been Mr Megna.---Well, not necessarily, because it’s not just about the urban design plan, as you said. It’s about land tax. It’s about electricity prices. These are things that affect everybody, so - - -

Those matters were state and federal matters that were relevant to small business owners.---Sure, sure.

They were the matters that you and Mr Laundry were, in fact, invited to speak about.---Sure. But electricity prices affect everybody, residential, commercial, and so, so does taxation, so it's an important issue for everybody.

10 So do we take it, then, though, that you were feeling rattled as a result of the views that you say were expressed by the shopkeepers about the absence of Liberal councillors. In your position as the local member, you felt it incumbent upon you to impress upon the councillors their need to be more active with the Chamber of Commerce?---Yes.

And to that end you - - -?---Not in those words, but yes.

No, but I'm just trying to describe the feeling - - -?---Sure. Yeah.

- - - that was motivating you. Is that right?---Yes.

20 And you then sought to try to organise a meeting between the Liberal councillors and the President and the Vice-President of the Chamber of Commerce.---Correct.

And specifically to talk about the Five Dock Town Centre.---Well, whatever was discussed at that meeting to then be discussed with the, the, the, the Liberal councillors, yes.

30 But you didn't want to get them to discuss with the Vice-President and President of the Chamber of Commerce issues to do with electricity and land tax.---Whatever they spoke about at that meeting, it was important that those same, that same reading was conveyed to give the Liberal councillors an opportunity as well.

So do you say that it wasn't just the town centre that you wanted them to meet with the Chamber of Commerce?---Well, that was one of the things.

Obviously it was one of the things because it was one of the things that was mentioned.---Yes.

40 But is your evidence that your decision to try and arrange this meeting was because you wanted them to discuss not only the town centre but all of the things that were discussed in the Chamber of Commerce?---The main reason was to facilitate this meeting to keep the vice-president and the president happy that they've had an opportunity to discuss whatever they want to discuss with the chamber.

About the town centre or about everything?---All of the above, yes.

All of the above.---Yes.



I wonder if we could then go to page 356. And I want to draw your attention to the email in the middle of the page, which is dated 7 April, 2014 at 9.02pm. Do you see that?---Yes.

And that's shortly after your meeting, or you'd attended the meeting. Correct?---Yes.

10 And it's sent from your parliamentary email account, john.sidoti@[REDACTED].---Yes, that looks like it's from my iPhone, yes.

And it's sent from your iPhone. Correct?---I think so, yes.

20 And you did tell us previously that when you received emails at the drummoyn@ [REDACTED] email address and responded to them from your iPhone, it tended to be the case that that would be sent from the john.sidoti@[REDACTED]?---That's my understanding, yes.

And you believe that that's because this email, although it was prompted by an independent event, you sent the email by responding to an earlier chain of emails that you'd received from Ms Cestar, which you can see below your email.---I sent that email straight after the - - -

Yes, I understand that, yes, yes, but do you see that the - - -?---So what's - - -

30 Let's deal with it this way. If you look at the top of the page you can see that the subject is "Re Ramsay Road Accident Black Spot". Do you see that?  
---No.

Right at the top of the page in bold letters, Re - - -?---Oh, yes.

40 Yes. That's the subject because of this email chain because in fact there was an earlier email chain involving yourself and Ms Cestar that related to an issue that had been raised by a resident concerning the Ramsay Road accident black spot.---Yes.

And after you came out of the meeting, rather than just start an entirely new email, you just replied to Ms Cestar and added in the - - -?---To that, through that email.

And added in the others, yes.---Sorry, that's because of my poor computer skills.

No criticism intended at all, just - - -?---Well, it is, it's very obvious.

Just the explanation of how it is that it has that subject.---Yes, thank you.  
Thank you.

And your email sent at 9.02pm says, “Dear Councillors. I would like to  
organise a meeting, day or night, over the next week at a time convenient to  
all in the presence of the Five Dock Chamber of Commerce President and  
Vice-President to discuss the Five Dock Urban Study.” Do you see that?  
---Yes, I do.

10

So it doesn't make any reference to the other issues. And then you go on to  
say, “And the very misleading statements by council staff in an attempt to  
sell the business community of Five Dock a pup.” Do you see that?---I do.

Now, there were no misleading statements by council staff that you were  
aware of at that time, were there?---Look, I meant no slur on the staff, and it  
was a private email to the three councillors, and I, I regret the wording there.  
And it was via my iPhone, it's very messy. But I, I think what I, what I  
mean there – well, I know what I mean there, is that it was a narrow view.

20

Well, do you accept, though, that you were not aware of any statements that  
had been made by council staff that were misleading?---No, I, well, they're  
not correct.

Well - - -?---They weren't correct. I wouldn't have used – “very  
misleading” sounds dramatic. What I'd say is that - - -

We don't need to know what you would say. We can see what you did say.  
You referred to them as being - - -?---Well, I know, but I, I wrote it, so I  
know what I, what I meant. You don't. I know what I mean there. And  
what I mean, mean there is that I wouldn't have used those words in  
hindsight, “very misleading statements”. What it was referring to was  
glossy photos, but that's all they are, because they will never become a  
reality, and I wanted the Chamber of Commerce to be content at least that  
they put their view across, and then what they did was their business.

30

THE COMMISSIONER: Could I just put to you, you said that you regret  
the statements that you make in this email as to the council having made  
very misleading statements, that's council staff, “in an attempt to sell the  
business community of Five Dock a pup”. Now, when you say you –  
you've said that to state in this email to the councillors that council staff had  
made very misleading statements - - -?---Yes.

40

- - - you regret the statement in that respect, and that's because it was not  
true. That's correct, isn't it?---No.

They did not make misleading statements?---No, that's not correct. I just - -  
-

Well, just stay with me. You have said in the email, in effect, that the council staff had made very misleading statements. Now, that was not true, was it?---“Misguided” might have been a better word.

No, no, please. That statement was untrue, wasn't it?---The wording is, is, is not correct.

10 I'll put it again. Is it the case that council staff involved in the Five Dock Urban Study had made no misleading statements? Is that the position?---I wouldn't agree with that.

Well, what misleading statements did council staff make on that subject? ---They're making assumptions that you could get to this point by not changing floor space, and it's just incorrect.

When did they make those statements?---On the night of the Chamber of Commerce.

20 Who made those statements by council staff?---No, they showed the photos and the pictures. And when questions were asked, they weren't wanting to go into it.

And were they photos that formed part of the, and were contained in the Studio GL report that had been put out on public exhibition?---I'm not sure where the photos came from. I can only assume they came from a report.

30 Yes, well, there are many coloured photographs throughout the report. It's likely, isn't it, that they were the photographs that you're referring to, which showed glossy photographs showing trees and so on?---Yep.

(not transcribable) as contained in the report.---I can't definitively say yes.

Well, firstly, even if the photographs were in some way misleading or overstating the position, they were not statements by anybody in the council at all, were they? Because they didn't, no member of council prepared that report. It was done by the external consultant, correct?---Correct.

40 So when I asked you what were the misleading statements, you referred to these photographs. But do you now accept that even if they're capable of being in some way misleading, they certainly were not photographs produced, made by council staff?

MR NEIL: Well, I object to that. They were produced, he says, at the meeting. He's given evidence that they were produced by the council staff.

THE COMMISSIONER: Well, Mr Neil, I'll put it another way. These photographs were photographs contained within the report on the

probabilities of Studio GL, were they not? Council didn't go around taking the photographs, to your knowledge?---Well, I, I - - -

They form part and parcel, and were presented as part and parcel, of the GL Studio report, correct?---Well, I can't tell you. That, you'd have to ask the council that.

10 And in any event you say photographs were the misleading statements that you referred to in your email. Is that right?---And the principle behind it.

You see, you were making statements here about council having made statements – that is, statements in the ordinary sense, verbal statements – which were misleading and designed to promote what you refer to as a pup of council. Correct?---No.

See nobody from the council that night made any misleading statements, did they?---That's not correct.

20 No one from council made any verbal misleading statements, did they?  
---It's not correct.

Well, who from council made misleading statements?---The whole presentation was, was based on a false pretext.

Just stay with me, please.---Yes.

30 Who, identify the person by name and/or position from council who made any misleading statements either at that meeting that night on 7 April, '14 or on any other occasion.---The, the, the choice of wording was poor but the intent - - -

Would you please answer my question? I'm not asking about the choice of wording. I'm asking you to do an identification of the person who is subject to this statement in your email. What member of staff, using either the name or the position of that person, made misleading statements on 7 April, 2014 or on any other occasion?---I can't give you the name. It was whoever represented the council to make that presentation. That's what was misleading the presentation not the council staff member. It was the - - -

40 And what were the misleading words, if any, that were uttered by a member of staff of council?

MR NEIL: Well, I object to this.

THE COMMISSIONER: No, I'm not going to – no, Mr Neil.---I can't answer that.

Why can't you answer it?---Because it was, the presentation was, was misleading.

In what respect?---That you can't have, you can't achieve what they're asking without talking about or changing the FSR. It was, it was, it was a pup in that regard. It wasn't correct.

10 But you know, because it was stated in the report, that HillPDA had done an examination of the relationship between FSR, building heights and viability to confirm that the proposed planning controls were appropriate for the town centre. You know that, don't you?---I know that, yes.

MR NEIL: Well, I object to that. There's a real controversy about that yet to be determined, Commissioner.

THE COMMISSIONER: No, Mr Neil. You know that that was contained within the report, that statement that there had been engagement of HillPDA to do that work, the feasibility study.---Yes.

20 And up to the date of this meeting, nobody had challenged that as being presented in any way in a misleading fashion, the question of financial viability.---We weren't referring to the financial viability. We were referring to the email that I sent and the reason behind it and the misleading statement. That's what was being referred to.

In any event, you say you regret having made that statement in the emails. ---Those words misleading statement because I, it looks like I'm putting a slur on the staff and that wasn't my intention.

30 And in any event, you were trying to convey to the councillors that the presentation was part of a contrivance by council to sell a pup to the community. Is that right?---No. The most important words on that email, there's three words if you want to go back to the email and I'll point them out to you.

Yes, let's go back to that. Yes. What words do you wish to emphasise? ---Just towards the end, the last paragraph, "Please be well informed." That's what that's all about.

40 Oh, I see. So what's the talk about in an attempt to sell the business community of Five Dock a pup all about then?---It's animative but it's the wrong choice of words. You're selling the community something that's false.

And that's not what you intended?---Well, it's the same thing just it's worded pretty unprofessionally.

You did intend to – sorry. You did intend to convey the notion that council were engaging in a falsehood here, in selling the community a pup?---That what they were promoting was, was in fact false.

I see.

10 MR RANKEN: And what you're suggesting, is it not, is that you disagreed with the premise upon which the presentation had been made at the Chamber of Commerce. Is that what you're suggesting, that's what you were trying to convey?---I, I think you wouldn't find a person in the room that would disagree with my sentiments in this email.

Well, let's just deal with that. I've taken you to the report of the council staff that summarised the detail of the Urban Design Study, correct?---Yes.

And that was done by persons who had experience in urban design, correct, and training?---Yes.

20 And an economic feasibility analysis that was conducted by HillPDA, who are economic consultants, correct?---Yes.

And could you tell us what planning or urban design qualifications or experience you had?---Zero.

And can you tell us what economic analysis and feasibility analysis experience you had?---Zero.

30 And you didn't have at your fingertips an alternative feasibility analysis in respect of development for the Five Dock Town Centre, did you, at that time?---Sorry, can you that again?

You did not have at your fingertips an alternative economic feasibility analysis to that which had been done by HillPDA, did you?---That's not my role.

THE COMMISSIONER: Would you just answer the - - -

40 MR RANKEN: No, I'm just saying you didn't have something of that nature?

THE COMMISSIONER: Just a moment, let me interrupt for a moment. You are not here to make statements. Do you understand that you are here, and your function is, to answer questions directly? Do you understand that?---Yes.

It's not an opportunity just to make a statement. I'm just trying to ensure, and it might be of assistance to you to emphasise that. Now, would you put that question again?

MR RANKEN: You did not have at your fingertips an alternative feasibility analysis to that which had been conducted by HillPDA?---No.

And you did not have some alternative study that had been done in respect of urban design?---No.

You just had your unqualified personal views informing your view that what was being presented was misleading?---Not correct.

10

MR NEIL: I object to that. I object to that.

THE COMMISSIONER: No, I'll allow it.

THE WITNESS: Not correct.

MR RANKEN: All right. You had - - -?---My role, if you want to know, my, my unqualified role, my unqualified role is to represent the views of the community, and that's what I was doing, to well inform the councillors.

20

That's my unqualified position as an MP.

Are you saying the views of the shopkeepers?---The views of the Chamber of Commerce, correct, which is predominantly the shopkeepers.

And had any of those persons provided you with an alternative economic feasibility analysis in relation to development in the area?---No.

Well, you said the key words in the email, the keys words are, "Please be well informed," correct?---To the councillors that weren't there.

30

Yes, to the councillors, "Please be well informed."---Correct.

Now, one way they might be well informed is by receiving information that has been prepared as a result of expert study and analysis, would you agree?---Yes.

And such expert study and analysis had been done by the Studio GL and HillPDA, correct?---Yes.

40

And that study and analysis had then informed the report that was prepared by the council staff for the councillors, correct?---Yes.

So, one way for the councillors to be well informed would be to thoroughly digest the substance of the reports that had been prepared in respect of the matter, correct?---One way, correct.

And then what was going to happen, you understood – sorry, I withdraw that. Another way would be for the councillors to attend council workshops

where they could receive a presentation about the detail and further ask questions of council staff and anyone who might present at that workshop, correct?---Yes.

And it's another way that they might be well informed, correct?---Yes.

10 And then you understood, you've already accepted, that following the public exhibition of the study that there was going to be a further report that would be prepared that would effectively address the matters that were received in the form of submissions from the community and interested parties by the council so that they could further consider those issues, correct?---Yes.

And that was due to happen?---One would think, that's the process, yes.

So you would accept, though, then, that you had no basis to be able to assert that the content of the staff reports or the Urban Design Study itself was misleading?---I don't agree with that premise. I don't agree, and I, and - - -

20 THE COMMISSIONER: What basis did you have? What basis did you have?---The basis that I've already said. The, the - - -

30 State it again.---The basis was that everything they were showing would never be achieved without any change to FSR, and that's a misleading statement. It's, it's, or it's an incomplete statement. You can't look at one thing in isolation, and that's exactly what they were doing. They were showing a final product without actually explaining it, and you'd never get to that product. And it was important that that, if that was a staff member showing that to the public, that they'd have to be well-informed. And I was just passing on that information as the result of the Vice-President and President of the Chamber of Commerce asking me to organise a meeting so the Liberal councillors could be informed of, of what was going on.

So you're asserting that, as at 7 April, 2014, the Studio GL analysis and the PDA analysis was fundamentally flawed?---No, didn't say that.

40 I'll put it another way. Are you saying that, as at 7 April, 2014, the work of the Studio GL and HillPDA contained a fundamental flaw in terms of what could be achieved in accordance with the conclusions of those consultants? ---No - - -

MR NEIL: Well, I object to that, Commissioner.

THE COMMISSIONER: No, I'm going to allow it Mr - yes?---No, I'm not saying that. I've referred to the council staff.

Well, what are you saying, then?---The presentation from the council staff was incomplete.



In what presentation?---A presentation that was put on - - -

No, but what was the presentation? What specifically was the misleading part of the presentation? That's all I'm trying to identify.---That, that by showing this presentation, this is what the centre was going to look like, it was implied that, you know, with, with no change in, in, in floor space and an addition of a metre or two that there was going to be this great vision, grandiose changes in the centre, and everybody knew in the room that that wasn't correct. It just wasn't correct.

Everyone in the room knew that?---Correct.

That's everyone? Or is that hyperbole on your part?---Well, there was nobody that expressed a different view to me in that room.

So you stand by the statement in your email which refers to misleading statements by council, and you don't withdraw them, is that right?

20 MR NEIL: Well, Commissioner, he's said - - -

THE COMMISSIONER: No, no, I'm going to allow it, Mr - - -

MR NEIL: He's qualified his position.

THE COMMISSIONER: No, no, no, Mr Neil.

THE WITNESS: I would have used different words but to the same effect. I, I don't want people to interpret that as a slur on, on the staff, because it's not my style to do that. That, it was a poor choice of words. The email is a bit disjointed. But, you know, I, it was early on in my first, you know, first 30 four years. I won't say I was the most experienced. And, you know, if I had my time over again, I wouldn't send an email straight away. I'd draft it and look over it, check for mistakes and so forth and make sure – and I do that now but I obviously didn't at that period.

MR RANKEN: Do you accept that when you sent this email, you did so in your capacity as the Member for Drummoyne?---Yes.

40 You were using your office as the Member for Drummoyne to express the views you've expressed in that email?---No.

Well, you've signed it John Sidoti MP, correct?---Well, that's my name.

Well, you've sought to put "MP" at the end of it, correct?---Well, my summons says MP as well. You've chosen to do that as well. Everybody does that.

THE COMMISSIONER: Please.

MR RANKEN: You've also sent it from your  
johnsidoti@[REDACTED], correct?---Yes, my phone.

You weren't sending this email as just an individual member of the public,  
correct?---I don't get what you – sorry - - -

10 You weren't sending this as being John Sidoti, citizen, constituent of the  
City of Canada Bay, were you?---I was sending it as an MP to my, to my  
constituents, to my Liberal Party colleagues that they wanted a meeting.

That you wanted to arrange a meeting between them and the Vice-President  
and the President of the Chamber of Commerce.---Correct. A request.

So you agree with me. You were effectively using your office with a view  
to arranging this meeting between the councillors and the President and  
Vice-President of the Chamber of Commerce.---Well, that's my role as an  
MP.

20

I'm just asking whether or not you accept that that's what you were doing.  
---Well, I don't know what you mean by using my office.

Well, using the fact that you were the Member for Drummoyne and in  
holding that office you were, as the holder of that office, saying effectively,  
as the Member for Drummoyne, "I would like to organise a meeting, day or  
night over the next week at a convenient time to all in the presence of the  
Five Dock Chamber of Commerce President and Vice-President to discuss  
the Five Dock Urban Study and the very misleading statements by council  
30 staff in an attempt to sell the business community of Five Dock a pup."  
Correct?---No, because the premise of your question is that I'm organising it  
and I'm going to attend.

30

Well, "I would like to organise," you don't say I would like to organise a  
meeting between yourselves and the Chamber of Commerce, the Vice-  
President and President of the Chamber of Commerce, do you? You say, "I  
would like to organise a meeting, day or night over the next week at a time  
convenient to all, in the presence of the Five Dock President and Chamber  
of Commerce."---Sure, but - - -

40

That implies that you are going to be present as well.---Well, I wasn't.

So is it your evidence then that this meeting was about or this email was  
about setting up a time when the Liberal councillors could meet with the  
Chamber of Commerce without you being present?---Correct.

That's your evidence.---And, and I can, I can verify my evidence.

That might be a convenient time.

THE COMMISSIONER: Yes. We'll take the morning tea adjournment.

**SHORT ADJOURNMENT**

**[11.51am]**

THE COMMISSIONER: Yes, Mr Ranken.

10

MR RANKEN: Yes, thank you. Now, Mr Sidoti, just staying briefly with that email on page 356. You can see that Mr Megna responded advising that there was a workshop on the Five Dock Urban Study that night. His response was on 8 April, 2014. Do you see that?---Yes.

So you would have been aware by 8 April that there was going to be a councillors workshop where the Urban Design Study was going to be the topic of some discussion?---Yes.

20

But in fairness to you, Mr Sidoti, is it likely that you didn't pay much attention to that reference?---Oh, not sure.

But he's gone on to say that, "The earliest we can do is Saturday afternoon. MC," which I suggest is a reference to Helen McCaffrey – or no, MC would be Mirjana Cestar, is that correct?---Yes.

And, "Are you back then? Or Sunday sometime. Monday no good for Helen and Tuesday it all happens." Do you see that?---Yes.

30

"Tuesday it all happens," being a reference to obviously a meeting of the council on the Tuesday, correct?---Yes.

Now, that may well not be a meeting in relation to the actual where the Five Dock Town Centre Study was discussed, but just the fact of a council meeting happening on Tuesday.---I would assume so, yes.

Well, we know that, as it happens, that the matter didn't come back before council until 20 May, 2014. So, Ms Cestar has responded, at the top of that page, do you see that?---Yes.

40

Indicating that, "Saturday afternoon is fine," and that she flies in about 12.00, "Should be home by 1.00," and she has signed off. But I want to take you, though, to a calendar entry of yours at page 373, and it's referred to as an Urban Plan with Councillors, is the title of meeting, correct?---Correct,

And it identifies you as the organiser. Is it fair to say that this was to reflect a meeting that you had organised to have between yourself and the councillors to discuss the urban plan?---Yes.

And that meeting was to take place on Wednesday, 16 April?---Correct.

And that would be nine days after the email that you sent, correct?  
---Correct.

Eight days after the email sent by Mr Megna and Ms Cestar?---Yes.

10 And was this the meeting that the Chamber of Commerce representatives were to attend?---Yes.

THE COMMISSIONER: When it says “office,” which office is it?---My electoral office.

Your electoral office?---Correct.

20 MR RANKEN: So this represents a meeting that you had arranged to have at your electoral office in Five Dock with the four Liberal councillors?---My understanding was it was the three Liberal councillors.

And also the President and Vice-President of the Chamber of Commerce?  
---Correct.

So when you say your understanding is it was the three Liberal councillors, do you mean Councillors Ahmed, Cestar and McCaffrey?---Correct.


And not Councillor Megna?---Correct.

30 And why do you say that from looking at this?---Because I gave evidence to you in, in, in a private hearing and I couldn't definitively, 100 per cent say yes, and in the meantime I have come, through this Commission, to understand that this meeting did take place.

So are you saying you don't have an independent recollection of the meeting taking place?---I couldn't put hand on heart and say 100 per cent that the meeting took place. I wanted to say yes but I can't, unless I'm 100 per cent sure.

40 But certainly you were the person who instigated the steps in order to facilitate it occurring.---That's correct.

And it was you who was the organiser as identified here. You're identified as the organiser of the meeting.---Yes. That looks too tidy to be my email so it's my staff member doing it on my behalf I'm thinking.

But it refers to John Sidoti from the john.sidoti@ address. Do you see that?---I do.

That's not an email address that your staff had access to.---It was in the early stages with my staff member.

That's not the evidence you gave yesterday.---That, that's the practice because it was, it was early on in the piece so we were trying to establish working protocols, but yeah.

Well, this is in 2014.---Yes.

10 You were elected in March 2011.---'11.

Is that not the position?---Correct.

So this is in fact three years into your first term.---My first term, correct.

Correct.---Correct.

20 And you told us yesterday that your staff didn't have access to this email address, they only email address they had access to was the Drummoyne email address and that that is what caused problems. Correct?---Correct, unless I was there with her next to her and she was doing it for me as I was telling her.

So doing it what, doing it at your computer or something, is that what you're saying?---Correct.

30 Right. But you're letting your staff member access the johnsidoti@[REDACTED]?---Well, no, she would have been with me. She won't access it without me.

And just in respect of that meeting, if we just go through some emails relating to that. Could we start with page 362. Do you see this is an email sent from your john.sidoti@[REDACTED] address, dated 8 April, 2014, at just after 1.00pm?---Yes.

So not long after Ms Cestar and Mr Megna had gotten back to you. Correct?---Yes.

40 And you're not suggesting, are you, that it was your staff member who sent this from the john.sidoti@[REDACTED] address?---That looks like one of my emails, a bit disjointed, yes.

And it's got your signature block at the bottom, John Sidoti MP, Member for Drummoyne. Do you see that?---Yeah, I understand that comes up automatically.

Yes, I understand that. Automatically when you're doing it from a computer. Correct?---Correct.

So this is the signature that you have in the program. Is it Outlook or is it something else?---(No Audible Reply)

You don't know. Whichever the email program that is installed on your computer, it has a function whereby you can have an automatic signature that appears at the bottom of any email that you send. Correct?---I think that's the way it works, yes.

10 You haven't got a similar thing set up on your iPhone which is why it doesn't actually appear automatically on emails sent from your iPhone. Correct?---I'm not sure.

Well, if you want to go, we can go back to page - - -?---No, no. I may not have then, I'm not sure if it's now.

Okay.---It's possible.

20 I'm talking about back then.---Not by the look of the last one.

Otherwise we would have seen it at the bottom of that.---Yeah, one would think, yes.

So what you've stated here is, "Can we meet over the next seven days to form a united stance for the Five Dock Town Centre Urban Design Study that will be voted on on 6 May council meeting." Do you see that?  
---Yes.

30 Now, firstly what was the united stance that you suggested you were hoping to reach with the councillors, Liberal councillors?---So, sorry, this is when?

8 April.

THE COMMISSIONER: You'll see the date on - - -?---Oh, 8 April, I beg your pardon, yes, 8 April.

What's the answer to the question?---Yes, so united stance, discussion, information and feedback is the united stance.

40 MR RANKEN: But you wanted to form a united stance. What was the united stance that you were hoping to form with the Liberal councillors?  
---To find if there's any common ground amongst what's been discussed with the Liberal councillors.

This is the day after, this email, the day after you've attended the Five Dock Chamber of Commerce meeting. Correct?---Correct.

The day after you've sent the email to the councillors suggesting that there were very misleading statements made by staff. Correct?---I'd say it's a follow-up email the next day.

So again, what was the united stance that you were seeking to form with the Liberal councillors?---Poor choice of words but informational only. Seeing if there's any common ground. Discuss different things. See if there's common ground.

10 THE COMMISSIONER: Common ground on what?---On a particular issue.

What issue?---Well, it was the issue of the town centre.

Yes, well, that's a fairly large topic, wasn't it. What, to see if there's common ground on the whole of the town centre study or on some aspect or aspects?---Well, we don't know because the councillors haven't got together and they didn't attend the Chamber of Commerce meeting, so it's difficult to know where they stand, so I guess it's to know where they stand on the  
20 issue.

MR RANKEN: You're not saying in that email can we meet over the next seven days to see where each of you stand in respect of the Five Dock Town Centre Urban Study, are you?---That's the way it should but no.

Your email is directed to forming a united stance. Do you see that?---Yeah, I can see that.

30 You understand what forming a united stance means. The words are fairly plain meaning. Correct?---Pretty ordinary language, yes.

Coming to an agreement.---That's not the intention, but.

Well, a united stance is one which is held by all, is it not?---Well, that's not what I meant.

THE COMMISSIONER: Well, that's what you wrote.

40 MR RANKEN: Well, that's what you wrote.---Sure, and, and it was just wrong selection of words again.

Again.

THE COMMISSIONER: Did you not have something in mind to form a united stance for the Five Dock Town Centre Urban Study that would be voted on 6 May? So it speaks of a united stance for, that is in preparation might be the meaning being conveyed. So it's not a united stance on the Five Dock Town Centre but a united stance for the Five Dock Town Centre.

What did you have in mind?---Probably a united discussion, united information, united feedback perhaps. It wasn't, united stance is probably the wrong choice of words.

MR RANKEN: Do you accept that anybody who would read that and receive that email would understand that your intention was to have them agree amongst themselves about a particular position to take in respect of the Five Dock Town Centre Study?---No. No.

10 You obviously had very strong views about the Five Dock Town Centre Urban Study at this point. Correct?---No. No, I wouldn't agree with that.

Well, we just went back and forth for about half an hour before the morning tea adjournment over the views that you had about the misleading aspects of the position that was being taken by council staff.---There was strong feedback.

20 And your strong views about the floor space ratio needing to be 3:1. You had strong views about it.---I had views. I wouldn't say they were strong but I had views.

And you wanted to express those views, did you not, to the councillors? ---Well, I would have gone to the meeting if that was the case. It wasn't the case.

Well, you wanted to express it to the Liberal councillors, get them together to express your views about what should happen in the Five Dock Town Centre Urban Design Study so they could then take that back to the council on 6 May, did you not?---No.

30 That's the - - -

THE COMMISSIONER: Did you want to get a united stance with them on the views that you then held about the Town Centre Plan?---No. I wanted them to meet with the Chamber of Commerce and have a discussion so they had the same opportunities as anyone that was present on the night.

40 I appreciate that, but in terms of the concept of having a united stance for the Five Dock Town Centre, is there a reference to the fact that you had views about it and you wanted to see if there could be common agreement between you and the Liberal councillors on the views you then held?---No, not on mine but to see if the councillors could, could perhaps come to some sort of discussion and see if there is common ground, and perhaps then, if they'd agreed, there'd be some sort of common ground. But "united stance" is just a wrong choice of words.

But that would be a huge task, wouldn't it? I mean, the report, we've got a copy of it here, it's over 600 pages with annexures. What did you expect



them to do, go through the Town Centre Study and pick out a topic, or more than one topic, and then that would lead to a discussion about a topic or topics they might have identified in the study?---No.

Well, it's a very general request. If you were asking them to consider the Five Dock Town Centre Urban Study, that would involve reading or considering the content of the Studio GL report, wouldn't it?---It, it's, it's really a follow-up email as a request to meet with the Chamber of Commerce.

10

No, but you're asking them, what you're putting to them is, "Can we meet over the next seven days to form a united stance for the Five Dock Town Centre Urban Study Plan that will be voted on," et cetera. So - - -?---Well, it doesn't say plan but - - -

What were you expecting them to do? Were you expecting them to read the Studio GL report so that they would be in a position to identify points that they wanted to raise, is that what you had in mind?---No. It was merely, it's merely for them to meet.

20

No, well, I understand. That would have been a herculean task, wouldn't it, for them to have read through the Studio GL report to try and identify some issues that they may or may not have a view about. So it's more likely, isn't it, that you had in mind that there would be point in meeting with them so that you and them, if agreed on the certain matter, would then be in a position to go forward at the meeting of the council on 6 May?

MR NEIL: I object to that. That's not his evidence.

30 THE COMMISSIONER: No, no. No, Mr Neil.

THE WITNESS: Merely what I was seeking was for them, was, was for the Chamber of Commerce to meet with the three councillors. That was all my expectation was.

MR RANKEN: There's no reference in that email to the Chamber of Commerce. Do you see that?---It's a follow-up email.

40 Well, it's not part of the email chain that we saw in relation to the Chamber of Commerce, is it?---Well, it's a separate one the next day.

And it doesn't say, "Can we meet with the Chamber of Commerce over the next seven days." It says, "Can we meet over the next seven days to form a united stance," correct?---But it's got the dates there.

But you say that - - -?---The meeting took place.

You say that you didn't mean that you wanted to get them to form a united stance, is that correct?---Sorry?

You say that it was not your intention to meet with them so that you could form a united stance for the Five Dock Town Centre Urban Design Study?  
---No, this I was to form common ground because to date, the Chamber of Commerce, the business owners, and the shopkeepers had no idea where the Liberal councillors stand on this issue.

10 What business was it of yours to corral the Liberal councillors into a united stance on such a matter?---Well, we've already established that it's not a united stance. It's, it's a united discussion.

They are your words, Mr Sidoti. Your words, "To form a united stance." Now, do you say that you did not mean what is written there?---No, I mean your interpretation is different to the author of those words.

Well, I'm just using the plain meaning of the words, Mr Sidoti.---Well, I'm telling you, I'm telling you what it means.  
20

THE COMMISSIONER: Is the united stance the same as common ground?---Yes, you could say that.

So that you wanted to see if common ground could be reached in relation to something or other so that you would be able to go forward to the meeting on 6 May of council, with common ground established. Is that right?

---Well, no. If there's a, if there was a full stop after Five Dock Town Centre, 6 May is merely a reference date.

30 Well, in setting up this meeting, again, do I take it that you were purporting to act as the local member in relation to this Five Dock Town Centre issue?  
---Correct.

And just to be clear about it one more time, when you say to form a common stance for the Five Dock Town Centre Urban Study, it does not mean to form or establish common ground between you and them for that study?

MR NEIL: Well, Commissioner, you're - - -  
40

THE COMMISSIONER: It doesn't mean that?

MR NEIL: Commissioner, your question misstated the email, I regret to state.

THE COMMISSIONER: Why? Why, because it says common, it says "united stance"?

MR NEIL: Yes, you put “common stance”.

THE COMMISSIONER: Pardon?

MR NEIL: You put to him “common stance”. That’s all I’m drawing attention to.

10 THE COMMISSIONER: Yes, “common ground”. I did. I did because I had asked him about that before because he used the expression, volunteered “common ground”.

MR NEIL: Yes, but in your last question you put that he’d been saying “common stance”. That’s all I’m drawing attention to.

THE COMMISSIONER: Oh, I see.

20 MR RANKEN: With respect to my friend, I don’t think that’s correct. I think he may have misheard you, Commissioner. I think you said “common ground”.

THE COMMISSIONER: Yes, in any event, do I understand you’re just saying that notwithstanding the wording of the email you did not have in mind forming a united stance or common ground with the Liberal councillors on any aspect of the Town Centre Urban Study?---That’s not what I meant.

30 Sorry, you’re agreeing with what I just put?---No. The wording that I, I, I’m happy to give and put on the record is that, that a united stance would mean discussion, information and feedback.

Well, why didn’t you say it then?---Well, I would today if I sent that email.

See, this is the second email in which your actual words now you are saying don’t carry the meaning associated with those words. Is that right?---Yes.

MR RANKEN: Did you read over the email before you sent it?---It’s seven years ago. I read over everything now but as I said, it’s, it’s informal. It’s to colleagues so, you know - - -

40 When you say to colleagues, you mean fellow members of the Liberal Party.---Yes.

THE COMMISSIONER: But you were writing as the local member as you said. Wouldn’t you take care to ensure that you as the local member were being reasonably specific in what you were trying to communicate?---Well, that wouldn’t happen now. I, I should have been more care taken and I know now all my staff, I dictate when I write letters and then we look over

them and we cross-check them and so forth, and obviously that was not taking place at that particular point in time.

MR RANKEN: Now, what business was it of yours to meet with the councillors to discuss the stance that they might have, either individually or united, in respect of the Five Dock Town Centre Urban Study?---I was giving them feedback.

10 Why wouldn't you suggest to them that they should meet with the Chamber of Commerce, they should meet with each other and discuss it amongst themselves?---And that's what happened.

Why would you suggest that you meet with them?---I can't answer that. All I can say is that that meeting took place and they did meet.

20 THE COMMISSIONER: The question was what business was it of yours to make that request to meet with them?---As the local member and as part of the same team I thought that it was important that they heard feedback from all sources.

MR RANKEN: Now, you appreciate, do you not, that at this time you were very much in favour of a 3:1 floor space ratio. Correct?---I wouldn't totally agree with that.

You weren't in favour of a 3:1 floor space ratio as at 8 April, 2014?---Well, that figure was mentioned but I think anything above 2.5 would need to take place for any change to happen, otherwise no change would happen. Simple as that.

30 Sorry, I just want to be clear. Are you saying that you were not in favour of a 3:1 floor space ratio as at 8 April, 2014?---No, I'm not saying that. I'm, I'm - - -

40 So you were in favour of that. That's - - -?---No, no, I'm not saying that either. I'm saying to you in order for any change to take place that the 2.5 floor space ratio that had been there for many, many years would have to change, whether it's 2.6, 2.7, 2.8, 2.9, 3, whatever, it needed something. I'm not the expert to say at what point, that's up to the experts that would do the feasibility, the economic studies and all the rest.

Well, then perhaps if we could just briefly go back to the minutes of the meeting with the Chamber of Commerce and what you said to the meeting of the Chamber of Commerce.---Well, I know what I said.

If we go back to page 352 we can see what you said, what's recorded. ---Ah hmm.

“Not a one-size-fits-all. 3:1 floor space ratio is required.”---Yes.

“Unless it is 3:1 and unless the LEP, Local Environment Plan, marries with the DCP, the same problems will continue.” That’s what you were advocating, that it needed to be 3:1.---I was stating the blind obvious, yes.

So you were in support of a 3:1 floor space ratio. Correct?---I was in support of any change above 2.5.

You’ve said here - - -?---I’m not denying I said that.

10

What’s recorded here is, “3:1 floor space ratio is required.”---Well, that’s what, that’s, that’s the minutes taken.

You’ve gone on to say, “Unless it is 3:1, and unless the LEP marries with the DCP,” now, that is not suggesting, oh, unless it’s a bit more than 2.5:1, that’s saying, “Unless it’s 3:1.” There’s a specific figure you’ve indicated. ---Well, it depends in what increment you go up from 2.5. Do you go up in increments of .5, do you go up in increments of .1, do you go up in increments of 1.

20

Are you suggesting that you did not mention 3:1 at all?---No, I did mention 3:1.

So 3:1 was the figure you put forward. Correct.---Yes.

Are you saying though that you might not have actually meant 3:1, you actually just meant more than 2.5. Is that what you’re saying?---Well, I’m saying anything above, you’d need anything above 2.5 in order for any change to take place.

30

So is this a situation where, like your emails where you write something but mean something else, you’ve spoken something but meant something else? ---No.

THE COMMISSIONER: Well, it does say 3:1 floor space ratio is required. That’s attributed to you. Do you accept that that’s what you did say?---Yes.

Well, then you had a view at that time that that level of floor space ratio was required, 3.1, is that right, that was your view?---3:1, yes. Well, it was my view, yes.

40

3:1, that was your view at the time.---Sure, at that point, yes.

Can I ask you this. How did you derive that floor space ratio, 3.1? ---Well, anything above 2.5 would need to take place otherwise nothing’s going to change so - - -

Just, I’ll put it one more time.--- - - - 0.5 increment.

I'll put it one more time. How did you derive the view that 3:1 floor space ratio is required?---I derived that from the fact that you needed a change in order to, to, an incremental change in order to get any change.

Had you done some research on that issue before you said that, that is before you referred to the 3:1 floor space ratio?---Not, not in an extensive way, no.

10 Well, I'm just trying to understand where, you said you weren't a town planner at the time.---No.

So how did you come up with that number, 3:1 floor space ratio?

---That there were, there were, before any changes were made there were three-storey buildings in Five Dock, and that means if you've got a three-storey building on a parcel of land on its boundary, that's a 3:1 floor space ratio. It was, there were larger buildings being built before, they were higher than 2.5 before that 2.5 even came into place.

20 So at this point in time in any event you thought that the council experts had not assessed this aspect properly, in your view. Is that right?---No, I wouldn't come to that view.

Wouldn't you? All right.

MR RANKEN: What you were suggesting though, was that 3:1 was required across the town centre, correct?---What I was saying was, what I mean is that you need something above 2.5 and 3:1 was the, the quote I made.

30 "For argument's sake, let's go with yours. Something above 2.5 across the town centre regardless of the size of the block." Correct?---Correct.

Because the Chamber of Commerce had expressed the view that the floor space ratio needed to be looked at in relation to the consolidation aspect for amalgamated blocks greater than 1,500 square metres, correct?---Well, I'm not sure exactly what the Chamber of Commerce did. I, I know what they said but whether they've done any rigour or anything else - - -

40 I didn't ask about whether they had done rigour. But you were talking though not about 3:1 on larger blocks, you were talking about 3:1 across all blocks, all parcels of land, doesn't matter the size?---Yeah, that was the view conveyed to me by a lot of the smaller shopkeepers, yes.

That was the view you were actually expressing at the Chamber of Commerce?---Yes. That was the view that was expressed as the result of the shopkeepers coming to me, yes.

And was that one of the matters that you wanted to see whether or not the Liberal councillors could come to a common ground on?---No. Common ground, as I explained to you, was to try to get them in a room so that they didn't miss out on what the Chamber of Commerce said.

Which, according to you, was 3:1 across all blocks?

10 MR NEIL: Well, no. That's not right. That's what he's supposed to have said in the minutes, not necessarily what the Chamber of Commerce was saying.

MR RANKEN: Well, what you've suggested, Mr Sidoti, is that the views that were being expressed to by the shopkeepers was 3:1 across all block sizes, correct?---Well, the Chamber of Commerce were talking about larger blocks and a higher floor space ratio, but a lot of the smaller shopkeepers were talking about smaller blocks, to redevelop smaller blocks.

20 And that was the view that you agreed with?---No, not particularly. I'm sympathetic to the Chamber's views but that's their views.

No, that's the view that you expressed at the Chamber of Commerce, that 3:1 was required.---Well, that was one view expressed on behalf of the smaller shopkeepers.

But this was the view that you expressed, Mr Sidoti.---On their behalf.

30 It doesn't say anywhere that you purported to represent the other shopkeepers who, by the way, were present, correct?---No, not necessarily. I wouldn't agree with that summation.

So, no doubt then, as far as this common ground you were seeking for the councillors to achieve, you would have wanted them to achieve some common ground in respect of the issue of floor space ratio?---No, I just wanted them to meet, full stop, to meet with the Chamber of Commerce, nothing further, nothing more.

40 THE COMMISSIONER: Well, that doesn't involve common ground on anything, does it, just to get them to meet with the chamber. That's just organising a meeting.---Well, it was a pretty exhaustive task to, to round up three councillors.

Yes, but to organise a meeting, there is no common ground there, it's just simply either a request or a direction to get together and have a meeting. There's no common ground or united stance associated with that, is there? ---No, just to discuss the, the, the town centre and see if you can, where you stand on this in relation to the community. "The community wants to know what your view is because you've been absent from small business."

MR RANKEN: We don't see that anywhere in this email.---Well, I wrote the email, so I know what I, what I was intending to do.

We don't see that anywhere in your previous email of 7 April, "You've been absent." There is no reference to that, is there?---In those words, no.

There's just reference to the very misleading statements of council staff. ---We've established that.

10 And there's no mention of their absence here in this email either, is there?  
---Well, I don't think so, but - - -

And there's no reference here, in fact, to the Chamber of Commerce, is there?---There is in, in an email the day before, yes.

This email, not the day before's email.---It's a follow-up email.

This email.---Thank you. It's a follow-up email.

20 And do we see there, it says, "Further to my email of yesterday evening,"  
- - -?---So, "Further to my email of yesterday evening." There you go.  
Thank you.

And what we so though is you saying, "Can we meet over the next seven days to form a united stance."---And have you followed the dates at the bottom?

We'll come to that. What you were seeking to do in respect of this email was to arrange for the Liberal councillors to meet so that you could get them  
30 to form a united position in respect of the Five Dock Town Centre Urban Study. What do you say to that?---That that's really creative and it's not the case.

Now, before we go to some further emails in respect of this I just want to be clear. Do you say that you did not actually attend a meeting that took place between the councillors and the President and Vice President of the Five Dock Chamber of Commerce?---I organised the meeting as per the email on 7 April.

40 That didn't answer my question. Do you say that you didn't actually attend the meeting yourself?---Correct.

So even though the meeting was to be organised and was to occur at your electoral office - - -?---Yes.

- - - in Five Dock you weren't going to be present?---Not in the actual meeting, yes.



So you were going to be present at some point. Is that the situation?---No. Would you like me to tell you what happened?

Well, what was the position, yes?---So it was finally organised. The three councillors attended the office. Joe di Giacomo and Ross, Glen Haron were there and Glen Haron then, I introduced them. They sat down in my meeting room and then Glen said, "Come in." And I said, "No, I'm not coming in."

10 And why did you say you weren't going in?---Because it was about the Chamber of Commerce expressing their views – not my views, their views – and that was the reason. And he was a bit frustrated but I said, "It's up, this is your meeting, it's not my meeting."

But why, just so that we can understand, did you feel that you shouldn't be present?---I felt that the views of the chamber should be expressed by them not in my presence.

20 What would your presence have to do with them expressing their views?  
---Because they'd missed out on the Chamber of Commerce meeting and it's better that it comes from the meeting that they should have attended and that's what took place.

I want to understand why it was that you thought it was necessary to excuse yourself from the meeting and not be present.---Because I didn't want to be present. It was up for the Chamber of Commerce. I was fulfilling what they asked, can I meet with some of your colleagues, and I, I organised that meeting.

30 Did you think it was inappropriate for you to be present for that meeting?  
---No. I just didn't want to be present because I thought the meeting was requested by Glen Haron.

But were you not interested to hear from the councillors what their views might be in response to anything the Chamber of Commerce said?---Well, I'd already heard what the Chamber of Commerce had said.

40 I know you'd already heard what the Chamber of Commerce had said but weren't you interested to know what the councillors' views might be once they'd heard it themselves?---No. I was just keen for them to hear what the views were of one major group of stakeholders.

I thought you were keen to see whether or not there could be common ground about the Five Dock Town Centre Study.---Well, that's up to them to find the common ground, not me.

But that was the whole purpose of it. You were keen to see if you could, if there could be some common ground between them, so why not be present?

---No, no. But, you know, they're your words. I was - - -

Well, give me your words.---I was keen – no, the common ground was for the three councillors to, to state where they stood on, if in fact they had any common ground about the Chamber of Commerce because the Chamber of Commerce want to know where the Liberal councillors stand on small business and on this plan, considering at some point they will make decisions down the track.

10 So do we take it then that there was absolutely no participation by you in the meeting?---Correct.

And you were not aware of what was discussed in that meeting?---Yes.

And have never been aware of what was discussed in that meeting?---Not exactly, no.

20 THE COMMISSIONER: What about at all?---I've, my understanding was there were some presentations and Tanveer alluded to some in his evidence because I think Glen Haron has an expertise in, in light and the way things work when it comes to SEPP 65 which I think is to do with sunlight and everything and he was explaining things to them and - - -

In any event, it is the position, so far as you can recall, you were not aware of what they had been discussing when they attended the Chamber of Commerce?---No, that's correct. But over time, over time the reaction was from Glen Haron that they had a very limited understanding of anything to do with buildings and town planning.

30 MR RANKEN: In the views expressed by Mr Haron.---Correct.

To you.---Correct.

Now, in respect of the meeting, though, why did you invite Mr Megna?  
---I'm not sure. I'd have to see because . I don't recall if I did or didn't.

40 You mean you're not sure whether or not you did invite him or you're not sure why you invited him?---I, I don't recall. Maybe you can show me something too.

If we could go to page 362. That's your email. If we go to the previous page, 361, we can see the top of your email.---Oh, yes.

Do you see, from Michael Megna?---Yes.

See that?---Yes.

So clearly he was a recipient of the email.---It looks that way, yes.

And you then responded, “16<sup>th</sup> so far is good. Any more takers? JS.”  
---Yes, correct.

And then Mirjana Cestar has responded.---Yes.

Helen McCaffrey has responded.---Yes.

10 And Michael Megna – well, you’ve responded again to Ms McCaffrey to say, “The Chamber of Commerce President and Vice booked in as well.”  
---Yes.

“Tanveer is the only councillor we are awaiting response. Cheers, JS.”  
---Yes.

So you’ve rounded up three of the four.---Yes.

20 And Michael Megna said, “I’ll text to check, check him to check his email.”  
Do you see that?---Yes.

And then if we could go to page 360. Again we see your email at the bottom at that page, on that page.---Yes.

30 If we go to page 359, we can see further parts of the chain, and there’s an email from you saying, “Helen is also in. Tanveer, waiting on you, buddy, then I can cue up president and vice-president.” And in fact you did. And if you could then go to page 364. Another copy of the chain. Can you see that Tanveer has said, “Can do 7.00pm, but not earlier. We’ll be coming straight from airport.”---Yes.

See that? And Mr Megna on the 8<sup>th</sup> of April has also said, “Is it 7.00pm at your office or elsewhere?” Do you see that a little bit further down?---I do.

So certainly he’s still intending to attend at that time.---It looks that way, yes.

40 And “Okay, we’re all set. Just name the place.” From Mr Megna. And then, “My office. Joe D and Glen are in also.” So that’s indicating that the president and the vice-president were going to attend as well. Correct?  
---Correct.

Now, you say you didn’t participate in that meeting at all.---Correct.

Did you have any other meeting with the Liberal councillors prior to the meeting of the council itself on 20 May of 2014 in which you discussed the Urban Design Study?---I don’t recall a specific meeting.

Well, do you recall whether there were any other meetings?---It’s possible.

There was this meeting that you'd organised with the Chamber of Commerce, correct?---Correct.

A meeting at which you did not participate in any substantive way.  
---Correct.

Other than providing the initial introductions.---Correct.

10 Might there have been another meeting just between yourself and the Liberal councillors?---Yes, it's possible.

And if there was such a meeting, was that one that you had organised?  
---Yes, that's possible, yes.

And do you recall whether it was organised before or after this meeting involving the Chamber of Commerce?---I couldn't tell you.

20 Do you recall what was discussed about the Urban Design Study at that meeting?---No. Other than it would have been feedback, information, ideas, community feedback, discussions.

Feedback, information, ideas, community feedback.---Correct.

So are you saying feedback from, are you saying feedback from constituents who had approached you?---Yes.

30 And who were the constituents who had approached you with feedback regarding the Urban Design Study that you wished to pass on to the councillors themselves?---Oh, there's been multiple, multiple over the, over the, over the course.

Well, who was it in the period leading up to the meeting of 20 May?---20 May.

2014.---Oh, I couldn't tell you for a specific meeting but I could tell you for multiple.

40 And what was the feedback as at May or late April/early May 2014 concerning the Urban Design Study?---Look, unless I see something, I can't get the dates into perspective.

Were you aware that as a result of the workshop that had been conducted on 8 April, 2014, that council staff, responding to suggestions of councillors, had drafted a proposed bonus clause in respect of the study?---Sorry, just for a time perspective, that was 8 April. Is that correct? Are you referring to - -  
-

8 April was the councillor workshop.---Yeah, so that seemed to have come from left field.

Well, there was reference in the minutes of the meeting of the Chamber of Commerce of an interest in looking at the consolidation of sites, correct, and floor space ratio. Correct?---Yes, yes.

And a reference to 1,500 square metres. Correct?---Yes.

- 10 That was a matter that you were obviously alive to, an issue that you were alive to, the possibility of looking at something to incentivise amalgamation of blocks by way of perhaps offering greater floor space ratio or similar bonuses. Correct?---Yes.

So when you say it came from left field, you became aware at some point that the proposed LEP was to include an additional bonus, if I could say that, of an additional storey together with an increase of floor space ratio to 3:1 on sites that comprised 1,500 square metres or greater.---Sorry, that's in the report, isn't it, that's in the report?

20

In the report that was prepared for the - - -?---From the experts.

No, it was not in the original study. Correct?---2013/2014?

The original study recommended existing floor space ratio remain. Correct?---Yes, yes.

But did suggest that on - - -?---Possible heights.

- 30 A possible additional storey in respect of larger sites of about 2,000 square metres or more. Correct?---Correct.

Following a councillors' workshop, council staff, at the suggestion of councillors, drafted a bonus provision that was designed to encourage amalgamation of blocks. Correct?---Well, I'm assuming that because I didn't attend the councillor workshops but it makes sense.

- 40 I understand that. But you're aware of that, even if only by attending this hearing, there's been evidence from Mr Dewar and Mr McNamara about that.---Oh, yes, I saw that, yes.

And in fact you no doubt read the report that was prepared by council staff in advance of the meeting on 20 May, 2014. Correct?---Yes, yes, yes.

And you in fact read that at the time, did you not?---I read it. I can't specifically tell you exactly when, but yes, I read it.

Well, if the meeting took place on Tuesday, 20 May, that means the report itself would have been available by at least 15 or 16 May. Would you agree with that, the Thursday or Friday before?---Yes.

And so you would have been able to access the report either from Thursday, the 15<sup>th</sup>, or Friday, the 16<sup>th</sup> of May.---2014.

Yes, 2014.---Yes.

10 And at that time you hadn't made any formal submission to council in respect of the Urban Design Study yourself?---Well, I've never made any myself.

Or on behalf of anybody else?---The family. I, I can't remember the dates. Probably '15 maybe. I, I can't remember the exact dates.

20 If you had, one would expect to have seen some reference to a submission having been received in the report that was prepared by council following the public exhibition, correct?---Yeah, yes, yes. One would, yes.

So just going to the report that was prepared by council staff. If we could go to page 933. Sorry, that's the wrong page. I apologise. If we could go to page 382. That's the first page of the staff report that was prepared. And do you see that it refers to the fact that the Five Dock Town Centre Urban Design Study was placed on public exhibition over December 2013 and January 2014?---Yes.

30 And in response to the exhibition there were 31 submissions in total that were received?---Yes.

From businesses, landowners, and residents living in and adjacent to the centre?---Correct.

And it refers to the fact that those submissions were summarised at attachment 1 to the report?---Yes.

40 And I'll come to that in a moment. But before I do, just above the headings Strategic Connection, do you see that it says, "It is recommended that the study be adopted as the way forward for the Five Dock Town Centre and that a planning proposal be submitted to the Department of Planning and Infrastructure for a Gateway Determination." See that?---Yes.

Now, if we go to page 383, you can see there's the details of the public exhibition process that took place, from about halfway down the page. Do you see that? Where the cursor is, there's a - - -?---Yes.

And it sets out the kinds of things that were done in order to ensure there was extensive public exhibition and consultation.---Yes.

And if we then – before I go to the actual submissions, just wondered if we could go to page 385. In relation to planning controls, it starts just a little over halfway down the page, it refers to what the existing controls were as far as three-storey buildings with the potential for an attic, and the proposal that it be lifted to five. It then goes a little further on to say that “Following a review of submissions, the recommendations of the Five Dock Town Centre Strategy have been incorporated into the draft DCP to the majority of sites, and the draft DCP includes provisions to guide development in Five Dock so that new buildings appropriately respond to the urban design and public domain objectives.” And then it goes on - - -?---Sorry, just before you go.

Yes.---Can I just draw your attention to the line under “planning controls”. You may want to check that. I don’t think that’s correct.

You say it might have been four-storey buildings. Is that the position you wanted to say?---Correct. 15 metres.

20 As opposed to four storeys with a potential for an attic. Is that - - -?---It’s four storeys with a potential for an attic.

So, regardless - - -?---Sure.

- - - the matter I want to draw your attention to is the final paragraph. “In addition to the recommendation of the study, there is considered to be scope to provide flexibility for large sites where a site-specific response is likely to generate a better outcome. A draft clause has been prepared for inclusion in the planning proposal that would permit a floor space ratio of 3:1 and a height of 27 metres, that is eight storeys, on sites with an area over 1,500 square metres and a frontage of 20 metres.” Do you see that?---I do.

And then there it goes on to say that “The clause also requires development to ensure consideration is given to matters such as bulk character and amenity impacts and the bonus floor space and height would be possible on the majority of land in the centre but would not apply to certain land that was identified as being a maximum of three to four storeys due to impact upon established dwelling houses.” Do you see that?---Yes.

40 “So that amendment would provide an incentive for the amalgamation of land and ensure significant redevelopment makes a positive contribution to the centre.” So what was being proposed as part of the planning proposal being put forward by council staff to give effect to the Urban Design Study was something over and above that which the Urban Design Study had itself recommended. Correct?---Yes.

So council staff and councillors have clearly taken in the detail and the information that’s come in the Urban Design Study. Correct?---Yes.

And they've also taken into account other views about what might incentivise development in the area. Correct?---Yes.

And some of those views were no doubt as a result of the public exhibition of the Urban Design Study over the course of December 2013 and January 2014. Correct?---One would think, yes.

10 And the position that they came to was the position that provided for this bonus provision.---That seems correct, yes.

It would only though apply to properties that had an area of over 1,500 square metres and a frontage of 20 metres. Correct?---Yes.

And in respect of your family's property at 120 Great North Road, that had an area of what, about 640 square metres. Is that about right?---That's correct.

20 So it would not meet that area requirement to qualify for any increase to floor space ratio.---It will only allow then to do the four to five storeys.

But you're agreeing with me, it wouldn't qualify for the bonus provision. ---Yeah, 'cause they haven't got 1,500 square metres, correct.

But in addition it didn't have a frontage of 20 metres, did it?---Correct.

So it would have failed the test, as it were, on both counts. If there was, if there was - - -?---Well, they wouldn't qualify, correct.

30 If there was an area requirement and a frontage requirement before one could qualify, it wouldn't meet that definition.---Correct.

And also under what had been recommended under the study insofar as the possibility of an additional storey where there was an area of greater than 2,000 square metres, it wouldn't have qualified for that then either. ---Correct.

Now - - -

40 THE COMMISSIONER: Mr Ranken, is that a convenient time?

MR RANKEN: Yes, sorry, Commissioner, yes.

THE COMMISSIONER: Very well. We'll adjourn till 5 past 2.00.

**LUNCHEON ADJOURNMENT**

**[1.07pm]**