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PUBLIC  
HEARING

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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 THURSDAY 22 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, are we ready to proceed?

MR RANKEN: Yes, Commissioner. We are ready to resume.

THE COMMISSIONER: Yes, thank you. Mr Sidoti, I might get you to do the same routine as yesterday.

THE COMMISSIONER: Thank you, Mr Sidoti.---Thank you.

The declaration that I previously made under section 38 of the Independent Commission Against Corruption Act continues to apply to the evidence of Mr Sidoti today. Yes, thank you, Mr Ranken.

10 MR RANKEN: Thank you, Commissioner. Now, Mr Sidoti, we left off yesterday afternoon asking questions of the email between Mr Thebridge and yourself of 18 – sorry. The email of Mr Thebridge dated 18 July, 2014, which of course was after the council had already resolved for the planning proposals to be forwarded to the Department for a Gateway Determination, and you recall, do you not, that that Gateway Determination was ultimately made on or about 25 September, 2014?---Yes, sounds correct.

20 And what the delegate of the minister at the Department of Planning determined was that the amendment to the LEP should proceed, subject to further community consultation and the public exhibition of planning proposals.---Yes.

And that following that period of public consultation, the council was required to then refer to the proposed LEP back to the Department for finalisation. Is that - - -?---Yes, yes.

30 And that would be a fairly standard process, or that you would expect from the Gateway Determination in respect of a planning proposal of the magnitude that was being contemplated in respect of the Five Dock Town Centre?---That's my understanding.

Of course at this time, that is as at 25 September, 2014, you were the member for Drummoyne but you weren't quite yet parliamentary secretary, correct?---Yes.

I think you commenced at the Parliamentary Secretary for Planning on 17 October, 2014, or thereabouts, is that right?---That sounds correct.

40 In any event, there was a period, was there not, of public exhibition of the draft planning proposal between 21 October, 2014, and about 17 November, 2014. Does that sound about right?---Yes.

Now, amongst those events, what had also occurred was that, in early September 2014, Anderlis Pty Ltd had been established with your sister as the sole director and shareholder, correct?---Yes.

And that for the purpose – and also the Anderlis Investment Trust was established in early September 2014 as well?---Yes.

And I think you told us previously that the purpose of setting up that company and that trust was in order to facilitate the purchase of 2 Second Avenue but in a way that the vendor would not be aware of the fact that it was in fact your parents who were looking to purchase it?---Oh, I, I, I think that's the way it happened, yes.

10 Because the concern was that if the vendor knew that it was your parents who were wishing to purchase it, she might jack up the price, as it were?  
---That was my understanding, yes.

And in due course, the settlement for that purchase of 2 Second Avenue occurred on 13 October, 2014. Does that sound about right?---Yes, that sounds correct.

And after that settlement on 13 October, 2014, your parents then replaced your sister as the secretary, sorry, your sister as the directors and shareholders of Anderlis Pty Ltd on or about 21 October, 2014.---Yes.

20 And that would be consistent with what your understanding was with the whole purchase of, the whole purpose for doing it that way was to effectively conceal from the vendor the fact that it was in fact your parents who were going to be purchasing.---Well, that's my understanding, yes.

30 But in any event, by the time of the public exhibition of the draft planning proposal, your family, if I can use that term broadly to encompass your parents as well, had property interests not only on the Great North Road fronting part of that block between Barnstaple Road and Second Avenue, but actually also on Second Avenue. Correct?---Sorry, say that again.

Not only on Great North Road, which was 120 Great North Road - - -?  
---Yes.

- - - but also on Second Avenue, which was 2 Second Avenue.---Yes.

2 Second Avenue did not front onto Waterview Street.---That's correct.

40 Between 2 Second Avenue and Waterview Street itself there was another property, number 37 Waterview Street. Is that correct?---Yes, 37 fronts both Waterview and Second Avenue, it's only really one house.

It's on the corner, it's the one on the corner.---Correct.

But 2 Second Avenue was within that part of the block which was zoned as R3.---Yes.

Whereas 120 Great North Road had at all relevant times been part of the B4 mixed-use zone.---Correct.

And by that I mean both before the Urban Design Study and afterwards.  
---Yes.

And were you then involved in the circumstances by which Mark Thebridge came to engage a town planner by the name of Helena Miller from MG Planning to prepare a submission to the City of Canada Bay Council to advance changes or to suggest that there should be changes to the draft planning controls?---Engaged, but to get advice.

10

To get advice, not to provide any submission?---I think ultimately, first of all to get advice and then, depending on the advice, a submission.

So the idea was to get some advice from Ms Miller as a town planner about the effect of the proposed, or the planning proposal that was being publicly exhibited. Correct?---Yes.

20

And what other advice, and what changes might be able to be proposed to facilitate better development opportunities for your properties, your family's properties?---It sounds correct. I think there were three or four points at the time.

Well, what's your recollection of the three or four points?---Oh, it was in, it was in the report. From memory, advice on, on, on – I think they were pretty standardised so I'm not, I just can't remember.

30

Did you speak with Ms Miller yourself in respect of the matters that she was to advise upon and possibly make a submission to the council upon?  
---I recall, yes.

And was that a telephone conversation or was that a conversation in person?  
---I think it was a telephone call.

The email that I took you to yesterday afternoon from Mr Thebridge was one that was addressed to, well, the salutation was to Richard and Catherine, your parents, but it was in fact addressed to sandrasidoti@[REDACTED] address. Correct?---(No Audible Reply)

40

So is it likely that you then at least would have seen that, you would have seen that email from Mr Thebridge?---Yes, highly likely, yes.

And would you have responded on your parents' behalf from that address, that is the sandrasidoti@[REDACTED] address?---On behalf?

Yes, on behalf of your parents.---Oh, I, I don't think so.

Would you have communicated or did you communicate from time to time with Mr Thebridge and possibly Ms Miller as well using the

sandrasidoti@[REDACTED] email address?---I'm, I, I'm not sure. Highly likely. If it wasn't that, it would have been one of the parliamentary ones.

Did you come to be aware that there was a deadline for submissions to be made in respect of the public exhibition of the planning proposals following the Gateway Determination of 17 November, 2014?---I, I think, yes, I, I, I'm aware of that.

10 You're aware of that now, but that was something that you became aware of during the course of the public exhibition?---I don't remember.

And was that information that you then passed onto Mr Thebridge?---Oh, I don't recall.

You told us yesterday, and we've had other evidence in this inquiry, that the sandrasidoti@[REDACTED] email address was associated with the computer that was upstairs in your house at The Esplanade in Drummoyne?---Yes.

20 And that it was yourself and your wife who used that, correct?---Mostly yes.

Well, our mother never used that computer, did she?---Mmm, she may have, because they, they used to babysit our, our children when we used to go to work.

Has your mother ever gone upstairs at your house?---Yeah, she's been upstairs.

30 But this Commission has received evidence from your wife, that has now been tendered in this hearing, that indicated that your mother has never actually been upstairs at your house because she has difficulty getting up the stairs.---I know my mother has been upstairs, and my father, and it's the same staircase size that my mother has in her house, and they live on the, on the first floor of their house, so, she has difficulties, yes, but, it's not regular, but she would have.

40 But if she used the computer, she used it when neither you nor your wife were present, is that what you're saying?---Well, if she did, she would have had to in the presence of the kids, because I don't think she'd know how to get in.

Just if we could go to page 446, there's an email that's – it says from John Sidoti, but you can see that the email address is sandrasidoti@[REDACTED] to Mr Thebridge dated 28 October at 3.39pm. Do you see that?---Yes, yes.

And it's responding to the email that I took you to before, well, to an email that was from Mr Thebridge to your home email address that was entitled "Fw: 120 GNR Development Report". And it says, "Thanks, Mark. That's fine, just keeping in mind cut-off dates for submissions is 17<sup>th</sup> Nov, 2014.

Please advise when payments should be made for services. Many thanks. Catherine Sidoti.”---Yes.

Is this in fact an email that you sent, although you signed it off as Catherine Sidoti?---Oh, okay, 3.39. Look, I don’t recall, it’s possible. It’s possible.

So it’s possible that that was an email that was in fact sent by you, albeit you were signing off on behalf of - - -?---If I spoke to my mother, yes.

10 - - - just by saying Catherine Sidoti?---Yes.

And Mr Thebridge has responded to say, “Thanks, Catherine. Shall be back in contact shortly.” So, the effect of that really is, is that advice was being conveyed to Mr Thebridge that submissions would need to be made by 17 November in respect of the planning proposals. Correct?---I think that’s what it suggests, yes.

20 So at least by 28 October of 2014, your family, your parents and no doubt in consultation with you, had determined to make a submission to the council in respect of the planning proposal for the Five Dock Town Centre.---Yes.

THE COMMISSIONER: Do you recall whether there was a submission in the nature of an objection to what was proposed?---No. I think it was town planning advice at the time. I, I don’t recall. It’s a three or four, five-page report.

30 MR RANKEN: And can we then move to another email dated 10 November, 2014, at page 449 of Exhibit 24? It’s an email from Ms Miller to Mr Thebridge and do you see that it refers firstly to a conversation or a discussion a few moments ago and then Ms Miller has said, “We can confirm that we are able to prepare submissions to Canada Bay Council on behalf of your clients, 1) Whitfords and 2) the owners of 120 Great North Road by the submission’s closing date of 17 November, 2014.” Do you see that?---Yeah, yes.

Now, the Whitfords – it goes on to say, “Our proposed fee for this work is a lump sum of \$5,000 plus GST for each submission.” Do you see that? ---Yes.

40 And, “We note that you will be undertaking 3-D modelling, which will be included in the submissions and which will assist in substantiating the proposed changes to the draft planning controls.” Do you see that?---Yes.

So, it’s plain from that email that what Ms Miller was being engaged to do was to prepare a submission to the council that would be suggesting some changes to the draft planning controls?---Yes, that’s what that’s suggesting. I, I don’t recall this actually letter to be honest with you, unless it was forwarded onto me afterward.

I'm not suggesting – I'm just drawing to your attention the substance of it.  
---Oh, yes.

I'm not suggesting that you were a party to this communication.---Yeah.  
That's fine. Yes, I agree.

10 And also that there would be two separate submissions that Ms Miller  
would be making, one on behalf of some persons known as the Whitfords,  
they were something that was completely separate to your family and your  
parents, correct?---Correct.

But it refers to the owners of 120 Great North Road, which you would agree  
would be your - - -?---Mum and dad.

- - - parents?---Yes.

20 Now, do you see that there's, the reference there is to the discussion a few  
moments ago. Do you see that?---Yes.

“Further to our discussion a few moments ago.” If we could then go to page  
450, these notes that were made by Ms Miller, these are from her notebooks,  
and do you see that 10 November, 2014, that's the same date as the email,  
there's a reference to what would appear to be notes that Ms Miller took  
during the course of her discussion with Mr Thebridge?---Yes.

30 And we can see two submissions to Canada Bay. The first one is, it says,  
“1) Whitfords,” and then it says, “Owner John Sidoti MP, Parliamentary  
Sec, Dep Min,” Deputy Minister for Planning, I think is what she perhaps  
was writing there, “Dealing with wife.” And then that's circled but then  
there's an arrow going down. Do you see that?---Yes.

And then there's a 2 and then it goes on to say, “120 Great North Road,  
John Sidoti site, block split in half. To east residential, to west - MU,”  
which I would suggest is mixed use?---Yes.

40 So what she is identifying there is the principal issues, which is that the  
eastern side of the block, which is the western side of Waterview Street, was  
zoned as R3 mixed residential, whereas the western side of the block, which  
is the eastern side of Great North Road was B4 mixed-use?---Yes.

“Wants to change so zoning extends to street behind.” So what seems to  
have been conveyed, at least to Ms Miller, was that the owners of 120 Great  
North Road want to change the zoning that it extends to the street behind,  
and I would suggest that would be extending to Great North Road – sorry –  
extending to Waterview Street. I apologise. Do you see that?---It may  
suggest that, yes.

And it says, "Also owns lot at rear."---Which refers to?

Well, that's likely to be a reference to 2 Second Avenue. Correct?---Yes, one would think, yeah.

By 10 November, 2014, that property had been acquired.---Yes.

And your family didn't own any other properties at that time?---No.

10 In that block I mean.---No.

It then goes over on the next page of this diary, we see that it says, "MT," I would suggest that is - - -?---Mark Thebridge.

- - - Mark Thebridge, "To prepare diagrams," and then it simply says, "Do fee prop," which I would suggest is do fee proposal, "Send list of diagrams requested," or required.---Yes.

20 Now, the information that Mr Thebridge appears to have provided to Ms Miller, particularly regarding the fact of the ownership of the lot at rear, which is 2 Second Avenue, and that what was wanted to be achieved was a change to the zoning so that it extended to Waterview Street, that was information that was conveyed by you to Mr Thebridge, was it?---I don't think it was conveyed "wants to change" as in the notes there, but to get advice.

THE COMMISSIONER: Advice on what?---On, on, on, on the proposal, on the town planning proposal.

30 Did that embrace the concept of a change in zoning?---To look at all options which would include that as well, yes.

MR RANKEN: Just thinking about that, note the date is 10 November, 2014, so that's only a week prior to any submissions being required to be submitted to the Department, sorry, to the council. Correct?---Ah, yes.

40 And if we go back to page 449, that email I took you to, it's plain from this email that it wasn't about seeking advice but about her preparing submissions by the closing date of 17 November, 2014.---Yes. Sorry if I'm mumbling words, preparing, getting advice and preparing a submission go hand in hand, yes.

So but what you were seeking to do though was to prepare advice as to whether or not it would be possible to argue for a rezoning of the entirety of the block.---That could be a final result but ultimately it's about a discussion because the block had never been really explored to the rigour of any other areas with inside the lines of the town centre.

So wasn't this it though, you were asking for advice about the prospect and possibility of having the entire block rezoned?---It's a long process, yes.

No, but that's what you were, at this point in time, you were asking for advice about the possibility of getting the whole block rezoned to be B4 mixed-use?---To look at that, yes.

And with a view to possibly putting in a submission to council suggesting that the planning proposal should be changed to achieve such a rezoning.  
10 ---That, that would be the ultimate aim I guess, but you can't do that unless the process allows you to and the process does allow you to.

And of course achieving a rezoning of the whole of the block to be B4 mixed-use, would you agree, would remove some of the impediments that had been identified in respect of your family's properties being able to get the benefit of the bonus provision?---The bonus provision?

Yes, the bonus provision in the planning proposal for the additional storeys and the additional floor space ratio.---Sorry, can you just break that down a little bit more?  
20

So if the whole zone – sorry, if the whole block was rezoned to be B4 mixed-use - - -?---Front and back.

Front and back.---Yes.

That would necessarily remove the impediment that it was low-rise residential because you've got a B4 mixed-use zone. Correct?---Yes.

30 It would also remove the impediment of the heritage listing, because the heritage listing would have to be removed in order for it to be zoned B4 mixed-use, would it not?---That was their advice, yes.

And then with those two things removed, the other remaining impediment, which was the existing strata development, that would also cease to be the impediment that that had been advanced by council staff. Correct?---Yes.

So it would remove those obstacles to allow for the greater possibility of your family's properties being able to achieve the bonus provision.---And every other property in both blocks, yes.  
40

I accept that, but that includes your family's properties, correct?---Yes, it does. Yes.

And also if your family was to then acquire further properties in that block, your family might be in a position to meet the requirements insofar as the area and the street frontage was concerned.---Yes.

And wasn't this a part of that broader strategy about looking to be able to acquire properties with a view to development in the future that could be done in accordance with the bonus provision?---Well, potentially, but the plan changes all the time. So I, I, I don't think you'd be making decisions according to a set of principles that aren't set in concrete.

So, but that's the objective at this time, that is, in 2014.---Yes.

10 Get the zoning changed, that removes that impediment as far as developing within the bonus clause, and then it might be about acquiring further properties to achieve the area requirement and the frontage requirement, correct?---Yes.

Now, I want to move then onto the report that was prepared, and firstly that it was the case, was it not, that initially the draft report indicated that it was on behalf of your parents, Richard and Mrs Catherine Sidoti?---I take your word for that, I'm not sure.

20 Was that something that was drawn to your attention and so that you had to correct?---I, I recall that initially there was mum and dad's name on it. And then it, for whatever reason, I don't -- if there was one, it was then changed to the company names.

But that to have been done through some process by which that information, that in fact, look, it's not Richard and Catherine Sidoti who own the properties, it's these companies who are actually the registered proprietors of the companies, correct? Of the properties, correct?---Oh, look, it's correct, but I don't think there was any reason. You know, merit, town planning is based on merit, not on someone's name or ownership. So I - - -

30 I'm just talking about the circumstances in which the correction of the error appeared to be - - -?---Yeah, I'm, I couldn't say why.

Was it something that you were involved in, in the sense of pointing out to either Ms Miller or Mr Thebridge that, look, it actually shouldn't be in my parents' name because the properties are in other names?---No, I don't, don't recall any reason behind it.

40 No, I'm not asking about the reason behind requesting the change.---I don't recall requesting the change, if that's what you're asking.

Well, the information must have come from somewhere that the properties were in fact owned by Deveme Pty Ltd and Anderlis Pty Ltd. Do you know where the information came from to that effect?---I don't remember, no.

It must have come from you, must it not?---I really can't, I don't remember.

Is it possible that it came from you?---Oh, look, anything's possible. Whether it's probable, I, I don't know.

Well, let's just deal with 120 Great North Road.---Sure.

It can't have come from either Ms Miller or Mr Thebridge conducting a title search in respect of that property, can it?---I don't think it would have gone to, yeah, well - - -

10 Well, that couldn't have happened because that wouldn't have disclosed the owner or the registered proprietor of 120 Great North Road as being Deveme Pty Ltd in 2014, would it?---Yeah. I, I, I, I really haven't got a reason. Unless it's maybe the, the way it's been paid under the, the entity it's being paid for. I'm not sure.

I see. Are you absolutely certain that it wasn't you who suggested to either Mr Thebridge or Ms Miller that the report should be in the name of Deveme Pty Ltd and Anderlis Pty Ltd?---I really can't remember, Mr Ranken. I really can't.

20

THE COMMISSIONER: Can you think of who might have supplied that information if it wasn't you?---Unless it was asked to my wife or my parents, I just don't know. I really don't know.

MR RANKEN: I wonder if we could go to page – no, I've already taken you to that. I'll go to another document. If we could go to page 477. That's a chain of emails, and do you see that towards the bottom of the chain there's an email from Ms Miller to Mr Thebridge, dated 17 November at 12.54? Do you see that?---(No Audible Reply)

30

And it says, "Please find attached file submission for the Sidoti land. I have changed the landowner and included some commentary on the heritage item and I've talked about the strata title issue, as I don't think it is relevant." And then it goes on to say, "Let me know if you want me to email and send hard copy once you have had one final look." And then Mr Thebridge appears to have forwarded that email on to your address sandrasidoti@[REDACTED], but addressed to, "Hi Catherine. Final report for your review and comment."---Yes.

40

And then on the 18<sup>th</sup>, that has been forwarded onto your parliamentary email account. Do you see that?---Yes.

If we go to page 478, is the first page, and you see that, if you look at the description of the companies, do you see that they are incorrectly spelt, the names?---Yes.

Deveme is D-e-v-e, N for November, E. And Anerlis Pty Ltd as opposed to Anderlis Pty Ltd, correct?---Yes.

If we could then go to 490. This is an email forwarding the actual final submission to the council but copied to yourself, or to the sandrasidoti@[REDACTED], Ms Miller and also your parliamentary account.---Yes.

And if we go to the next page, page 491, can you see that the - - -?---It's been corrected.

- 10 It's been corrected. So someone between the 17<sup>th</sup>, or possibly the 18<sup>th</sup>, has requested that they be changed?---I think there may have been a draft report somewhere in between there.

That was the draft report perhaps that was sent with "Devene"? Or are you talking about the draft report that had your parents identified?---I think the one, if it's the same report, is, should be very, very similar to that and it's got "draft" across the front. I, I might be confusing it but that, that was my recollection of it.

- 20 Well, just so that we can be clear about that. If we go back to page 469, and if we go, that's the email where Ms Miller forwarded a draft report for the matter to Mr Thebridge.---Yes.

And if we go to page 470.---Oh, that's, yes, I recall that.

That's the one you're thinking of?---Yes.

That has your parents' names identified?---Correct, yes.

- 30 So you saw that – or having now seen that, is it likely that you then contacted one or other of Ms Miller or Mr Thebridge to advise that, "Look, actually, it needs to be in the company names, Deveme Pty Ltd and Anderlis Pty Ltd"?---I, I really couldn't say. I, I never thought names were, were ever an issue. Because - - -

But you were involved though in this process of considering the draft report of the report before it went to council?---I'd seen the draft report. Really the reports are left up to the consultants.

- 40 But were you not providing any feedback on terms of what you were asking from the consultants in respect of the reports?---No, I think they, they tend to seek any opinions and then obviously if it meets their, their, what their professional advice is, they may consider it relevant or irrelevant. No, I don't - - -

But surely someone would need to give them the final okay, as it were, for them to forward it into the council as a submission on behalf of your family. Correct?---Yes.

And was that person you?---(No Audible Reply)

Were you the person who gave the final okay to Mr Thebridge to submit the report to council?---I may have been last in the chain but it would have been on the instructions of mum.

10 So if we could go then to page 486. This is an email chain, and do you see that the first email chain is from Ms Miller to Mr Thebridge of 17 November, where it refers to having changed the landowner. That was the email I took you to earlier?---Yes.

And then above it, on 18 November at 5.00pm, “Mark, apparently the names were incorrect. I have just spoken to Sandra.” So that she’d had a conversation with your wife.---Yes.

20 “They have now been corrected and she asks that you forward this on to John to be okayed before lodging.” So your wife had suggested to Ms Miller that you needed to give the final okay for the matter to be submitted to the council.---Yes.

So the point that I just want to suggest to you is that you were intimately involved with the process through which Mr Thebridge and Ms Miller came to be engaged to prepare a submission to the council arguing for a rezoning of the entire block.---Oh, no, I wouldn’t agree with that.

30 Despite what is apparent on the face of those emails and the fact that you were the person who needed to okay it?---No, I’m not intimately involved and I’m not the final person that okays it.

Despite the fact that it was yourself who spoke with Mr Thebridge in the initial part in order to facilitate his engagement.---Yes, despite that, yes.

And in due course the submission that was put forward we see commencing at page 491. And if you go to the next page, you’ll see it says, “The owners of 120 Great North Road, Deveme Pty Ltd, and 2 Second Avenue, Anderlis Pty Ltd, wish to make a submission on the current draft LEP amendments.” ---Yes.

40 Now, you’ve read this report previously. Correct?---I have.

And do you see that it says that the submission argues that, “Expansion of the B4 zone to include this land is a logical extension of the proposed rezoning of similar land to the south on the western side of Waterview Street.”---Yes.

And then it goes on to suggest that, “There appears to be no logic to applying a split zoning to the block which will hinder redevelopment of the land fronting Great North Road.”---Yes.

Now, just pausing there, of course the split zoning was how it had always been up to that point.---Yes.

10 So it wasn't that the planning proposal was proposing to introduce split zoning, it was simply continuing that which had gone on before as far as the zoning.---On that block, yes.

Yes. The third point was that, “The proposed zoning has the potential to result in adverse amenity impacts for the land zoned R3 medium-density, and that the inclusion of the subject land in the B4 zone will result in a better urban form.” And then the report addresses those matters further. Correct?---The, which report?

This report.---Oh, yes, oh, yes.

20 This report then goes into further detail.---It's very brief, yes.

It's a brief report, but it was made in response to the public exhibition of the planning proposals following the Gateway Determination.---Correct, correct.

And having read the report, you would agree, would you not, that there is no reference anywhere in that report to the Sidoti name?---Yes, I'd agree with that.

30 So a person reading this report would need to either know that Deveve Pty Ltd and 2 Second, sorry, Deveve Pty Ltd and Anderlis Pty Ltd were companies that were associated with the Sidoti family, or would have to know that those properties were owned by the Sidoti family.---Yes, the address at the bottom. But in saying that, you've heard evidence from the Commission that there wasn't any staff member on council in the town planning area that didn't know that those properties were owned by the Sidoti family.

40 Well, who weren't aware that 120 Great North Road was owned.---Sure.

But at this stage, your family had only owned 2 Second Avenue briefly, correct?---Sure, but it says they're representing the owners of 120 and 2 Second Avenue, so that would suggest that they're in the same ownership.

So provided they then made also that mental leap to say, okay, this is a submission that was being put forward on behalf of two separate companies that are in fact the one owner. Is that what you're saying that the council staff should need to be able to do?---Well, I don't – well, that's what

they've come to understand, but there's no real reason to, because ownership has nothing to do with the proposal.

And you have come to learn though, have you not, that in fact as it presently reads or as this report reads, it is in fact incorrect insofar as it says that "the owners of 120 Great North Road, Deveme Pty Ltd". Correct? That was not a correct statement at that time.---And sorry, the correct statement is?

10 Well, Deveme Pty Ltd did not have any interest whatsoever in 120 Great North Road as at November 2014, did it?---November, so was it Deveme Pty Ltd Staff Superannuation Fund maybe?

No, the registered proprietors of 120 Great North Road in November 2014 were your parents, yourself, and your wife as trustees of the Deveme Pty Ltd Superannuation Fund, correct?---In, okay, so it's confused between the Deveme Pty Ltd and Deveme Pty Ltd Sidoti Superannuation Fund.

20 And the members of that fund were your parents, your wife, and yourself. ---I've come to know that, yes.

So it's not actually accurate for it to have said Deveme Pty Ltd.---Correct.

But you aren't able to assist in the circumstances by which Mr Thebridge or Ms Miller came to understand that Deveme Pty Ltd was the registered proprietor or the owner of that property?---I, I don't recall, to be honest with you. I wouldn't be focused on the names.

30 Now, the submission made by Ms Miller was one of but a number of submissions that were made to the council in response to the public exhibition of the planning proposals following the Gateway Determination, correct?---Yes.

And indeed, this inquiry has heard evidence that the number of submissions that were received was so significant that council staff saw it as appropriate to engage Studio GL to prepare an exhibitions outcome report to digest the volume of submissions. Correct?---At that particular time, yes, yes.

40 And that resulted in a further report being prepared by Studio GL that sought to synthesise all of the information that had come in from the public exhibitions to inform the council and to make suggested recommendations for consideration of any tweaking or changes to the planning proposals, correct?---Yes.

And that final report was prepared or was completed in May of 2015.---I'll take your word for that, yes.

Well, we'll bring it up in due course.---That, yes, that's okay.

But it was dated, I think, 21 May, 2015?---Yes.

Now, we'll come to it in a moment but are you aware that – sorry, I withdraw that. Are you aware that Deveme Pty Ltd, as trustee of the Sidoti Family Trust, purchased 122 Great North Road on 1 May, 2015?---Yes.

That was when the sale actually settled?---Yes.

10 So, between the submission having been made to council on behalf of Deveme Pty Ltd and Anderlis Pty Ltd in November 2014 and the Studio GL exhibitions outcome report, your family had acquired further property in the block?---Yes.

And do you recall that the Studio GL report identified that one of the key issues that was affecting, or key issues that were raised in submissions that had been received were concerned with the issue of height?---Yes.

20 And in particular, there were concerns raised about the number of sites that might qualify for the bonus provision that would allow the additional storeys?---Yes.

And as a result, Studio GL recommended that the number of sites that might be permitted to develop up to eight storeys should be reduced?---Yes. If, if, just to try and take my memory to it, that was because of the submissions that came in. It was on, it was on, on exhibition at that time.

30 It had been on exhibition as a result of the Gateway Determination and then it was following that Gateway Determination that there were submissions that were received.---Yes.

And in response to those submissions, the council engaged Studio GL to prepare an exhibition outcomes report?---Yes, yes.

And part of that report dealt with what was considered to be a significant issue in terms of the number of submissions that had been received, correct?---Yes. They considered the, the number of submissions.

40 Well, just in terms of the number of submissions, there were 124 submissions that were received?---I thought there were more.

I think that might come a little later.---That was another time, oh, okay. Sure.

At this time though there were 124 submissions.---Okay.

But do you recall that?---Yeah, I do.

But there was also a number of petitions. I think there were three petitions that had 421 signatures across them.---Yes, yes.

But the issue of building height was the predominant issue with over 100 of the submissions, as well as the petitions that had been signed by the 421 signatories?---Yes.

10 THE COMMISSIONER: Would you agree that 124 submissions, following a public exhibition outcome report – sorry – following a public exhibition is a significantly large number of submissions?---If it was a DA I would say yes, but when you’ve got 50,000 people, this is city wide, and the level of consultation via websites and everything else, I, I think you could easily argue that over 50,000 people – I think people that are in favour generally don’t write in to, to, to compliment, it’s generally the objectors. But it’s substantial.

20 And of course if the submissions tended to support the same or a similar proposition, such as there should not be development which involves an increase in height of buildings, both the number and the subject matter of the submissions would be regarded as a significant response to the public exhibition. Would you agree with that or not?---It’s certainly a contributing factor.

What do you mean by that?---You wouldn’t just look at, at - - -

A contributing factor?--- - - - the number of submissions purely on its own because - - -

30 No, no, I wasn’t putting it by itself, I was just saying, linking the number of submissions, I think it was 124 submissions - - -?---Yes.

- - - and if there was a trend from those submissions of opposition to increasing density or height of buildings, then would the number in the common subject matter, if it be common to those submissions, be of significance?---Yeah, I think they would be.

40 MR RANKEN: So just dealing with perhaps the Studio GL report briefly, if we could go to page 568 in Exhibit 24, you can see that’s the cover page for the exhibition outcomes report.---Yes.

And it has the date of 21 May, 2015. If we could then move forward to page 574, where there’s an overview of the key issues and the themes of submissions, it identifies that during the exhibition period 124 submissions received and the key issues raised in the submission related to height of building, site-specific matters, three rezoning of land, traffic parking and then other, public transport, future character, and it says, “The majority of the submissions, 87.1 per cent raised height as the primary concern with the planning proposal.”---Yes.

And it also refers to the petitions that I earlier referred to, although all the petitions objected to the building height and were signed by a total of 461 people, so I was incorrect when I said 421. "Insofar as the building height issue was concerned, the vast majority of the submissions commented that they did not support increasing the building height from five storeys to eight storeys and there were concerns raised about the impacts of the new height limit of eight storeys on overshadowing and the likelihood of loss of sunlight to nearby residential dwellings along streets and in public open spaces."---Yes, and it - - -

And I'm coming to the point that I think, a point you wish to make, which is that concerns were also raised about the impacts of the new height limit of eight storeys on loss of views, and that was of particular concern to the owners of apartments in the Pendium building.---Yes.

And that was a building that was a high-rise, perhaps the only high-rise in the Five Dock Town Centre at the time.---Correct. I still think it is now the only one.

And it was located down the southern end of the town centre. Correct?  
---Over a former council car park and it was around seven storeys.

So it was seven storeys, right down the bottom effectively of the town centre.  
---No, in the core, next to Fred Kelly Place.

It was next to Fred Kelly Place.---Yes.

And so that's obviously, one needs to accept that part of that might be the impact upon their apartments.---Correct.

So a certain self-centredness about it possibly. Is that what you're suggesting?---Well, well, look, I wouldn't see it that way. They're protecting their investment and they've got every right to, but the issue I think came from that was that if everyone built seven storeys similar to that, then there would be potentially view loss, and that's a perfect legitimate concern.

But it wasn't just about those owners in the Pendium building - - -?---No.

- - - who might be concerned about things impacting upon their, up to then, unobstructed view.---But there are 102 apartments there so, you know, potentially - - -

They might have been 102 of the names on the petition.---And there was the petition came from there as well.

Well, that perhaps was a convenient way for them to put in the single submission effectively by way of a petition.---Sure.

Now, it goes on to say, if we go to page 575, that, “A number of submissions commented on the peaceful and quiet friendly village atmosphere. There was general concern that excessive development, and especially the additional height compared with recommendations of the Urban Design Study would result in a loss of the community feel of the village.” Do you see that?---Yes.

10 So it wasn’t necessarily about just the owners of the existing high-rise being concerned about impacts upon their views, but other concerns of people that if you had too much high-rise then you would lose that village atmosphere that was identified very early on in the piece as being one of the key objectives that the community wished to see.---Yes.

And then the next issue that is summarised is the issue of rezoning. And do you see that first of all it identifies that there were a few submissions that opposed the increase of the size of the B4 mixed-use zone?---Yes.

20 So, and that of course is a reference to the fact that the study had said, well, look, there does need to be an increase to the mixed-use B4 zone, but yet there were some people in the community who were even opposed to that, correct?---In Waterview Street opposite, yes, on the southern end.

It identifies, “including the following: the site on the corner of Fairlight Street and Great North Road,” do you see that? Although it noted that that is not being rezoned, as it was already within the B4 mixed-use zone. ---“The site on the corner of Fairlight Street and,” yeah. “However, this site is not” – yes. There was a little, little - - -

30 Yes, the point they make is that actually that’s already B4 mixed-use zone, so the submissions that objected to that, they were perhaps a little bit misconceived.---Yeah, unless the planning controls – same zone but the planning controls may have been different.

But this part of the report though is just dealing with submissions about rezoning.---I’m not clear on that, to be honest with you. My understanding was, there was a little pocket left out there. But I could be, I, I’m, I stand to be corrected.

40 Well, the next dot point refers to the block between East Street and West Street, north of the Pendium building.---Yes.

The key concern there being the loss of views, privacy, and overshadowing for residents in the Pendium building. So that actually hasn’t got anything to do with Waterview Street.---No, that’s, that’s on another site there, yes.

“The extension to the B4 mixed-use along King Street and Garfield Street.” Do you see that?---Yes.

So there doesn't appear to actually be any of the – well, any of those sites don't include the Waterview Street area, that is, that part of Waterview Street that was included as being part of the extension of the B4 mixed-use zone.---So nothing in addition to what the original extension was, yes.

No, what I'm saying is there don't appear to have been any submissions that were opposed to the extension of the B4 mixed-use zone up to 2 Second Avenue along Waterview Street.---Yes, it'd appear that way, according to this, yes.

10

Then after that it refers to submissions that argued to the contrary, that is, that the B4 mixed-use zone should be increased, including – and there's a reference to the area along Waterview Street to include the block between Barnstaple Road and Second Avenue.---Yes.

“And increasing the area being rezoned in the block between East Street and West Street north of the Pendium Building.” Again, that's on the other side of Great North Road.---Yes.

20

Those, though, were the only two areas that were identified in the submissions where the persons putting in the submissions were actually arguing for an extension of the B4 mixed-use zone beyond that which had already been proposed in the study.---And, yes, and that's still 2015?

We're still, at this point we're in May 2015 with the report that was prepared as a result of the public exhibition that took place in October and November 2014.---At that point, okay, yes.

30

And just to deal with the particular issue of rezoning, if we could go to 596. ---Sorry, sir, can I just confirm something? Because I might have my timeframes – and the Chamber of Commerce also, was that at that point that also made a submission to extend West and East? Or am I thinking earlier or later?

I think you are thinking about the submission that was made in – that we dealt with yesterday – in the early part of 2014.---Okay. Okay. So it obviously didn't come up at this point again.

40

No.---Okay.

The only areas that came up for rezoning, if we go to page 596 - - -? ---Would have been Waterview Street and, and East Street. Is that correct?

Waterview Street and East Street.---Yep. Okay.

Extending, do you see rezoning, at page 596, there's – this is part of Key Recommendations?---Yes.

And it says, “Rezoning, extending the area to be rezoned between East and West Street and moving the boundary is not recommended, as this would not solve the interface issue identified in the submissions, but simply move the location of the interface so that it impacts on different properties.”

---Okay. Yes, I know where we are now. Thank you.

10 “And rezoning of the western side of Waterview Street between Barnstaple Avenue and Second Avenue” – that’s obviously a typographical error because it’s Barnstaple Road.---And so there were minor changes recommended for Kings Road as a result of the GL - - -

To address concerns about the narrowness of that road?---And, and, and, I think, some, some changes may have come out as a result of the Studio GL reports there.

20 But the issue that you were interested in, and that your family’s property interests were affected by, was the rezoning of the western side of Waterview Street between Barnstaple Road and Second Avenue?---That would be my parents’ interest. My interest is the entire town centre.

Well, the submission made by Ms Miller was one that was made on behalf of companies that were owned by your parents?---Yes.

In support of the interests or in their capacities, apparently, as owners of the properties at 120 Great North Road and 2 Second Avenue?---Yes.

30 But of course 120 Great North Road, you were one of the registered proprietors of in your capacity as a trustee of the superannuation fund? ---Sure. But I don’t own anything because I don’t pay bills, I don’t pay rates, I don’t receive income but as a result of the way that is, yes.

A superannuation fund of which you were at that time a member?---Correct, and received no income as well, yes.

So, ultimately what was being recommended by Studio GL was, look, having looked at the issue, it’s not supported, it’s not recommended that the zoning be increased to include that whole block?---Yes, yes.

40 And that report was provided to council staff so that they could provide an agenda report in advance of the meeting of the council on 2 June, 2015? ---Yes.

And if you need me to take you to the parts of the report that deal with the particular issue, I can do so.---You don’t have to. You can probably summarise it shortly.

Yes. So you agree that what the council staff noted was that there was the existence of the heritage-listed house and the strata-title residential flat, correct?---Yes. No different to any other time, yes, correct.

But also that the zone be - - -?---Was outside the core.

Was outside of the core?---Correct.

10 One of the aspects though was that it recommended, and this was part of the recommendation of Studio GL, was that the particular areas where the bonus provision might be available should be reduced?---Yes.

Because under the planning proposal that had gone for a Gateway Determination and had been publicly exhibited, the possibility of obtaining the bonus provision would apply across the entirety of the B4 mixed-use zone, correct?---Proposed but not endorsed, correct.

Proposed, I understand it was proposed.---Yes.

20 And that was being publicly exhibited?---Yes.

Because, of course, even if it had come back and there was no opposition to it, or there were going to be no changes, it would still have to be endorsed by the council to go back to the Department?---Again. And then go out to the public again, to my understanding.

But to go back to the Department?---Yeah, and once it comes back to the Department, I think it may be a condition that it's just exhibited so people see what comes back.

30

Well, that might depend on what decision the Department might make later on.---Correct. It's up to the Gateway process, yes,

So, one of the areas though that was identified by Studio GL as an appropriate area to remove from being an area that could get the benefit of the bonus provision was the properties that fronted Great North Road between Second Avenue and Barnstaple Road, correct?---Yes, amongst others as well.

40 So, essentially, as far as the property interests of your family were concerned, the adoption of the recommendations proposed by Studio GL and endorsed by council staff would actually result in not only you not achieving, your family not achieving a rezoning of that block, but also the removal of any possibility of ever getting the bonus provision?---Correct. On the whole block, not just my parents, along Great North Road.

I accept that's because it goes for the whole block.---Correct.

It provides the whole block, but specifically in respect of your parents' properties, by this stage - - -?---Agreed.

By this stage, including 122 Great North Road?---Yes, yes.

That they would be removed.---Agreed.

So essentially you would have gone back to the position that was originally recommended by Studio GL in its original report.---Yes.

10

And you're aware, are you not, that on 2 June, 2015, that is there was a meeting of the council?---Yes, I recall that.

And Ms Miller addressed the council on behalf of Deveme Pty Ltd and Anderlis Pty Ltd.---Yes.

20

Is it likely that she argued for inclusion of the western side of Waterview Street between Second Avenue and Barnstaple Road to be rezoned as B4 mixed-use?---Yes, I think she would of. Whatever was in the report and that was in the report initially.

But in addition to that did she not also argue for the retention of the site amalgamation bonus provisions on that land that fronted Great North Road? ---I, I can't remember but I think if she's representing 120 and 2 Second Avenue, which she is, it's more than likely, yes.

30

THE COMMISSIONER: Did she have a discussion with you before that council meeting took place on 2 June, 2015, as to how she would address the council?---I'm sure I spoke to her but I don't recall what, what the conversation revolved around.

You spoke to her about the forthcoming council meeting and what she would address the council on.---Yes.

MR RANKEN: The issue of the bonus provision was not a matter that was touched upon in her report.---I'm not sure.

40

Well, I'm happy to go through the report with you.---If you tell me it is I believe you. I'm assuming it is.

So that was an additional issue that she hadn't been speaking to or hadn't made any submission to prior to the meeting on 2 June, 2015.---I'm not sure.

Well, certainly you were cognisant, were you not, prior to the meeting of 2 June, 2015, that what was being recommended by Studio GL and council staff was the removal of the bonus provision from - - -?---Okay. So yeah, well, likely.

You were aware of that?---Likely that we would have discussed it, it's a major, a major change.

It's a major change, but also a major setback for the prospects of any future development of the Sidoti family properties if it was to go through and continue in that form.---For a bonus provision, yes.

10 And so then are we able to then accept that it was most likely that you did in fact speak to Ms Miller about addressing the council about that topic?  
---Well, looking back now, if I hadn't I'd be disappointed. It should have been, yes.

THE COMMISSIONER: So what's the answer to the question?---Well, I - -  
-

Do you remember the question?---More than likely, yeah.

20 MR RANKEN: Well, just to assist you then perhaps.---Okay.

If we go to page 453, you can see that there's an entry 2/6, it's up on the - - -  
?---Right-hand side.

- - - left-hand side.---On the left-hand side, yeah.

And it says, "John Sidoti re Five Dock Town Centre LEP," and it's got what I assume is your telephone number.---Yes.

30 And if you could assume, accept from me that that reference to 2/6 is 2/6/2015. If you need me to - - -?---No, no, that's fine, yes. So that's before the meeting.

You clearly have spoken with Ms - - -?---Miller.

- - - Miller on the day of the meeting. And then if we perhaps go to, if we could go to page 631, we see this is effectively a document that Ms Miller prepared in advance of the meeting.---Yes.

40 And you can see that it deals predominantly with the zoning issue.---Yeah, there is it, under the second point. Yes, I'd agree with that totally.  
Retention of the proposed – yes, thank you.

Yes. But you can see that the whole of those key arguments are directed to the zoning issue. Correct?---Yes.

But if we go to - - -?---Because of the split zoning, yes. So, just onto, it, it, it, that's, that's what it talks about predominantly, zoning and, and how her office is in exactly the same position. "Waterview Street should be used to

invite a transition to the R3. This is similar to the approach taken elsewhere throughout the LGA, including notably between Victoria Road and Formosa Street, where her office is located.”

If we could go to page 632, can you see that the second dot point on that page refers to, “Council has however recognised that it would be difficult to provide a transition in height from 27 metres to 8.5 metres and so is now proposing to remove the potential for sites on Great North Road to 27 metres.”---Yes. Yes.

10

So that’s where she dealt with the issue about the removal of the amalgamation bonus from that block, correct?---Yes.

One of the things that Ms Miller was seeking to do, was she not, from what you understand, was to essentially say, well, if part of the problem is because you’ve got a difficulty of transitioning between a higher-rise on the Great North Road side to the low-rise on the Waterview Street site, well, then that’s a further argument in favour of rezoning it so then that would remove the impediment that led to that site or that block being identified as being an area from which the bonus provision should be removed.---Sorry, Mr Ranken, can you simplify that a little? Sorry.

20

Okay, in this sense, so one of the reasons why the bonus provision was to be – well, I’ll withdraw that.---Because of the transition.

One of the reasons that block was identified as one of the areas from which the bonus provision would be removed was because of the need to transition from a higher-rise development on the Great North Road side to the lower-rise residential, correct?---Yes. Yes.

30

And that that was likely to mean that any development would be difficult to achieve that could achieve the bonus provision anyway.---Yes.

And still manage to facilitate that transition. Correct?---Correct.

And what Ms Miller was seeking to do was effectively say, well, if you rezone the whole area, that whole block, well then - - -?---It’s not a problem.

40

That’s no longer a problem, so that area can still get the bonus provision as well.---Yes, so you’re transitioning instead of from 27 metres to maybe 8.5, maybe 27 to a higher – that’s, that’s the way I interpret that, yes.

Now, ultimately at the meeting of the council on 2 June, the councillors who were present voted to adopt the recommendations that were contained in the agenda report that had been prepared by the council staff, based as it was on the Studio GL report, and to publicly exhibit the proposed LEP subject to the changes that saw the limiting of the number of - - -?---Sites.

- - - of sites that could get the bonus provision.---Correct.

And you're aware that Dr Ahmed was not in fact present?---Yes, I've seen evidence certainly about that, yes.

But in any event, the council voted unanimously in favour of that course.  
---Yes.

10 And that meant that the council were unanimous in a decision that involved a rejection of the proposition of increasing the B4 mixed-use zone to include the Waterview Street site, that is, between Barnstaple Road and Second Avenue.---Because of the comprehensive Studio GL report, yes, taking into consideration all the facts, yes.

And by doing so, they had rejected the arguments that had been put on behalf of your family to rezone that Waterview Street site.---And anyone else, yes.

20 And I think the only other person who had put forward a submission at that point was Ms Cassisi.---And potentially Mr Durkin.

Not at that point.---Okay, so they come on later, yes, okay.

But significantly though, that meant that by June 2015, each of councillors McCaffrey, Ahmed and Cestar had all voted, on at least one occasion, in favour of an LEP proposal that was not in favour of an extension of the B4 mixed-use zone to include the Waterview Street site?---Yes.

30 The LEP proposal was then publicly exhibited between 30 June, 2015, and 31 July, 2015?---Yes.

And did you meet with the councillors to discuss the Five Dock Town Centre Study during that time, that is in that period of July 2015?---I don't recall.

For what purpose would you have been meeting with the councillors of July of 2015 to discuss in respect of the Five Dock Town Centre?---I don't recall that I did.

40 Well, if you did, for what purpose would it have been? You've got no recollection one way - - ?---No.

But you can't even assist us by casting your mind back to think, well, what might have been the issue, having gone through the chronology of it up to this point, what might have been the issue that was playing on your mind that you might need to discuss with the Liberal councillors that related to the Five Dock LEP?

MR NEIL: Well, I object to that. A question of what might have been an issue that might have been playing on your mind when he says he can't have any memory, in my submission, has no probative value.

THE COMMISSIONER: I think the question is what issue may have been playing on his mind at that time.

10 MR RANKEN: And I was, also, Commissioner, asking him to search back, do his best to search back, having been taken through the chronology up to that point, as to what issues might have been on his mind that he thought would be needed to be raised with councillors.

THE COMMISSIONER: Any difficulty with that, Mr Neil?

MR NEIL: Well, yes, but I don't want to repeat my submission.

THE COMMISSIONER: Yes, I'll allow it.

20 THE WITNESS: I, I don't recall.

MR RANKEN: Well, other than changing the zoning in respect of the Waterview Street site, was there any other issue that was of significance to you in respect of the LEP?---Yeah, I don't, I don't recall at that time.

THE COMMISSIONER: After the council meeting on 2 June, 2015, in which a unanimous vote was taken, what was your reaction that outcome? ---I don't recall I did have a reaction.

30 Did you have any particular belief or thoughts about the outcome, whether that was good, bad or indifferent?---Oh, I, I recall it but I – back then, no, but I could tell you what I would think now looking back.

No, no, no, no, no, no.---No? Okay.

I'm asking you about - - -?---Then.

40 - - - your state of mind the period immediately after, following the unanimous vote of council on this matter, 2 June, 2015?---Oh, it's, I wouldn't remember. I would only be speculating.

You don't even remember what your state of mind was when you became aware of the fact that the council had unanimously voted on that date?---I, I'm aware of what happened but - - -

Yes. And did you have any thoughts about that?---It's the process. The process is like that. People get to make submissions, people get to change and council staff recommend and make decisions. Things move backwards and forwards.

So in effect you – is this what you’re saying – that you accepted the outcome as just being part of the process?---Yes.

You were indifferent, really, as to whether you were pleased with the outcome or not pleased with the outcome? You were indifferent, were you?---Well, it’s, it’s negative on behalf of any landowners in that area but that’s the process. You’ve got to accept that.

10 And you did accept it, did you?---Yes, definitely.

MR RANKEN: If we could go then page 640.

THE WITNESS: And the reasons were justified by the professionals there (not transcribable)

MR RANKEN: This is an email between Ms Miller and Mr Thebridge. Again I’m not suggesting that you yourself saw this email, but I just want to draw your attention to an aspect of it. Do you see that Ms Miller is  
20 informing Mr Thebridge that at the council meeting, the Council Manager Strategic Planning indicated that council could have a further look at rezoning of land on the western side of Waterview Street, of Waterview north of Second Avenue following the presentation, but it indicated, “They would be happy to receive a further submission from us during the upcoming re-exhibition that looks in more detail at how the constraints of the heritage item at 39 Waterview Street and strata development at 45 Waterview Street could be addressed while providing for the redevelopment of the subject land.” Do you see that?---Yes.

30 So essentially she was saying, look, it’s not all lost, we can make a further submission with a view to explaining further why that are should be rezoned.---Yes.

But also, rezoned though in a way where the constraints could be addressed while providing for the redevelopment of the subject land. Correct?  
---Sorry, you’re coming to that - - -

That’s what it says, do you see that, it says, “While providing for the redevelopment of the subject land.”---Yes.

40 Now, that’s on 3 June, 2015. And can I then take you to a chain of emails that commences on page 674, and do you see it’s forward exhibition period. The chain starts itself on page 675. On 11 June Mr Thebridge saying, advising you that the council will place the updated information on exhibition from 30 June, and that will mean that the exhibition period will close about 31 July, and then you’ve contacted Mr Thebridge by email in response on 1 July, suggesting that, “Can we see the planner at council

together to take her up on the offer to explore opportunities for a better outcome for the Five Dock properties?" Do you see that?---I do.

10 Now, just in that regard, "Can we see the planner?" Is that Ms Helena Miller or is that Ms Marjorie Ferguson? Because you say, "At council together to take her up on the offer to explore opportunities." That would suggest that it was probably Ms Ferguson that you were hoping to have a meeting with. Correct?---It would have been one of the staff. My understanding was there, there was correspondence there after the date they invited Mrs Miller to explore in further detail.

Isn't that a reference to what Ms Miller had said to Mr Thebridge about the fact that at the council meeting the Manager of Strategic Planning had suggested that they could look at it again if there was a further submission made that addressed those issues?---I think it - - -

That was the email that I took you to before.---That looks like it flows, yes.

20 And I took you to that email to assist you with providing - - -?---Thank you.

- - - context for this, because it's plain that you were aware as at 1 July that there had been an offer of that kind that had been made. Correct?---Yes.

So at some point, whether by Mr Thebridge or Ms Miller, you become aware of the idea that there might be a possibility to sit down and speak with council about the Five Dock properties.---Yes.

30 And the Five Dock properties you're referring to, given the date, 1 July, are 120 and 122 Great North Road, together with 2 Second Avenue.---Yes.

And Mr Thebridge has indicated he will discuss with the planner tomorrow then contact you. This is on 6 July. And you said, "Thanks," on 7 July. Do you see?---Yes.

40 Now just with that in mind and that timing in mind as well, I wonder if we could go to page 684. This is a chain of emails and I'll just draw your attention to the bottom where it says, "Hi John. I think I missed an email. Do you want to arrange a meeting with us re. the town centre?" Do you see that?---Yes.

"Cheers." And that's from Ms McCaffrey on 8 July.---Yes, yes.

So was there some email or communication between yourself and Ms McCaffrey where you were wanting to arrange a meeting about the town centre at this time?---I, I don't remember.

But clearly, this is around the same time as you were seeking to arrange a meeting with the council's town planner together with your planner, correct?---The planners, yes.

And you also, it appears, that you were wishing to, or interested in, arranging a meeting with the Liberal councillors, correct?---Yes, it seems that way.

10 And we see that because your response on 8 July at 1.05pm is, "Yes, great. Any time that suits. Cheers, JS." Do you see that?---Yes.

And then it looks as if there is some further toing and froing in relation to a possible time but ultimately, at the top of that email, we see that it says, "Helen, Mirjana and Tanveer are good for tonight at 6.30. Are you good at my office?"---Yes.

And the emails that you were sending, they were from your iPhone, because it says, "Send from my iPhone"?---Oh, yes. Sorry.

20 But the emails that they were sending to you, were they not being sent to your john.sidoti@[REDACTED]?---I'm not sure.

It's unlikely that they were sending them to the Drummoyne address, isn't it?---I'm not sure.

And you say in that final email, "Are you good at my office?" So what officer were you referring to there?---That would have been the electoral office.

30 So you were seeking to arrange a meeting with these three Liberal councillors, that is Ms McCaffrey, Ms Cestar and Dr Ahmed, on 9 July, 2015, at your office?---That would be the intention, yes.

And given that those three Liberal councillors were the only Liberal councillors who were entitled to participate in any decisions and any votes in respect of the Five Dock Town Centre, it's plainly obvious that you wanted to speak to them about that issue?---One would think, yes.

40 And what was it about that issue that you wanted to discuss?---Oh, I don't remember. It would have been just where we were up to at that point.

Well, didn't you particularly want to impress upon them your views about the Waterview Street site and that that area should be included as a part of the B4 mixed-use zone?---No, I don't recall that.

Are you saying that that wasn't any part of the discussion that you had with them?---No. I'm saying I don't recall that. It may have.

THE COMMISSIONER: Well, you were the one calling for a meeting. They weren't seeking a meeting with you. That seems to be apparent from the emails.---Yes, yes.

What did you have in mind to discuss at the meeting?---Well, it would have been the Five Dock Town Centre.

10 But what aspect?---Oh, all aspects. It wouldn't be a, one particular aspect. It was, my office was on that, on that road, do I was always closest to the ground and a lot of people would come into my office. It was information, feedback to all, all the councillors so they, you know, they knew what was going on.

All aspects of the study covers a vast range of possibilities, doesn't it?  
---Yes.

20 Did you seriously want to meet with them to discuss all or any issues concerning the Town Centre Plan, rather than some specific issue?---Oh, general. It may have included what would happen up until that point but, no, I don't recall specific discussions. I, I don't think it would have been the first time that we'd spoken about the town centre.

MR RANKEN: But do you accept that a meeting did in fact take place that evening at your electoral office, that is on 9 July, 2015?---I, I, I don't recall it specifically to be honest with you, but it's, it's highly likely.

THE COMMISSIONER: Mr Ranken, before you proceed, is this a convenient time?

30 MR RANKEN: That is a convenient time.

THE COMMISSIONER: Yes, very well. We'll take the morning tea adjournment.---Thank you.

I'll adjourn.

#### **SHORT ADJOURNMENT**

**[11.35am]**

40

THE COMMISSIONER: Yes, Mr Ranken.

MR RANKEN: Thank you, Commissioner. Mr Sidoti, we were dealing with the emails between yourself and the other Liberal councillors in respect of a possible meeting on 9 July of 2015 about the Five Dock Town Centre study. And it's the case, is it, that you don't recall such a meeting actually occurring, although you accept that it's likely that one did occur?---Yes.

And insofar as any particular issues that were discussed, any particular issues that were discussed in respect of the town centre at that time or at such a meeting, you're unable to assist in any way as to whether or not they included the Waterview Street site rezoning or any other issues, is that - - -?  
---Yes.

Well, are you able to assist us with what other issues you raised with the councillors about the Five Dock Town Centre planning proposals in the period between, following the meeting of the council on 2 June of 2015 up to November 2015, any issues whatsoever?---No, nothing comes to mind, specifically, yeah.

But do you say that if you did raise such issues, they would have been issues that had been raised with you by members of your constituency?---Yes, so that, that would be logical, yes.

Are you, though – but you are not able to actually identify any particular such issue?---Not that come to mind.

20 Do you accept, though, that it is likely that one of the issues you raised with the councillors was the possibility of rezoning the Waterview Street site?---I don't remember specifically, no.

So you're not saying it was not such an issue, but you're just saying you don't recall specifically that that was one of the issues?---Yeah, either way. I, I don't remember if I did or if I didn't. It doesn't stick out. There was nothing that sticks out to refresh my memory there.

30 But that particular issue is a little bit different to other issues that might have affected the Five Dock Town Centre study, because it's one that had a direct impact on your family's property interests in the area, correct?---I think every decision has an impact on the whole centre, but yes - - -

No, on your family's property interests.---Oh, oh, it didn't come to – I don't recall that.

40 No, but you recognise, though, that that issue, the issue of the rezoning of the Waterview Street site is one that is different to other issues that might have arisen in respect of the Five Dock centre, because it had a direct impact on your family's property interests in that block.---Yeah, I acknowledge that but - - -

And you acknowledge that you were very much aware of that issue and how it was playing out over the course of this process?---Up to date, yes.

Yes, and continuing from 2 June, 2015 at least up till November 2015, you were very much aware of that, correct?---I'm, I'm aware of the, yeah, that, what transpired, yes.

Because you were also actively involved over that period, were you not, with the engagement with Ms Miller in respect of the making of a further submission to the council about that issue?---I wouldn't say actively involved, but involved, yes.

THE COMMISSIONER: Well, how were you involved, how do you say you were involved with her in that period?---In that period, in any period I, I'd be relaying what the planners have said to me, to my family.

10

And would you have in that period been providing information or instructions to the planners, that is up to November 2015?---Yes.

MR RANKEN: But we also saw that you were seeking to arrange a meeting with the council planner in the presence of Mr Thebridge to discuss the Five Dock properties. I took you to that email before. Correct?---Yes.

And that was a meeting that you anticipated that you would be attending? ---Just with the planners. Is that right?

20

With the council's planner.---I don't think I ever met with the council, to be honest with you.

No, I didn't say whether you actually did meet with the council, but that's what you were planning, to attend such a meeting. You were seeking to arrange such a meeting.---To arrange a meeting, yes.

Yes. And in the expectation that you would yourself attend that meeting as well.---Well, that's how it appears but I, I, yeah.

30

So you were actively involved in this issue about the rezoning of the Waterview Street site in this period between June 2015 and November 2015.---Yes, but I just, I don't know how you keep referring to rezoning. It's not been rezoned.

No, but the issue was that, that was the issue, that it was not being rezoned. Correct?---No, it had never been investigated up until then, other than, other ---

40

That was the issue. The issue was that it was not being considered for rezoning. Correct?---No, there were no studies that had identified that to be rezoned. It was never applied.

Let's deal with - -?---There was a comprehensive report, as we've established, a very comprehensive report, but it lacked any detail and detailed testing of anything outside the lines, and to date that had never been done. So if you're going to consider something to be part of the town centre

you would have to apply the same principles, otherwise it wouldn't be really part of the town centre.

Well, let's just go back and break it down again.---Yes.

There was a study in 2013. Correct?---Yes.

It recommended an extension of the B4 mixed-use zone. Correct?---Yes.

10 It did not recommend the B4 mixed-use zone extend to that part between Second Avenue and Barnstaple Road. Correct?---No. My understanding is that - - -

It did not recommend an extension of the B4 mixed-use zone north of Second Avenue?---I, I, I'm not sure they were the instructions by the staff.

THE COMMISSIONER: Please, Mr, Mr - - -

MR RANKEN: Can you identify - - -  
20

THE COMMISSIONER: Mr Sidoti, just a moment, just a moment.---Yes.

We've been over this ground before and I think what the last question is addressing is, I would have thought, obvious to anyone who's been in this hearing room listening to the evidence. I'm surprised that you don't seem to – I'm surprised by your last answer.---Yes.

Perhaps I'll ask Counsel Assisting to put it again just in case you misunderstood him or something, so that we can get an answer from you on that particular aspect. And it may be that we're all on common ground, this has all been dealt with, we all understand what happened and we can move on. Otherwise it just extends the hearing. Yes.  
30

MR RANKEN: Yes. The study that was conducted in 2013 did not recommend an extension of the B4 mixed-use zone north of Second Avenue.---Yes, yes.

Yes.

40 THE COMMISSIONER: And that you understood was because Studio GL concluded that there was no public benefit or no sufficient public benefit to do so, you understood?

MR NEIL: Well, Commissioner, Commissioner, could I point out that that can't be right. The - - -

THE COMMISSIONER: I thought it was.

MR NEIL: Well, the, the, the original study simply recommended an extension to three areas. It didn't deal with the subject land, and then the question arose and then Studio GL came in and then Studio GL affirmatively recommended against the subject land being included.

THE COMMISSIONER: That's right. I'm talking about the first Studio GL report, that's the major report, the primary report, call it that. Now, my recollection, and I may be wrong, is that they did look at how far the B4 zoning, mixed use, should be extended to form the core and they  
10 determined, as we now know, that it was to go up to but not beyond Waterview Street, or north of that, and my recollection was, but I could be wrong, that they so indicated that there was no public benefit to take it any further than that. Is that right or not right?

MR NEIL: Well, that may be what needs to be considered because my understanding of it was they simply recommended the addition of three areas and did not go into the question of whether it should go north.

THE COMMISSIONER: Well, let's see, okay, let's have a look at the  
20 report and find out. Well, what do you say, Mr Ranken?

MR RANKEN: Well, Mr Neil is correct in part, insofar as there was no separate consideration of that part of Waterview Street as part of the original study to be included, in terms of there was not feasibility analysis done in respect of that part of Waterview Street as part of the initial study.

THE COMMISSIONER: Yes.

MR RANKEN: But the initial study, it must be remembered, took into  
30 account the public consultation process that had been undertaken over the course of 2013 and gave consideration to where might be a suitable point to extend the B4 mixed-use, to expand what would be identified as being the core of the town centre, and it referred to the fact of there being a natural ridge line, amongst other things, and also the identification of the surrounding, the character of the surrounding properties in the area and had determined that that warranted an extension up to but not beyond 2 Second Avenue.

THE COMMISSIONER: That – sorry, go on.  
40

MR RANKEN: So, insofar as Mr Neil's objection, or his point, is based on the premise that there were not specific feasibility studies and analyses done in respect of that site of Waterview Street as part of the original study, that is correct. But as far as it suggests that therefore there was not, therefore there was no consideration as to what the public benefit would be about as to expanding the B4 mixed-use zone, and therefore the core of the town centre to that area, then that is not correct either, because the considerations, in my submission, that were given to that included the question as to where

would be an appropriate point to extend it to whilst maintaining the desire of the community to maintain such things as a village feel to the centre.

THE COMMISSIONER: Well, I'll leave it to you to make it clear to Mr Sidoti so that he is clear as to what he is being asked to accept, and I will press my question but leave it to you to put that matter to him.

10 MR RANKEN: Yes. Thank you, Commissioner. So, just so we can get it all in its stages. 2013, the study did not recommend extension of the B4 mixed-use zone beyond Second Avenue, correct?---Yes.

There was public exhibition and submissions received. One submission, by Mrs Cassisi, indicated that it should, or suggested that the B4 mixed-use zone should extend up to Barnstaple Road, correct?---Yes.

There was consideration of that submission by Studio GL prior to the meeting of the council on 20 May, 2014, correct?---Yes.

20 And the response of Studio GL and accepted by council staff was that there were no substantial public benefits in extending the B4 mixed-use zone for a number of reasons, including that it was not part of the area that was considered to be - - -?---No, little, little public benefit, there's no public benefit.

Little – I thought I said no substantial public benefit, I'm happy to say little public benefit, to such an extension for a number of reasons, including that it was not considered to be part of the core of the town centre or it was outside of the core of the town centre, correct?---Yes.

30 It was low, it comprised predominantly of low-rise residential properties, correct?---Yes.

Also there was the fact of the heritage-listed item at number 39 Waterview Street, and the existing strata development as well, correct?---Yes.

Then that was ultimately adopted by the council in June of 2014, and a planning proposal was sent to the Department for a Gateway Determination. ---Yes.

40 And again, at that point, the B4 mixed-use zone was not to be extended beyond Second Avenue, correct?---Yes.

Then there was the public exhibition following the Gateway Determination in October and November of 2014, correct?---Yes.

And at that point, your family, through Deveme Pty Ltd and Anderlis Pty Ltd, made a submission using the planners MG Planning that argued or

advocated for an extension of the B4 mixed-use zone to include the Waterview Street site, correct?---Yes.

That was then considered, together with the other submissions that were received by council, over the course of the public exhibition in October and November of 2015, and was considered within part of the exhibitions outcome report that was prepared by Studio GL and dated 21 May of 2015, correct?---Yes.

10 That was also considered by the staff.---Yes.

And a report was prepared that endorsed the recommendations of Studio GL at that point, correct?---Yes.

And at that point, Studio GL and the staff had again recommended against the extension of the B4 mixed-use zone to include the Waterview Street site, correct?---Yes.

20 And in addition had also recommended that council endorse a reducing of the number of sites where the bonus provision could apply, correct?---Yes.

Including removing the area that fronted Great North Road within that block between Second Avenue and Barnstaple Road.---Yes.

And those recommendations were endorsed and adopted by the council at its meeting on 2 August – 2 June of 2015, correct?---Yes.

30 Then because there was a substantial amendment to the planning proposal, in order to give effect to amongst other things the reduction of the areas that could benefit from the bonus provision, it was required to be publicly exhibited before it could go back to the Department.---Yes.

And that public exhibition took place between 30 June of 2015 and 31 July of 2015, correct?---Yes.

Now, in July of 2015, I've taken you to emails between yourself and Mr Thebridge relating to the possibility of taking up the offer to meet with council planners - - -?---Yes. Yes.

40 - - - to discuss the possibilities for the Five Dock properties.---Yes.

They were the words that you used in that email?---Yes.

And you were referring to the properties at 120, 122 Great North Road and 2 Second Avenue.---Yes.

So that was plainly an interest, a matter that you were interested in, because the issues concerning those properties as far as the town centre was

concerned was the fact that it was not being included in the proposed extension of the B4 mixed-use zone, correct?---So, we've, we've agreed everything up to there, up to the, this point, except one thing.

Well, you did – sorry, are you saying that it was not an issue for you that the block had not been included in the proposed B4 mixed-use zone?---No, what I'm saying is, up until that point, I agree with everything you've said, but at no stage to that point was Waterview Street tested to the same criteria used everywhere else in the town centre, so how could you possibly - - -

10

I haven't asked that question.---Well, you are, you've said that it was tested.

I did not say anything about testing.---You've said that they've made comment that up until that point that they used justification not to include it.

I'll go back to my question.---Well, you don't have to, I've agreed. That's the only point.

No, no. My question, my question was - - -

20

THE COMMISSIONER: Again, please, Mr Sidoti, don't tell Counsel Assisting what he should do, just listen to him put the next question.

MR RANKEN: My question was, that the issue that related to the Five Dock properties was firstly, the fact that it was not to be included in the proposed extension of the B4 mixed-use zone. Correct?---That was one issue, yes.

30

The other issue was that it was no longer to get the benefit of the bonus provision. Correct?---Yes.

So they were the two issues that directly impacted on Five Dock properties. Correct?---Yes, we agree on that.

And it was in respect of those issues that you were wishing to meet with the council's planners, together with your planners, in July of 2015.---Well, it's possible.

40

Well, that was the issue, they were the issues affecting those properties. ---Yes.

Now, what you wanted was to convince council that, and particularly starting with council staff, that that block should be explored and studied. Correct?---I think that's a natural part of the process, yes.

THE COMMISSIONER: No, no, no, please. The answer is yes, is it?

MR RANKEN: That's what you wanted. That's what the evidence - - -?  
---Well, that's what - - -

- - - you wanted to give?---Yes. The process allows that, yes.

But the evidence you want to give is that as at July of 2015 you weren't advocating or wanting to see a result whereby that part of Waterview Street was included in the B4 mixed-use zone, you just wanted it looked at.  
---Correct.

10

That's the position?---Yeah, I, I, I - - -

I just want to be clear that that's what you wanted.---Correct, because that's part of the process, yes.

Now, and to that end you had engaged and continued to engage with Ms Miller and Mr Thebridge.---Yes.

20

Now, I just want to go then to a submission that was prepared by Ms Miller during the course of this public exhibition period in July of 2015. If we could go to page 641. You can see there is the cover page of it and it's dated July 2015.---Yes.

And do you see it's on behalf of Deveme Pty Ltd and Anderlis Pty Ltd. Correct?---Yes.

And those two companies being obviously the family companies. Correct? ---Yes.

30

At this time, leaving aside what is actually on the title, the properties that were owned by your family in that area were 120 Great North Road and 122 Great North Road and 2 Second Avenue. Correct?---Correct.

Neither Deveme Pty Ltd nor Anderlis Pty Ltd owned any other properties within the Five Dock Town Centre area. Correct?---Correct.

And certainly didn't own any properties on the other side of Great North Road.---No.

40

And in fact have never owned any properties on the other side of Great North Road. Is that the position?---They've owned property on Great North Road.

No, on the other side of Great North Road, that is on the western side of Great North Road.---No.

Or in any blocks further west from there. Correct?---No.

So the only interests of those companies and those properties would be in this Waterview Street site. Correct? That is that block that was bound by Second Avenue to the south and Barnstaple Road to the north?---They're the only properties (not transcribable) yes.

Now, if we could then go to the next page, and do you see that here in the background it refers to the fact that the owners of 120 Great North Road and 2 Second Avenue had made a submission on the current draft LEP amendments proposed in November 2014. Do you see that?---Yes.

10

Now, if we were to be pedantic about it, one could make reference to the fact that, yes, that was true, that they made submissions in respect of an LEP in November 2014. However, of course, the current draft LEP was something a little bit different because you've got the removal of the bonus clause, so there is a – if one was to be pedantic, it was an earlier version of what is - - -?---Oh, I didn't, yeah, I didn't, I didn't pick up on that, yes.

20

The submission related to land fronting Waterview Street between Second Avenue and Barnstaple Road, which is zoned R3 under Canada Bay LEP 2014.---Yes, yes.

And it argued that the subject land should be rezoned B4 mixed-use in line with existing B4 land immediately to the west. Do you see that?---Yes.

And other details. So that was the original submission, that is, a submission not that that area be looked at, but that in fact be rezoned B4. Do you see that?---Yeah, but you can't rezone if you don't look at it.

30

The submission argued that subject land should be rezoned B4 mixed-use. ---Well, that's a submission, yes.

There was nothing in that submission that suggested that the council should undertake further studies to determine whether or not a B4 mixed-use zoning was appropriate, was there?---Incorrect.

40

Well, we can come to that in due course. But do you see that it goes on to say that, "A copy of the submission is provided in full at appendix 1," so we have it, and we will be able to go to it. In summary, the submission argued that land on the western side of Waterview Street between Second Avenue and Barnstaple Road should be included in the expansion of the town centre for the following reasons.---Yes.

And then it identifies the four propositions or the four main reasons that were put forward.---Yes.

Which we've gone through before.---We have. Yes.

Now, it then goes to talk about what has occurred following consideration of the submissions, and the fact that council subsequently made amendments to the draft LEP and draft DCP provisions, “and these amendments have now been placed on public exhibition and further submissions invited. This additional submission has been prepared in response to the recommendations contained in the exhibition outcome report in respect of area B.” Okay? Which is the Waterview Street site.---Yes.

10 “That rezoning of this block is not proposed due to the location of the heritage item, number 39, and the existing strata development.” Do you see?---Yeah, no, no, I, I agree.

And then it goes on to say, “This submission has been prepared by MG Planning in conjunction with Group GSA Architects and Futurepast Heritage Consulting Pty Ltd,” GSA Architects being Mr Thebridge’s firm, correct?---Yes.

20 And he provided certain architectural drawings and the like, is that, and concepts and - - -?---He, working with Ms Miller, yes.

And Futurepast Heritage Consulting Pty Ltd had provided a particular report in respect of the heritage listing of number 39 Waterview Street site.---Yes. Correct.

30 And is it fair to say that the real nub of the Futurepast Heritage report was that, look, a number of other properties, or the number of heritage properties in that area has been significantly reduced over time, and secondly, and perhaps more importantly, the property itself at 39 Waterview Street has itself had a number of renovations and things done to it that warrant the heritage listing item being removed?---Yes.

Because essentially all that was really left was the façade.---Yes.

And incidentally, the majority of those renovations were the renovations that I think you and your wife had done in the late ‘90s.---Yes.

40 So, if we could go to the conclusion of the report at page 649, there are a number of points that are identified or summarised there, rather than going through all of the detail of the report.---We’ve been through them, yes.

And you see that it says, “In conclusion, Deveme Pty Ltd and Anderlis Pty Ltd support council’s Urban Design Study and the initiatives proposed to provide for the redevelopment and reinvigoration of the Five Dock Town Centre. However, for the reasons outlined in the original submission and having regard to the further information contained herein, it is considered that the land on the western side of Waterview Street between Second Avenue and Barnstaple Road should be included in the expansion of the town centre.” Do you see that?---Page 6, okay, yeah. Yep.

And you see that up to that point there's no reference to any idea of this matter should be then looked at in some further study or this area should be subjected to feasibility analysis or anything of that kind? That's not part of this submission here, do you see that?---Yes.

10 And then there are the points that are identified there. "It would increase the viability of redevelopment of the land fronting Great North Road. It would minimise the potential for land use conflicts and associated amenity impacts. It would provide for an improved urban form, including street activation, and would ensure consistency with zoning approach taken elsewhere throughout the town centre. It would provide a logical extension to the proposed rezoning of land the south, in the block south of Second Avenue, which does not differ from the subject land in any significant way." Correct?---Yes.

20 And, "The existing local heritage item at 39 Waterview Street is not of such significance or integrity that it should preclude the logical expansion of the town centre. The existence of strata-title development within the block does not preclude its redevelopment, rather redevelopment will be dependent on market conditions." Correct?---Yes.

And just in relation to that point, at this particular point in time, there were proposals before the New South Wales Parliament concerned with removing the requirement that if an existing strata development wished to redevelop, you would need 100 per cent of the consent of the members of the strata? ---Yes.

30 To reduce that to a 75 per cent majority requirement, with compensation and the like?---Yes.

And then finally, "The proposed split zoning of the block is inconsistent with councils own objectives and controls for the centre as outlined in the draft DCP."---Yes.

40 And the very final sentence of this report is, "It is therefore recommended that council rezone the subject land to B4 mixed-use and update the height and FSR maps as outlined in the original submissions provided at appendix 1," correct?---Yes.

So, this was not inconsistent with what had been put forward in the original submission in November 2014, correct?---I thought it was very similar.

Yes, that's what I'm saying. It's not inconsistent, it's very similar, yes. ---Oh, yeah. Oh, sorry. Anyway - - -

It's arguing for the same outcome.---Yes.

And the outcome it's arguing for is not that the area be looked at, be studied and considered, but in fact that it be rezoned B4 mixed-use, correct?---I can see that, yes.

So this suggestion that you have made that what you were concerned about and concerned to see was that there be some study of the area is just not correct.---No. No. And I can show you how. So if, if you say that this is for rezoning and the council endorsed that proposal what would happen?

10 Okay, I'll tell you. If that was to happen there would be a change to the LEP to propose for the B4 mixed-use zone. That would then have to be publicly exhibited. It would then have to go back to the Department for a Gateway Determination. The Department would then look at that and consider what recommendations it might require before it would approve it. That may simply involve a requirement that the matter be put on for further public exhibition and then be returned to the Department. It could possibly involve a requirement that there be some further study conducted, correct? ---It would be a requirement, a legislative requirement to do all that.

20 MR NEIL: Commissioner, could I take this objection, that my learned friend's question starts one step too late? In my submission it's inconceivable that the council would do any of the things suggested and/or Gateway would do things unless the council firstly asked the council staff to look at the submission, which is what in fact happened.

THE COMMISSIONER: Yes. But I think that's a different tack, if I might say so, that what Counsel Assisting is dealing with, he is dealing with the process of formulation by Ms Miller of her submissions and whether or not it was premised upon the basis of the need to have relevant issues assessed  
30 before one can make a conclusion as to whether or not it should be included. So it's fairly apparent I think when you read through Ms Miller's reports that she was not turning her mind nor expressing in her reports anything about the need for council to undertake a feasibility study or some other form of study in order to arrive at a conclusion as to whether it should be rezoned or not. So I think although I understand Mr Sidoti's point, the question is whether or not council, against the background to this study, was required to undertake some further study in order to see whether there should be a rezoning. Ms Miller didn't take the view by virtue of her  
40 silence on the matter that you needed to do that before council could reach a conclusion. Of course, after a conclusion is reached then it goes to Gateway and various things might, but not necessarily will, happen by way of further investigation. In fact the Gateway Determination might be, and probably usually is, based on accumulated material that has been generated up to that point and they make a judgement call. Yes, but on these conditions, more public exhibitions or whatever if there's any change. Isn't that what we're dealing with?

MR NEIL: Well, Commissioner, setting aside for the moment the content of the actual MG Planning reports, and I can certainly see the view although we may want to visit it in submissions, that it goes straight to recommending the rezoning, the question I'm objecting to is my learned friend, in an interchange with the witness, who asked him to say what would have happened, my learned friend is saying what would have happened. I'm simply submitting he started one step too late. Whatever he said thereafter I don't object to but he hasn't included what I would submit would have to be some form of consideration of this report at council level, even at staff level. It's inconceivable the council would just rubber stamp it. That's all I'm saying.

THE COMMISSIONER: Well, they would have certainly considered it.

MR NEIL: Yes, but my submission is the question has left that bit out as I heard the question.

THE COMMISSIONER: All right. Well, Mr Ranken - - -

20 MR RANKEN: I've asked the series of questions that have been answered. I will move on. Because the point though that needs to be made, Mr Sidoti, though, is that insofar as MG Planning were representing the interests of your family and its properties in the area, what the objective was was to achieve a rezoning of that block as B4 mixed-use.---No. I still go back to what I said before. You just asked the same question a different way.

THE COMMISSIONER: Mr Sidoti, would you just answer the question, please. Do you agree or do you disagree?---I disagree.

30 Thank you.

MR RANKEN: Now, the issue of the amended planning proposal following the public exhibition in July of 2015 was due to come back before the council on 20 October, 2015. Do you recall that?---I do.

And there was a further exhibitions outcome report I think that was prepared and then also a further report prepared by council staff that appeared on the agenda.---Yes.

40 And in fact there were some 389 submissions received and I think this was the number that you had in mind - - -?---Yes.

- - - when I was asking you about the earlier exhibitions outcome report. ---Yes.

And the primary issue raised in the submissions related to the proposed eight-storey height limit and - - -?---Yes.

- - - the impact of that on the public domain and the vast majority of the submissions commented that they did not support increasing the building height from four storeys to eight storeys.---Correct. I think that should read four to five to eight but anyway.

Four to five to eight.---Yeah.

10 And the recommendation was effectively that “The Studio GL’s outcome report be adopted and that a maximum height of five storeys with the ability to construct to six storeys on certain large sites over 1,000 square metres and an FSR of 2.5:1 across the town centre in keeping with the recommendations of the study that had been adopted in June 2014.” Correct?---Correct.

That was effectively going back to the original position in the Urban Design Study. Correct?---Correct.

20 And you’ve referred to the fact that there were two submissions that proposed the expansion of the B4 mixed-use to include land on the western side of Waterview Street between Barnstaple Road and Second Avenue. Correct?---Yes, yes.

And it noted and endorsed, that is the council staff noted and endorsed the lack of support in Studio GL’s report for any rezoning of that Waterview Street site. Correct?---Yes.

30 Observing that the area was further away from the core of the centre and that there was no public benefits arising from its rezoning.---Little public benefit.

Perhaps if we could go to page 826. This is part of the report that deals with it. Do you see that?---Yes.

And it says, “The western side of” – this is dealing with area D, which is 39-41 Waterview Street and 120 Great North Road and 2 Second Avenue. So they’re the two - - -?---Yes.

40 Well, they’re the submissions that were received. Now, of those submissions, the two submissions that were in favour of it were those of the Cassis from ■ Waterview Street and MG Planning.---Yes.

And if you go down to the consideration, issues raised, “The western side of Waterview Street between Barnstaple Road and Second Avenue must be rezoned to B4 mixed-use. Both sides of this part of Waterview Street are currently zoned R3 medium-density. The portion of Waterview Street that is proposed to be rezoned is currently a mix of R3 medium-density and B4 mixed-use.” And if we go to 827 it talks about the heritage listing, and if we go down we see MG planning, a reference to their report.---Yes.

And do you see, “The submission proposes substantial expansion for B4 land. However, this part of Waterview Street between Second Avenue and Barnstaple Road is further away from the core. It is a smaller block so a rear lane has not been previously proposed and there are no proposed mid-block pedestrian connections or other significant public benefits as a new town centre.” Do you see that?---Yes.

10 And then there are the other considerations about the existing heritage listing item and the existing strata building. Correct?---Yes.

And so it was not recommended. Do you see that?---Yes.

So they were the outcomes that were being supported by the council staff. That’s from the actual Studio GL exhibition outcomes report.---Yes.

And it was recommended that council endorse the planning proposal for finalisation and make it as an LEP and approve the draft DCP.---Yes.

20 Now, they were the recommendations being made by council staff.---Yes.

And do you recall some weeks prior to the meeting, an occasion when you presented at the counter of the City of Canada Bay Council wishing to organise an appointment with Mr Dewar regarding Five Dock?---Yes.

30 And wishing to meet the following week with Mr Dewar, together with your consultant planner?---I don’t recall if it was for that reason, I think it may have been a process issue, but it may have been in conjunction with organising a meeting as well.

When you say a process issue, do you mean wanting to see what you needed to do in order to address the council yourself?---No, just a process issue at that time.

THE COMMISSIONER: A process issue concerning what?---Oh, I don’t recall what it was at the time.

A process issue of what nature?---I don’t recall what it was, it may - - -

40 Well, you do remember it was a process issue.---Yes, I do, I do.

Well, if you remember it was a process issue, can you give us some insight into what it might have related to?---No, I, I, I can’t remember exactly what it was. It was insignificant.

Have you gone to council chambers asking to see Mr Dewar before this day?---No.

Is this the first and only time that you would have done that?---At the counter of the council, yes, I think that was the only time.

There's something obviously you had in mind that you thought would be best discussed with Mr Dewar, is that right, on the occasion you're being asked about now?---Well, well, it's make an appointment because you don't generally walk up and just see someone, it doesn't, doesn't work that way.

10 Yes, you might need to have an appointment made, I think I understand that.  
---Correct. Correct.

But you had something in mind that you thought it would be desirable to actually have a face-to-face meeting with him?---No, it wasn't for that reason.

It's not the reason, but that was the outcome you were seeking, is to have a meeting with Mr Dewar, wasn't it?---Or to organise a meeting, yes, with, with Mr Dewar.

20 Organise it and attend it.---Well, it didn't happen. I didn't attend.

No, but that was your intention, wasn't it?---To organise the meeting, yes.

For you to see Mr Dewar.---With the planner.

With the planner. About what? What general matter?---Oh, I don't know.

Not a clue in the world?---No.

30 Could it have involved the Five Dock Town Centre Study?---It may have, but I, I don't recall the specific, just I, I, I live 500 metres from there, so - - -

And you think it's likely that it had something to do with some aspect of that Town Centre Study?---It was, it was probably just a question, a process question, something to do with the town centre process.

Okay, thank you.

40 MR RANKEN: So do you recall anything about the conversation you had with the person you spoke with at the counter of the council on that occasion?---No, I, I don't, I don't. I heard evidence from Mr Dewar, but I don't recall.

Do you recall whether or not at the time of that attendance or about that time, you had a conversation with the then mayor, Mr Angelo Tsirekas?  
---That wasn't my recollection, no.

About the Five Dock plan?---It wasn't, I don't recall that at all.

Could we perhaps go to page 739 of Exhibit 24? And if I could draw your attention to the email at the bottom of that page, which is an email from Mr Pavlovic, who was the Manager, Health, Building, and Environment, to Mr McNamara and copied to Ms Ferguson?---Yep.

And the subject is your name. Correct?---(No Audible Reply)

10 And do you see that it's sent on Friday, 2 October, 2015 at 1.00pm? Do you see that?---Yes.

And it says, "As discussed, John presented to the counter today wanting to organise an appointment with Paul Dewar re: Five Dock. He said he wanted to meet next week with Paul, together with his consultant planner." Do you see that?---Yes.

20 Did you speak with Mr Pavlovic on this occasion you attended at the counter, on 2 October of 2015?---I, I don't recall. I don't think Mr, Mr Pavlovic is the person that would be at the counter. I think he was a manager.

Might you have been called to the counter in order to discuss the possibility of organising an appointment with Mr Dewar?---Oh, I don't recall.

Well, given the timing of this email, 1.00pm, so it's the early afternoon of 2 October - - -?---It, it's possible.

30 And it's the early afternoon of 2 October, and it refers to the fact of you having presented to the counter that day. It's unlikely that the information that's recorded, as to what it was that you expressed you wanted to do insofar as organising an appointment with Paul Dewar regarding Five Dock, is inaccurate. It's not as if there's a long period of time between your attendance and this email.---No.

40 There's no reference though there to any issue to do with some procedure or process, or do you say that what you wanted to discuss with Mr Dewar was something concerning process?---I, I, my, my recollection, it was something to do with process. And I do recall at some point – and I don't know if it's, this is the timing of it – was a, a, a one-page thing to do with heritage, and I don't know if that's before or after or at that time. But it was a minor - - -

So what you're referring to is seeking – being able to obtain a copy of the council's heritage listing for 39 Waterview Street site.---At some point, yeah. I'm not sure.

Is that the process issue you were concerned about?---I don't, I don't recall.

You don't recall?---Well, the timing. It may or may not. I, I just couldn't tell you the timing.

I might come back to that particular issue about the obtaining of the heritage listing a little later. Just staying with that email, we can see that Mr McNamara has forwarded it on to the general manager, Mr Sawyer, seeking his views.---Yes.

10 And Mr Sawyer has, we can see, at the end of his email, the email in response to Mr McNamara, I suggest commences on the previous page, which is page 737.---Yes.

20 Do you see that what Mr Sawyer has recorded there is, "Hi Tony. I understand that Angelo," I suggest that's Angelo Tsirekas, "suggested to Sidoti that the Five Dock plan was planning driven and any submission needed to have a planning base for further consideration. The heritage property, strata units, access, et cetera were matters that needed to be addressed. If the planner that John has engaged can address these issues to Diane's satisfaction, then perhaps the area can be reconsidered." Do you see that?---Yes.

30 And so does that assist you, or prompt your recollection as to a conversation that you might have had with the Mayor, Angelo Tsirekas, in which he conveyed to you that the issue concerning the Waterview Street site and the Five Dock Town Centre Plan was that you would need to address – it was planning driven and you would need, that it your planners, would need to address those issues to the satisfaction of Diane Griffiths, who was the person who was in charge of the project from the perspective of Studio GL?---Yes, yes.

It does prompt your recollection that you did have a conversation of that kind with Mayor Tsirekas?---It's possible I mentioned it to him, yes, and then this was the response that came back perhaps. Well, didn't come back actually.

What, as in the effect of the response, the substance of the response is - - -?---Is what the reports are saying, basically.

40 No, but the substance of the response of Mr Angelo to you, raising it with him personally, with Mr Tsirekas personally, was for him to indicate to you that, "Look, John, it's planning driven. Your planner will need to put in a submission that provides a proper planning basis if you want that area to be considered further and it would need to address those particular issues to the satisfaction of Studio GL if it was to be considered," correct?---Yes, yes.

You did agree that's a reasonable and fair approach for the mayor to have taken?---Yes.

With respect to a representation made by you?---Yes.

So that's 2 October, around 2 October. I'm not suggesting that the actual meeting or conversation you had with Mr Tsirekas was on 2 October, but this email from Mr Sawyer is dated 6 October, 2015. Now, is it likely that the conversation you had with Mayor Tsirekas was sometime between the 2<sup>nd</sup> and the 6<sup>th</sup> or you can't say?---(No Audible Reply)

10 6 October was two weeks prior to the meeting on 20 October, correct?  
---Yes.

And you then sought to meet with the Liberal councillors to discuss the Five Dock Town Centre Study between this date and 20 October, correct?  
---More than likely. I, I don't recall but more than likely.

20 This was a consistent thing throughout this process, was it not, that whenever the matter was coming up before council for consideration, that you would seek to meet with Councillors McCaffrey, Cestar and Ahmed?  
---Generally, yes. It was about 10 times over three and a half years, if it was to meet at, before every meeting.

And the purpose for you meeting with them, was it not, was to impress upon them the outcome that you considered they should be voting in favour of?  
---No.

Was it just to provide them with information and feedback that you had received?---Yes.

30 From members of the constituency?---Yes.

Did you ever suggest to those members of the constituency who provided you with their feedback that, look, this is going through a process of public exhibition and further public exhibition. You should put your matters in writing, your submissions in writing and make a formal submission to council that can be properly considered by council staff and their external experts?---You could, and I had for some, but a lot of them don't understand the process and the majority of them are from a non-English speaking background, so the process was always difficult for them to understand.

40 Well, are you suggesting that, for example, Mrs Cassisi was someone who found it difficult to understand council process and the process of putting in submissions?---No. That's why she would have put in the submission, but I'm talking about a different demographic.

Are you suggesting Mr Durkin?---No.

Is there anybody who is associated with the block on Waterview Street site, as in that Waterview Street site – you know the one I’m concerned with?  
---Yes.

Anyone of those constituents who you considered needed assistance because they had difficulties understanding the process and/or the English language?---In that block. No, I think the ones that made submissions were, were accurate but there were a lot in other areas.

10 But you don’t recall the particular issues that they were raising with you to pass on to the councillors?---There was, there was both for and against in that block.

Sorry, are we now only talking about persons in the - - -?---Waterview.

- - - Waterview Street site?---Is that what you were talking about specifically?

20 I was asking about insofar as the Waterview Street site was concerned you received representations, did you not, from other constituents?---From - - -

Is that right?---Yes.

And are you saying that those constituents that made representations to you were both in favour of extending the B4 mixed-use zone to include the entire block and also persons who made representations to you that were against such an outcome?---Yes.

30 Did you explain to those constituents who had come to you to say they were against the idea of extending the B4 mixed-use zone that “Well, you should know that my family own not only the function centre at 120 Great North Road but also 122 Great North Road and 2 Second Avenue and have put in a submission in favour of extending the B4 mixed-use zone”?---All the ones in the Waterview Street block that were for or against actually made submissions on their own behalf around the time.

40 So they’re not the kinds of people who you were saying needed your assistance?---No. No, not in that block. There’s only 10 properties in that block, something of those - - -

So is this the position then, that none of the persons who actually spoke to you about the concept of extending the B4 mixed-use zone to include the entirety of that block were persons who were speaking against that extension?---Sorry, can - - -

Maybe we’ll deal with it this way.---Sorry.

To the best of your knowledge, all of the owners or occupiers of the properties that were on the eastern side of Waterview Street between Second Avenue and Barnstaple Road were against the idea of extending the B4 mixed use zone. Correct?---No.

Those on the other side of the street.---Oh, on the other side?

Yes.---Sorry.

10 On the east - - -?---That's not in the block.

On the eastern side of Waterview Street - - -?---Between Second Avenue and Barnstaple Road?

Yes.---Behind Great North Road?

No, no, no, that's the western side of Waterview Street.---Okay.

20 Do you know how east/west works?---Oh, yeah.

So eastern side of Waterview Street, then there's Waterview Street itself. ---Oh, yeah.

Then there's the western side of Waterview Street.---Sure.

And then there's those - - -?---The road and - - -

- - - properties that front the eastern side of Great North Road.---Sorry.

30 So when I say eastern side of Waterview Street - - -?---Sorry.

- - - I'm talking about those who wouldn't be part of any rezoning, even if it was rezoned.---Yes, okay. Sorry.

That's okay.---They actually put submissions in, a lot of people put submissions in from there.

40 They didn't speak to you about that.---Some may have come into the office at the time.

You don't recall anyone in particular though, do you?---No, because I'm not always in the office there.

Okay, that gets back to my original question. None of them spoke to you about it?---No, but, but I had feedback that people were coming in.

But again my question was directed to who spoke to you about it. You didn't speak and receive any representations yourself from persons who were opposing the extension of the B4 mixed-use zone.---No.

The only persons who you spoke with in respect of that were those persons who owned property on the western side of Waterview Street, being the side that included 39, 41, 37, 2 Second Avenue.---I'd spoken to a whole cross-section.

- 10 No, but I'm talking about in respect of the Waterview Street site, not talking about the Five Dock Town Centre generally, I'm just focussing on the Waterview Street site issue.---Specifically.

Yes.---I, I recall a discussion with Mr Liberatore on the eastern side of Waterview Street.

So you do now have a recollection of someone on the eastern side of - - -?  
---Yes, yes.

- 20 And did he put a representation in?---My understanding, I'm not sure if it was that time but my understanding is that he had put a representation in.

But he'd already put a representation in when he spoke to you about it. Is that the position?---I don't recall the timing.

But his representation was against the idea of it being extended. Correct?  
---Yes.

- 30 So Mr – sorry, I've forgotten?---Liberatore.

I was going to mispronounce his name. Liberatore, he is the only person you can recall speaking to who was from the eastern side of Waterview Street site and who was opposed to the mixed-use zone.---I know there were more, but they're the, but he's the one I remember.

Now, you say that there were other views that you were passing on to the Liberal councillors at this time from persons interested in other aspects of the Five Dock Town Centre Study.---Yes.

- 40 And are you able to identify any one or more of those persons and/or issues?---Yeah. I do recall telling the councillors, and I don't know when, but it was at one meeting, that there were a number of people in Waterview Street, on the eastern side, generally against. There were some in favour on the western side. There was even one on the western block that wasn't in favour. There were a number coming from, particularly the East Street, there was a number there. Because I think the proposal was a split zone there as well. Even up until recently someone's come into the office - - -

I'm not talking about recently. I'm just talking about 2015.---Yeah. Yes, yes. And, and then I understand through the evidence as well that there were some representations to Helen McCaffrey somewhere else.

And how do you know there were representations to Helen McCaffrey?  
---Oh, because I, I heard the evidence.

That someone had made representations to Helen McCaffrey?---Something about the Ramsay Road.

10

About another area?---Ramsay Road.

Well, wasn't it Ms McCaffrey's evidence that that was something that she always wondered about, wasn't that her evidence?---Well, yeah, possible.

So who was the person in relation to East Street or West Street, on the other side of - - -?---Oh, there were a lot of smaller properties there that have come in, very multicultural background. They weren't, I don't think they written submissions. I, I - - -

20

But they approached you, did they?---Yes.

And they approached you and asked you to do what?---No, they were just trying to explain the situation, how it is and, and how the split block works because potentially you can end up with a five-storey building with no, no transition.

30

And what did you do with that information?---I said the best way you could do it would be to put a, a submission in, write in a submission, talk to any of the councillors, talk to the - - -

And none of them did that, did they?---Oh, I'm not, I'm not aware, whether they did or didn't.

Well, we've seen the - - -?---I can't, I can't, I'm not going to write a submission on behalf of a constituent.

I'm not suggesting that you ought to have.---Mmm.

40

I'm just asking you, are you aware as to whether or not any of those persons put in a submission?---I'm aware of one person that put in a submission, that shows up in the minutes.

Of what?---Mrs Allars.

She is someone who was a resident in East Street, was she?---Yeah, somewhere between East and West, yeah.

Do you say that she put in a submission, a written submission suggesting that that area be rezoned?---I can't remember the, the extent of the submission, but it's, it's in evidence as well.

Well, we'll come to that in a moment.---And it's in evidence as - - -

Anybody else? Was there anybody else you spoke to?---No, I'm aware of the Chamber of Commerce wanting to extend east and west as well.

10 Did they put in a submission as well at this time?---I'm not sure if it's that time, but I'm, possibly is, Glen Haron, Joe di Giacomo, and I think they were even saying extending it in another direction.

So we could then expect then, could we not, that when we go to consider the exhibition outcomes report that was prepared by Studio GL and also the report prepared by the council staff, that we will see some detailed consideration of those submissions?---Not sure. One would maybe assume that - - -

20 You would expect them to be considered, wouldn't you?---Oh, one would think that submissions should all be looked at.

You are aware that there were only two submissions that were actually received in respect of or that advocated for an extension of the B4 mixed-use zone in respect of the Waterview Street site, correct?---Yes, but was this a - - -

Yes. This is in respect - - -?---But, sorry, is this the exhibition of the whole centre now?

30 This is the exhibition of the proposal – we're still in 2015. Haven't yet got to the bifurcation of the process yet.---Yes.

This is still before November 2015, okay?---So only two in Waterview Street?

Yes.---Well, there's only 10 properties there, so that's a fifth.

40 The point though is, is that there were two submissions that were received by council, correct?---Well, yes, I'd take that.

And they were given consideration by Studio GL and by council staff, correct?---Yes.

Yes, even though they were two amongst 389 submissions that had been received during the course of the exhibition outcomes, correct?---Yes.

So we could expect then, could we not, to see some detailed consideration of submissions received from persons interested in a rezoning of an area relating to East Street or any other area, correct?---Possibly.

It would be a very odd outcome, wouldn't it, if those who were tasked with receiving and considering and responding and making recommendations as a result of the submissions that were being received as part of the exhibition of these planning proposals simply ignored entirely submissions that had been made about site-specific areas?---I, yes, I think, oh, correct.

10

Yes. Commissioner, I note the time. That might be a convenient point.

THE COMMISSIONER: Very well. We'll take the luncheon adjournment, resume at 2 o'clock.

**LUNCHEON ADJOURNMENT**

**[1.03pm]**