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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION WITNEY

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 23 APRIL, 2021

AT 10.00AM

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

MR NEIL: Commissioner - - -

THE COMMISSIONER: Mr Ranken, ready to proceed?

MR RANKEN: Yes, we're ready to proceed. I think Mr Neil might - - -

THE COMMISSIONER: Yes, thank you, Mr Sidoti.

10 MR RANKEN: - - - have something that he wishes to raise in terms of the timetable.

THE COMMISSIONER: I'm sorry?

MR RANKEN: I think Mr Neil would like to say something.

THE COMMISSIONER: Yes, come forward, Mr Sidoti, and just take a seat for a moment. Just one moment, Mr Neil.

I'll have the oath administered.

THE COMMISSIONER: Yes, thank you, Mr Sidoti. Just take a seat there.

The declaration made by me under section 38 of the Independent Commission Against Corruption Act will continue to apply to the evidence to be given today by Mr Sidoti and any documents or things produced.

10 Yes, Mr Neil, you wanted - - -

MR NEIL: Yes. To answer the question this morning that Your Honour, Commissioner asked me yesterday, Mr Sidoti's position and our position is that we would much prefer to press on and have the evidence finish today if at all possible.

THE COMMISSIONER: Yes.

20 MR NEIL: We'd be prepared to sit, subject to Your Honour's views, beyond 4.00pm as long as it didn't become too onerous to Mr Sidoti.

THE COMMISSIONER: Yes, yes. Very well. Thank you, Mr Neil.

MR NEIL: Thank you.

THE COMMISSIONER: Yes, Mr Ranken.

30 MR RANKEN: Thank you, Commissioner. Now, Mr Sidoti, we were nearing the point of 2 August, 2016 and the council meeting that took place on that date, but there's just one matter that I neglected to raise with you and ask some questions about that's related to the meeting in October of 2015. You will recall that I took you to some emails between yourself and the other Liberal councillors where you were seeking to try to arrange a meeting with them as a group in advance of that meeting, and it ended up being such that it wasn't possible to meet with them as a group, but you indicated that you would speak with each of them separately. Do you recall that?---I do.

40 And I think you've said that you had a recollection of speaking with Dr Ahmed but you didn't have a particular recollection as to whether or not you actually managed to speak with either of the other Liberal councillors, that is Councillor Cestar or Councillor McCaffrey.---Correct.

Now, I just want to draw your attention to an email at page 763 of Exhibit 224. Now, there's two emails in this chain. The first is from Mr Mel Cassisi, who is the husband, is he not, of Mrs Cassisi of number [REDACTED] Waterview Street?---Correct.

And he has emailed you at about 10.06pm on 17 October, 2015, and said that “I see that our property is not part of the rezoning and a meeting will be held while I am overseas. This is ridiculous that council wants to push forward with a considerable zoning difference at the fence line, having a large disadvantage to our family property.” And then he has quoted a part of the report that had been prepared by the council staff.---Yes.

10 And incidentally that appears to be the same part of that report that Ms Cestar subsequently quoted, that I took you to in another string of emails. But at the end of that email, after that quote, he has said, “Is there any options open to us to argue this decision, considering I am in South Africa at the moment?” Do you see that?---Yes.

And your response, at 15 minutes past 10.00pm on 17 October, so about nine minutes later, is to say, “Already spoken. Item will be deferred on Tuesday, with more study of the rest of Waterview Street, then back before Xmas,” Christmas, “for approval. All good. JS.” Do you see that?---Yes.

20 So when you refer to the fact of already spoken, do you mean to say that you had already spoken with the Liberal councillors?---Yes, I think that’s what that says.

So you had some knowledge, then, at this point in time – that is, Saturday, the 17th of October, some three days before the meeting itself – that there would be a motion from the Liberal councillors that the item would be deferred on the Tuesday?---I’m not sure if it’s from the Liberal councillors, but I, it’s from, that’s the message that came, was conveyed back to me, yes.

30 Well, you are aware that, obviously, that the matter was in fact deferred on 20 October.---Yes.

And you are aware, are you not, that that motion was put forward by Councillor McCaffrey and Councillor Ahmed, correct?---Yes, I’d agree with you, if that’s the case, yes.

So is it likely that as a result of a conversation you had with one or other or possibly both of Councillor Ahmed and Councillor McCaffrey that you became aware that the matter would be deferred on Tuesday?---Yes.

40 But also that there would be more study of the rest of Waterview Street as well.---I don’t remember that. Sorry, that was in the email.

That’s in your email.---Yes, in the email, yes. So I, I - - -

That ultimately wasn’t the case, though, at least as at 20 October. It wasn’t deferred for there to be a study of the rest of Waterview Street.---I take your word for that, yes.

Because it was simply deferred so that the addendum report could be prepared to set out the advantages and disadvantages of the options in the Studio GL report concerning height, setbacks, et cetera.---Yes.

So there must have been, though, some discussion between yourself and the Liberal councillors about the possibility of there being a study of the rest of Waterview Street prior to the meeting of 20 October, 2015.---Yes, it's possible, yes.

10 For you to have been conveying this message to Mr Cassisi.---One would think, yes. I - - -

Sorry, did you want to add something?---No, it's all right, just I think, looking at that email too, it's I think the very nature of someone that's objected from day one not being able to be present, may have something as well to do with that, or at least was taken into consideration.

20 You don't recall, but you think that that would be another reason why it might be appropriate to defer?---It's possible.

Of course, it wasn't indicated in the actual motion that it should be deferred to allow - - -?---Sure.

- - - the Cassisi an opportunity to properly address the council, correct?
---Sure.

30 And then so that's the matter I wanted to take you to in respect of the meeting of October of 2015. So if we could move forward then to August 2016. One matter that had occurred in between November 2015 and the meeting in August 2016 was that there had been a change in the make-up of council. Correct?---Yes.

And that change had occurred around about June of 2016 when Angelo Tsirekas resigned as mayor to pursue the possibility of a federal political career.---Yes.

40 And you agree, do you not, that that resulted in Ms McCaffrey becoming the deputy, as the deputy mayor, becoming the presiding councillor at any meetings?---Yes.

And in due course she became the mayor.---Yes.

And as a result, the Liberal councillors held the balance of power, as it were, in the event of any split that was along party political lines.---Correct.

That is, provided though that all persons attended who could vote on a particular topic.---Yes.

And also, as we covered a little bit yesterday afternoon, sometime shortly prior to the meeting in August 2016 you, that is yourself on behalf of your parents, had commenced engaging with M, not MG Planning, Pacific Planning. Correct?---Yes.

And also Mr Kudinar-Kwee.---Yes.

10 And are you able to assist us with how long it was prior to the meeting in August 2016 that you first engaged with Pacific Planning?---(No Audible Reply)

Was it a matter of days or weeks or before the actual meeting?---(No Audible Reply)

Okay.---I couldn't tell you, sorry.

20 Well, you don't have a record other than what records there might be in emails and the like. Is that right?---One would think it would have been very close, because just the nature of when something comes up and the time frame allowed in order to make a submission, so I don't think it would have been planned well ahead. I could be, stand to be corrected, I just don't remember the timing.

30 The Studio GL report had been available since – well, I withdraw that. The Studio GL report was completed in March of 2016 and then there was the feasibility analysis that was conducted by Hill PDA, and are you saying effectively though that that material, you weren't aware of the detail of it until it was made available on the council website together with other papers for the 2 August, 2016 - - -?---I'm not sure, sorry.

It's possible that you had an earlier awareness and understanding of that material, but it's also possible that it may have only been sometime either on the Thursday or the Friday before 2 August that you first were aware of the detail.---It's possible. I just haven't got a recollection of the timing, sorry.

40 Well, do you have a recollection as to when it was that you first became aware that there were two options that Studio GL had identified in respect of the Waterview Street site?---Have I got a – now?

Yes.---Have I got a recollection now?

Yes, as to when it was you first became aware of the fact that Studio, when they did their further study as they had been engaged to do so following the resolution of the council in November of 2015, that they looked at in respect of the Waterview Street site, two options, one which had the removal of the heritage listing item for number 39, and the other option retained that

heritage listing.---I'm thinking the 2 August meeting or the one after.
Somewhere round that time.

That's fine. So the likelihood is, is that it was probably fairly shortly prior to the meeting of 2 August, 2016 that you became aware of the two options that had been looked at by Studio GL and the HillPDA feasibility analysis. Correct?---I think so, yes.

10 And it follows, then, that you wouldn't have engaged anybody to undertake a feasibility analysis of either of the options that had been looked at by Studio GL at all by that time? It just wouldn't have been possible for you to - - -?---I don't think so, no.

And it's also likely, then, that the engagement with Pacific Planning most likely occurred within that window period just prior between the Thursday and the Tuesday of the meeting?---It's possible, yes.

20 And if we could then go to page 1132. We see this email chain, and the first email down the bottom is from Mr Matthews to yourself and Mr Daniel on 1 August. So that's the date prior to the meeting, correct?---Yes.

Now, it's likely that there were some further communications between you beforehand because what Mr Matthews is setting out in his email is effectively what he would be proposing as a possible recommendation for a resolution at the council meeting, and then indicating that he, with a number of points that he would put forward in support of the resolution by addressing the meeting, correct? Sorry, we may need to go over to 1133 so you can see that. He set out a number of reasons that he wished to put forward.---Oh, yes. So I think what he'd done then, he'd received the report
30 from MG Planning, looked over a snapshot of everything that came to play, into play, and then gave some advice.

So he would have been provided, though, with not only MG Planning's report and the other material that had been put forward by MG Planning both in November 2014 and then in July of 2015, which would have included the Futurepast Heritage report?---It should. I'm not sure if it was at that time. It could have. It could have been.

40 But also the Studio GL report and the HillPDA analysis.---Yeah, so he was on top of all of that, yeah.

And then he developed this suggested recommendation that comprised two points, one of which was the removal of the heritage listing for number 39 Waterview Street. That's, you can see at the bottom?---Yes.

And that was consistent with saying option 2 if you went with Studio GL, correct?---Yes.

But then also providing, if you go back to page 1133, that site B, which is the Waterview Street site, as identified in the Studio GL report.---Yes.

10 Be rezoned to B4 mixed-use with a maximum building height of 17 metres and a maximum FSR of 2.5:1, consistent with the controls adopted but not yet gazetted for the land immediately to the south. So effectively wanting to bring the entirety of that block in line with, with what was going to be the case for the block south of Second Avenue along Waterview Street.---So at that stage he's come to an understanding that, for whatever reason, the criteria used there had never been tested further down.

But what he's putting forward in this proposed recommendation is that in fact that the whole of that block be zoned B4 mixed-use with the same building heights and floor space ratio conditions as that which was, had already been adopted and was due to be gazetted for the rest of the town centre, effectively.---Yes. Yes.

20 And that was likely, that process was likely to have been undertaken over a relatively brief period of time, from probably the Thursday before the council meeting and the council meeting itself.---I assume so. I, it's, it's difficult to, to remember back that far, but I'm happy to.

And then if we could go to page 1127, can you see this email chain replicates that email that Mr Matthews had provided - - -?---Yes.

- - - at 8.04pm on 1 August, and then so we're about half an hour, well, 45 minutes possibly afterwards you forwarded this on to Dr Ahmed.---Yes.

30 And you said, "This forms the basis for motion." Do you see that?---Yes.

Now, that would suggest that you had some communication with Dr Ahmed about a particular motion that you had in mind for the meeting on 2 August. Do you agree?---Yes, I, I, I recall having a discussion with Dr Ahmed and - - -

40 So had you foreshadowed in that discussion a resolution of the kind that we see under the heading, "It is recommended that."---Yes. It was, Councillor Ahmed, Councillor Dr Ahmed had asked me and I told him that we'd engaged, on behalf of mum and dad, a fresh set of eyes, new consultants to look at it a bit further and he says, he said to me, "There's a lot of detail." And again we have discussions all the time with all the councillors and I recall that vividly that he said, "Any motion that you think would cover what we've been discussing, I'm happy to look at."

So you made it clear to him, is this your evidence, you made it clear to him that this was a motion that was being put forward on behalf of your family's property interests?---Well, I had been advocating from day 1, and we've gone over that, Waterview Street and then for the Chamber of Commerce

and shopkeepers, a bigger town centre, a wider town centre, a higher town centre, and then Pacific Planning came on board, we have similar views, they're not exclusive to one or the other. I, I agreed with the information that they provided and, and I then forwarded on this to Councillor Ahmed initially.

Okay. Getting back - - -

10 THE COMMISSIONER: So what's the answer to the question?---Sorry, sir, the question is?

MR RANKEN: So the question was, you explained to Dr Ahmed that this recommendation was one that was being put forward on behalf of your family's property interests?---It was put on behalf really for, for the entire centre, it's advocating what all of the advocating I'd been doing for the town centre and for Waterview Street is summed up in that motion there.

20 So you represented then, did you, to Dr Ahmed that this was a proposed resolution that you were putting forward on behalf of the community of Five Dock?---Yes.

And you made that quite clear to him, that this was something that was being advanced by you, not with any particular personal family property interests in mind, but the community generally?---Yes. And he, he was very aware of that because he engaged with the Chamber of Commerce and he gave evidence to that, he was supporting even eight storeys.

30 And you were aware though, weren't you, that there was some significant community opposition to the idea of extending or increased height along that part of Waterview Street?---There wasn't particularly. It mostly came as the result of eight storeys from the initial, if you look at all the initial town planning and down centre, that's where all the opposition came. Waterview Street at the end wasn't major.

Well, you told us about representations that you were aware that had been made by residents on the other side of Waterview Street - - -?---Sure, yeah.

- - - against the idea. Correct?---Yes.

40 So you certainly weren't advancing the interests of those constituents when you were putting forward this recommendation to Dr Ahmed, were you? ---No, I considered those, those.

You were preferring the interests of the owners of Waterview Street, in the Waterview Street block, to those on the other side of Waterview Street, correct?---No, I wouldn't say that. I wouldn't say that. It, it, it, that may be the result at the end, but that wasn't - I, looking at, you know, some of the

objectives on the opposite side with, say, parking, well, this proposal would solve that parking issue.

You were preferring the interests of those owners on the Waterview Street site to the interests of, for example, the residents and occupiers and owners on the eastern side of Waterview Street.---I, I consider all submissions, but you could, I could come, you could come to the conclusion that that was the result, yes.

10 That was necessarily the result. That was the obvious result of - - -?---Yes.

- - - putting forward a resolution of this kind, correct?---Yes.

And it just so happened to be a happy coincidence, did it, that that was also a result that favoured your family's property interests?---For 2 Second Avenue, yes, that would be the result.

20 Well, not just 2 Second Avenue. It would also potentially favour your property interests in respect of 120 Great North Road and 122 Great North Road because you could do a joint amalgamated development.---No, you couldn't because there would always have to be a road in between. Public interest. Whether it was B4 or whether it was R3 or some other zoning, there would always be a division with a road there. If you're going to change a zoning, there has to be public benefit, and the, the most obvious public benefit there would be a road, so there's no way of consolidating.

30 But you would not be constrained in relation to the development of 120 and 122 Great North Road by the fact of the Waterview Street being low-rise residential and zoned as R3, therefore requiring an appropriate transition to the lower residential nature of that part of the block.---I, I'd agree with you, with the proposition that there would be some impediments, but if there weren't, with all the impediments there, a five-storey building could always be on Great North Road, with or without any changes.

40 And so do you say that that did not present a perception of a conflict of interest when you were representing, purporting to represent the interests of the community by putting forward a recommendation such as this, which favoured those constituents whose interests aligned with your own property interests and against those who were against such an outcome?---They weren't my own property interests. They were my parents' property interests. And I had a hat, as an MP, to advocate, which I had enthusiastically from day one. Now, if that benefited my mother and father, yes, that was the, the by-product. But that was never a motivation. Mine was about my reputation with the Chamber of Commerce and all the shopkeepers and with those that I'd lived next to in Waterview Street.

Now, would you answer my question?---Yes.

Do you accept that it created a perception of a conflict of interest by reason of you representing, or purporting to represent, the interests of the community by putting forward a resolution of this kind when you knew that there were members of the community that were opposed to it?---I, I thought I was managing a potential conflict by having consultants there that could put a clean break between my advocacy as an MP and, and the property interests of my parents.

10 THE COMMISSIONER: Well, if you were managing it, you must have perceived there was a conflict of interest that had to be managed. Is that - - -?---Well, yes, you're always thinking about what other people are thinking. It's, it's important.

And the basis for the conflict of interest was the matter that's been put to you in the last question. That is to say, the perception that you were supporting the interests of not only your family members in respect of their ownership, and others who might have been supporting their position, on the one hand, but the other interests of the community who were against redevelopment on this site was the subject matter of what could be seen to
20 be (not transcribable) a perception of a conflict of interest. And you consider you took steps to manage that conflict?---Yes. Commissioner, if I can add to that, as briefly as I can. If my parents didn't own 2 Second Avenue, I would have done exactly the same thing.

MR RANKEN: Now, if it be the case that this recommendation was intended to represent the interests of the community at large, then why not provide it to all councillors?---So the way Pacific Planning had, had presented that to me, the processes, that would eventually happen when it would go. If, if there was an agreeance by council to proceed, then the
30 nature of the Gateway process. And I spent half the night looking at this as closely as I can for – 'cause the processes may be the same but I think it was described here as one backloaded and one, a more conventional, that of Pacific Planning, that that would open up discussion for all the councillors.

Now, could you just answer my question? Why did you not provide it to all of the councillors?---I probably could have, but I, I, the, the reason, I, they were colleagues.

40 Well, that's not a reason.---Well, I, I, that's the only reason, 'cause I – in hindsight, it's probably a good idea to, to, to, to do that, and I'd probably do that now, and I do that with a lot of things now, run it past all elected members.

You do agree, though, that you arranged for it to be forwarded on to only the Liberal councillors who were able to vote on it, correct?---Yes. Yes. Yes.

And what you were intending for them to do is to actually move a resolution of that kind at the meeting, correct?---If, if, if they came to the agreeance, yes, yes.

You had in mind that they would move that motion, or a motion of that kind, at the meeting?---Yes, I was asked for the motion that, and the motion was pretty much the criteria that explains how the block should be assessed in relation to others, and the intention if they were all content with it. 'Cause they were always free-minded. I'd given them a lot of information over the years, and they were welcoming always of the information, and at every point, at every point – well, at no point was there any idea that somehow I was doing it for myself.

You were directing them, were you not, to pass a resolution of this kind? ---It wasn't directing. It was, it was, as I said to you, information for them to consider and then, if they're happy to go forward – they're very independent minded.

Well, perhaps we can then go to some emails between yourself and the councillors. But before we do, just if you could briefly go back to page 1132. Above that earlier email that I took you to was a further email from Mr Matthews, in which he added an additional point to the recommendation.---Point, yes, yes.

That council prepare a planning proposal to implement the proposed changes to the Canada Bay LEP, and that the planning proposal be forwarded to the Department of Planning and Environment, seeking a Gateway Determination and further community consultation.---Yes.

Because this would have to go on its own track, as it were, because the other planning proposal had already proceeded back to the Department and was waiting to be gazetted, correct?---Yes.

And it was likely that if this recommendation was passed in this form, that what would happen would be that there would be changes made to the LEP to reflect the recommendation, and then that would be sent to the Department for a Gateway Determination - - -?---And follow all the processes, yes.

- - - and would most likely come back for some further community consultation in the same way that the previous planning proposal - - -? ---Yes, yes.

Now, that does not, you would agree, necessarily mean that there would be a further study done of the area.---I thought that would enable it to do a further study, to be honest with you.

There would be a possibility that the Department might require some further study being done in respect of the area, but there was no – that was not a certainty.---I recall that Pacific Planning had said that there are – the Department’s process are all statutory processes that would have to be followed.

By this time you had been, for a period at least, the Parliamentary Secretary for Planning, had you not?---Yes.

10 So you had some independent awareness and understanding about the Department’s processes, did you not?---Not this here, this is very specialised.

Not in that area at all?---No, that’s specialised.

So even though you’d been the Mayor of Burwood for a period and you’d been in parliament for a period, you’d become Parliamentary Secretary for Planning, you didn’t have any understanding about the Gateway Determination process and what was likely to occur as a result of that?

20 ---Not, not to this detail, no.

Then to the detail of knowing that after it going through a Gateway Determination there was a possibility that the secretary or the secretary’s delegate might suggest that there should be further studies or it might simply come back and suggest that there be a further period of public exhibition and then it come back to the Department?---No. All I had there that was on my mind was to get an outcome to look at, and that would have then washed my hands of the residents of Waterview Street and the Five Dock Chamber of Commerce.

30

Well, then why didn’t you not suggest that that be the matter that be put forward, that is as a recommendation, that council engage HillPDA to do a feasibility analysis or engaged some other experts to do a specific feasibility analysis of that block if zoned as B4 mixed-use?---That’s a good question. I thought that should have been done probably in 2013 and that would have then any ideas of anything other than that would have been just, it would have been open for the community to see that rigour and very open transparent, no, not subject to any - - -

40 So rather than pursue something as open and transparent as you’ve just described, what you’ve put forward to the councillors and represented as being something being put forward on behalf of the community was something that would not involve that transparency but rather directly to a rezoning of the matter as B4.---No. My understanding was, and Pacific Planning have already given evidence to that effect, and they were discussions I had early on, that you can’t just go that, it’s, it’s, the process has to take a number of courses, but you can’t do that unless council agrees to look at it, and that’s what eventually happened.

I now want to then go to those emails – sorry, back to that email on 1132, having taken you to the extra dot point that Mr Matthews had added.---Yes.

Do you see that above those dot points though, he has said, “Please see additional recommendation below. Matt, any thoughts/views? Otherwise please feel free to make any changes and forward to the necessary recipients. See that?---Yes.

10 And the necessary recipients were the Liberal councillors. Is that correct?
---Correct.

And that’s what you understood him to be referring to. Correct?---Yes.

And that was the strategy all along, was to provide a form of recommendation to the Liberal councillors and the Liberal councillors only for them to move at the meeting without any formal prior notice to any of the other non-Liberal councillors.---And, and, and any councillors at that meeting could then amend to suit any further discussions or, but yes.

20 So you’re agreeing with me?---Yes.

Yes. And of course if that was so, if the Liberal councillors were all on board with that, as you had expected they would be, then that matter would pass, even if all of the other councillors were against it.---Yes, but I don’t expect, there’s no expectation that they would, it’s only advice. I had a good relationship with all the councillors and they were welcoming of any information, they were always, you know, supportive, all the emails would suggest that, all the conversations I’ve had would suggest that, that they were, you know, it wasn’t their area, they were from Concord, they didn’t have a lot of interest there, and any information I could provide them was welcome. Then ultimately of course they’re very independent people.

30 THE COMMISSIONER: Well, if they weren’t really on top of all the matters they needed to consider, that would be a more powerful reason to keep them in the loop. You talk about feedback.---Yes.

40 Give them feedback, not just on this occasion but right through the whole process, to ensure that the other councillors were as well informed as the Liberal councillors.---Yeah, but my understanding, yes, I’d say that, ‘cause the mayor - - -

Well, otherwise you’d be - - -?--- - - - is very, the most well-informed - - -

Because if you didn’t do that, you would be over time pursuing a course which would be discriminatory in the sense of it being then favouring the Liberal councillors with information you thought was important that they

understand, leaving the Labor councillors and the Green councillor out in the cold, as it were.---I can see that point, Commissioner.

Yes. And especially if it did impact on public interest issues, as a major project like this undoubtedly would, it would be mandatory, wouldn't it, to ensure that if you were going to feed information through to councillors, that they all understand?---Yes. Could I say that the mayor is the first person that's all over everything, because generally the mayor has direct contact with the staff, and generally the mayor is there more than any other councillor. So - - -

And is there an explanation as to why you didn't take that course of providing all of the councillors throughout your, at the time you were meeting with the Liberal councillors, the information that you were giving to the Liberal councillors? Is there a reason why you didn't follow that course, which, I think you seem to accept, would not have been a bad idea. ---No. I just feel that there's a rush from when you get notified with the information you've got to the time that a council meeting comes on. It's a very short period. In hindsight, a two-week period would allow a lot better process, where everybody could be engaged, everyone could go to a council meeting and, and have the benefit of having time. I understand that's probably why there's workshops generally. But, again, I can see the fault of workshops because, from the public's point of view, they're, they're not open for everyone to see.

MR RANKEN: Mr Sidoti, this was 2016, correct?---Yes.

In 2016, the concept of email had been around for a long time, correct? ---Yes.

And you are aware, are you not, that when one sends an email, one can send it to multiple recipients at the one time, correct?---Yes.

So it was quite open to you to send an email that was addressed to all of the councillors at the City of Canada Bay Council so that they would all have the one communication setting out, all with the same information, and all equally informed, correct?---Yes.

So this idea that you were pressed for time or did not have the ability to do it because there wasn't enough time that was allowed for the time that the reports became publicly available in the meeting is just nonsense, is it not? ---Well, I have a relationship with my colleagues. So, first and foremost, that's where it went.

THE COMMISSIONER: No, sorry.

MR RANKEN: That's a different point.

THE COMMISSIONER: Before you go off on that tangent.---Sorry.

Just answer the question first and then we'll see if there's other material that you should be allowed to put forward.

THE WITNESS: I don't think it was a consideration.

MR RANKEN: But what you're saying is you had a relationship with them because they were your colleagues in the Liberal Party.---Well, yes.

10

So what you were essentially taking advantage of was that connection with them by reason of you all being part of Team Blue.---Well, I don't think it's taking advantage at all because, at the end of the day, they have to discuss it with their council colleagues.

But if you have already got them to onboard with the resolution that you wish to propose, and they are, then do what you ask them to do, then it wouldn't matter what the other councillors had to say, because it would pass by reason of the fact that they had the balance of power.---What I'm asking is that they, they consider it.

20

THE COMMISSIONER: No, please, no speeches. The question. What's the answer?---Sorry, the question?

MR RANKEN: You knew that it wouldn't matter what the other councillors said. If you had got them to agree to put forward this motion and support it, then what would happen is it would pass.---But, I, I - - -

Because they had the balance of power.

30

THE COMMISSIONER: Now, can you answer that question?---I don't agree because they don't - - -

Please answer that question.---Well, I don't agree.

MR RANKEN: And in fact - - -

THE COMMISSIONER: Why don't you agree with that proposition? ---Because you're assuming that councillors all vote on party lines all the time. It's not the case.

40

MR RANKEN: And it's the case, though, is it not, that you in fact instructed Dr Ahmed as to what he should actually say at the meeting when he moved the motion?---If he moved the motion. No, to consider. The words would have "I move" because that's standard words that you'd have associated with a motion.

By this stage Dr Ahmed had been a councillor since 2012.---Yes.

So almost four years. If it was September 2012 that the election occurred, then almost four years.---Yes.

By August 2016. He'd been and attended a number of council meetings. They were held every fortnight, correct?---Yes.

He'd seen councillors move motions and say, "I move that," correct?---Yes.

10 He himself had moved motions previously.---Yes.

He didn't need someone to tell him how to go about moving a motion. ---Well, the words were not required.

You took it upon yourself, if we go to page 1145, you took it upon yourself on the afternoon, less than two hours before the meeting was to commence, to send Dr Ahmed this email, "I hope this helps. I move that," and then 1, 2, 3, each of the points from Mr Matthews' recommendations. Do you see that?---Yes.

20

You were essentially giving Dr Ahmed the script that you wanted him to say in respect of that resolution.---"Hope this helps." Does that sound like an instruction?

THE COMMISSIONER: Well, would you now answer the question?

MR RANKEN: "I move that." That's what I'm suggesting to you. You were suggesting that this is what he should say to move that resolution. ---No, this is what he asked me for.

30

THE COMMISSIONER: You're sure you didn't suggest this?---No, absolutely not. He was welcome in at all times. He understood where it came from. And, and so did all the other councillors. They were aware of this. But whether, it, it, it, they had to consider it. Now, I concede that that's very close to a council meeting, so the expectation wouldn't be that, you know, it would be moved, or in fact - - -

By the time you sent this email – 2 August, 2016 – to Dr Ahmed, you had obtained the advice of - - -?---Pacific Planning.

40

- - - Pacific Planners. Indeed, they framed these three paragraphs for the resolution. That's right, isn't it?---Yes.

Yes. So they having framed those resolutions and passed them on to you, you were keen to see that the motion was passed in the terms that they had drafted, is that right?---Ideally, yes. But two hours before a council meeting, it's just not going to happen.

Just the principle. You were keen to see the motion go through to council.
---Well, if they agreed, yes, that would be a good outcome.

But you wanted this motion to get up, didn't you?---I wanted them to consider it, yes.

Now, how many times do I have to keep putting my question to you? Mr Sidoti, this is a public inquiry. All witnesses must assist the Commission. You wanted this motion to succeed when it came before council, didn't
10 you?---No.

You didn't?---I, I can't agree with that.

Did you not want the motion to succeed?---No, I was asked to provide a motion that I thought covered the major concerns of the group holders that I'd been advocating for, and this is what I proposed to them. Then ultimately it was up to them.

I'll put the question once more because you are on your oath and your
20 answer to it will be part of the evidence in this inquiry. You wanted this motion put before the council, when it convened, and passed. Is that right?
---Ultimately, yes, if, on the basis of everything I've, I've just laid out for you.

As of the date of this email and the time it was sent, 16.05, you wanted this motion to be put before the council, and you wanted it to succeed, didn't you?---No, I, I – no.

No, wait a minute. Didn't you?---Well, no, I wanted – no. If you want me
30 to just say no. No.

The answer is no, is it?---Well, if you allow me to finish I can, I can tell you why.

Well, firstly the answer though is no, and you want to add an explanation. Is that right?---Correct. No.

So the answer is no, you did not wish this, you did not wish to see this motion passed by council.---No. I wished this motion to be considered and
40 then it's ultimately up to the councillors.

So the answer to my question, did you want, as at the time you sent this email to Dr Ahmed, him to present this motion? That's the first point.
---Yes.

And secondly you wanted to see it passed by council. Is that right?---That could be the by-product, yes.

As at the time of this email, that was your desired outcome, that is that it put, put before council for its consideration and that council pass it. Is that correct?---Yes, yes.

Thank you.

MR RANKEN: Because if we go to page 1146, we see that a minute later you have forwarded the substance of your email to Dr Ahmed on to Ms McCaffrey.---Yes.

10

And you've actually identified, "Tanveer is moving."---Yes.

And so you had some understanding or expectation at least at this point, that Tanveer Ahmed wouldn't just simply consider moving it, he would move it. ---This had been discussed prior and it was presented rather late and when they've seen it, it may not have been what they thought, but it was certainly what was discussed with them and that was my understanding, but obviously that didn't happen for whatever reason.

20 THE COMMISSIONER: Now, would you answer the question, please? Now would you answer the question?

MR RANKEN: You had an expectation at this time of sending this email that Dr Ahmed would move that motion, not just simply consider moving it, would move it.---Well, if he considered it, yes, and that was, that was what I was told - - -

THE COMMISSIONER: No, please.

30 THE WITNESS: - - - when it was discussed.

THE COMMISSIONER: No, no. Would you put the question again to the witness.---I've already answered the question.

You have not. Put the question again to the witness.

40 MR RANKEN: At the time – sorry, Commissioner. At the time of sending this email to Ms McCaffrey, you had an expectation that Dr Ahmed would not merely consider putting forward this resolution, but would put forward this resolution.---No, I don't agree with that.

That's what you were hoping him to do. Correct?---There would be an expectation and if he was happy with it, that would happen, but it wasn't in the words you put.

And that wasn't what you were hoping for him to do, to put it forward? ---Oh, if, if he was happy with it, yes.

Let's go to page 1147. This is another minute later.---Yes.

7 minutes past, forwarding the same email on to Ms Cestar, except you've added a little bit more. "Tanveer is moving. Hoping, Mirjana, you can second."---Yes.

10 So this is, this is expressing what you want in this email. You want Dr Ahmed to move it, you want Cestar to second it, because that's the outcome that you wanted. Correct?---It wasn't the outcome that I wanted, it was the outcome that was expressed as a result of all the consultation that we'd gone through.

There are three alternatives. Either you did not want that outcome, you did want that outcome, or you were entirely indifferent. Which of the alternatives was it, did you want this outcome, were you against this outcome or were you entirely indifferent?---No, no, that's a good outcome to start the process.

20 THE COMMISSIONER: Please.

MR RANKEN: So you wanted this outcome.---Not that I wanted it. That would be the desired outcome.

That was the – when you say desired outcome, that's the outcome that you desired.---Well, that's the outcome that desires the Chamber of Commerce and those in the block behind that I'd been consulting with.

30 THE COMMISSIONER: Do you agree with the Counsel? Did you agree with Counsel Assisting's question that you, of the three options, desired this outcome, that is that motion was put, seconded and passed?---I don't understand. How do I desire it?

That was your wish. That's what you were aiming to achieve. Correct or incorrect?---It was guiders for the councillors.

Correct or incorrect?---I, I just don't understand the premise of your question.

40 You're refusing to answer the question, aren't you?---No, I put my hand on the Bible. I take that very seriously.

No, but by obfuscating.---No, no.

Let me try once more.---Commissioner, I'm trying my best.

No, no. Once more.---You don't allow me to, to finish and, and, and - -

No, wait a minute, Mr Sidoti.--- - - - it's not disrespectful.

Just wait a moment. We want an answer to the question and then we'll let you have a say. There were three options put to you by Counsel. That is it was an outcome, that is the passing of this motion, that you either desired to occur – that is to happen, that council would pass it – or you did not desire or wish to see that outcome, or you were indifferent to the outcome. Which of those three was your position at the time of sending that email to Ms McCaffrey?---I was indifferent. Whatever the result would be would be.

10 Indifferent. All right, thank you. You've now answered the question.
---Yes.

MR RANKEN: That is despite indicating that Tanveer is moving, and you were hoping that Mirjana could second it.---That was the hope, the expectation. You know, whatever happened happened.

And then if we could then go to page 1149. It's a further email that you have sent to Dr Ahmed at 21 minutes past 4.00pm on the afternoon of 2 August.---Yes.

20

“I will send a couple of questions you can ask to the planner, and that way gives him extra time.” Do you see that?---Yes.

And what you were seeking to do is, or indicating you would do, is that you would provide Dr Ahmed with some questions that he could ask of Mr Matthews during the course of Mr Matthews' presentation, which would enable Mr Matthews to speak to the matter for longer than his allocated time, correct?---That's the common practice, yes.

30 Yes. And that was in order so that you could, so that Mr Matthews could further the cause in support of the resolution that you were hoping that, or that Dr Ahmed and Ms Cestar would move.---It would give them more time to do that, yes, plus anyone else that wanted questions.

That is totally inconsistent with the idea of you being indifferent as to whether or not this motion was passed or not.---No, the line of questioning is actually incorrect.

40 So are you going to answer my question?---Sorry.

I put it to you, I put it to you - - ?---No, no, I don't agree. I don't agree.

- - - that this email is totally inconsistent with your evidence that you were indifferent to whether or not this resolution passed.---I don't agree with that.

And were you so indifferent that you didn't bother to take any notice as to what was occurring during the course of the meeting on 2 August?---I, I don't recall.

Well, weren't you in constant communication with Mr Daniel during the course of the meeting on 2 August, 2016?---It's possible but I don't recall.

That's because you were showing a very keen interest in what was happening, correct?---I don't recall that.

10 Now, Mr Sidoti, it is absolutely ridiculous, is it not, to suggest that you were indifferent to whether or not a resolution of this kind passed when it was a resolution that directly favoured your family's property interests.---It may have. That's the reality, but it was never - - -

Not "may have". Definitely it would have.---Yes, yes. But I was never looking at that.

And somehow you were completely indifferent to that?

20 MR NEIL: He's allowed to finish the question, Commissioner. He was in the middle of his answer and the next question comes along and cuts him off.

MR RANKEN: So what did you want to say? You didn't think about it, was what you've said?---Well, is it pointless me saying? Because you're not, you don't seem to want me to finish.

30 Say what you want to say, Mr Sidoti.---Thank you. I had a hat as the MP, I was representing all the views, and if that came into contact with the private interests of my parents and that to their benefit and everyone else in the block, well, that was not my intention. I was always representing my constituents, and I continue to do that.

Now, that would be so, even though you were well aware that a large number of constituents were against the idea of that block being rezoned? ---There were only a handful.

MR NEIL: I object again.

THE WITNESS: That's incorrect.

40 MR NEIL: This has been gone over, and I object on the grounds of excessive repetition.

THE COMMISSIONER: No.

MR NEIL: This matter's been answered a number of times.

THE COMMISSIONER: I allow it.

MR RANKEN: You'd engaged Pacific Planning to represent the interests of your parents.---Correct.

And they're the ones who had put forward this proposed recommendation. ---And I said that it's not - - -

Correct?---Yes. And it's not - - -

10 So you knew full well, you knew full well that what they were doing was putting forward a resolution that would advance the interests of your parents' property interests.---No. Just because the resolution – it's not exclusively theirs. What they believe and what, if that comes into line, is consistent with the views of the town centre and the residents in the back block, it's not mutually exclusive to them. The wording is theirs, but the principles behind it I agree with.

20 So you were aware that Studio GL had, on a number of occasions, expressed the view that there were no significant public benefits to extending the B4 mixed-use zone north of - - -?---That's incorrect. No public benefit. You keep saying that.

No significant public benefit.---Well, then, well, if it's never been tested, how can you know that?

So what you're saying - - -?---It was never tested to the rigour of the rest of the centre.

30 Sorry, just stop. What you are saying is that you disagreed with the views of Studio GL, correct?---No, no. What I'm saying is they were given some guidelines to look at by the council within a framework, and they never went beyond the framework and tested.

Okay. Stop.---That's what I'm saying.

Stop. So you did agree with the conclusions of Studio GL?---When?

40 When they concluded that there was no significant public benefit in extending the B4 mixed-use zone north of Second Avenue.---At that point, there was no testing. It was a one or two-line fob-off.

Did you agree or disagree with that view?---I disagreed with that view.

And you disagreed with the view, did you not, that that area along Waterview Street was outside of the core of the town centre?---Correct. I disagree with that.

So that's the position, isn't it? That you simply disagreed with the views of Studio GL and you wanted to press forward with and support a view that was contrary to that, correct?---That's not correct, no.

Notwithstanding that Studio GL had engaged in an extensive process and study that involved engagement with the community to ascertain what the community wanted?---Not for there they didn't. Not for that block.

10 For the town centre.---But you said it's outside the town centre, so it was never studied. I'm sorry, the evidence is very clear there.

You wanted it included in the town centre.---And to be included, you have to test. You can't just say it's outside the town centre by 10 metres. It was closer to the core than Lyons Road, which is 800 metres away.

Mr Sidoti, you did not care for what had been determined to be the public interest throughout the course of the study, did you? What you cared for was to advance your family's property interests.---No, what I care for is fairness.
20

MR NEIL: I object. I object. That's two, that's two - - -

THE WITNESS: Fairness.

THE COMMISSIONER: Wait a minute, Mr Sidoti. We can't have two people talking at the same time.

MR NEIL: There's two completely different propositions in that question. I submit they should be put separately.
30

THE COMMISSIONER: I don't think so. The question was put, it had two aspects to it. One was that throughout he was not pursuing the public interest, but rather pursuing a private interest, being his family's interest. What's wrong with a question in that form?

MR NEIL: Well, it doesn't – as he said, they're not necessarily intertwined. He said they're separate. And in my submission the questions should be put separately.

40 THE COMMISSIONER: But, Mr Neil, as you would appreciate, with all your experience, this is cross-examination and it's important to talk about public interest, in the public interest, to get the facts in this matter. And if counsel needs to press a witness, then that is part and parcel and a legitimate way in which to try and get the facts out. Now, - - -

MR NEIL: Well, I won't add. I won't add.

THE COMMISSIONER: - - - I know that Mr Sidoti probably is not all that familiar with this type of process, and he may not – I’ve tried to urge him to focus on the questions because, as you know in your experience, it doesn’t do the witness himself any good if he might appear to be not wanting to answer the question, whereas in fact he just doesn’t understand the process and can’t bring himself in line with it. So I think Counsel Assisting has conducted himself with restraint, as you’d expect he would. It’s got a bit hot this morning, but it is cross-examination at the end of the day, and if Counsel feels he has to press – in the usual fashion of cross-examination – there’s nothing overbearing about it or nothing improper about it.

MR NEIL: Well - - -

THE COMMISSIONER: It may be that it forces the witness’s mind on what he’s really being asked, the point of what he’s being asked.

MR NEIL: Well, Commissioner, I respect Counsel Assisting. I’ve not suggested that this question was overbearing in any way. What I’ve put is that it contains two propositions. If you’re against me on that, I don’t have anything further to add.

THE COMMISSIONER: Thank you, Mr Neil. Well, I’ll leave it to you, Mr Ranken.

MR RANKEN: Yes, I’m not sure I got an answer to the question.

THE COMMISSIONER: No, I don’t think you did.

THE WITNESS: I’ve acted in the public interest.

MR RANKEN: Now, I just want to go through some text messages that you had exchanged with Mr Daniel during the course of the meeting on 2 August, 2016. For that purpose, if we could go to page 1748 of Exhibit 24. And do you see that towards the bottom of that page, commencing from message number 14 is the first one I think on 2 August, which says, “Please call Matty,” that’s at 4.14pm. But I want to then pick up from message number 15, which is at 4.20, where Mr Daniel has asked, “Can you please explain further the reasons for the removal of the heritage house? You mentioned the importance of the laneway, however doesn’t the options in the report provide for a laneway?” Do you see that?---Yes.

And then later on we see it picks up at 5.01pm, with a message from yourself to Mr Daniel in which you say, “Just for the record, the owners are Richard and Catherine Sidoti. I don’t own property, my parents do. Cheers, John.” What was the purpose of sending that?---Because he was addressing council, was my understanding.

And were you concerned that there might be some reference to the idea that you were the person who was the owner of the property?---No, because he, he had to say who he was representing.

Yes, but “just for the record,” it looks like you were making it clear that it’s not you, it’s actually your parents, correct?---Oh.

Do you see that?---Yeah, I can see that.

10 So you felt a need to make sure that that was clear in Mr Daniel’s mind, correct?---I, I thought he may, he, he mentioned that at the council meeting.

No, this is just prior to the council meeting.---Yeah.

This is 2 August, 5.01pm.---Yes.

So an hour before the council meeting’s due to start, and you’re just wanting to make it clear with Mr Daniel that he’s aware that - - -?---Oh. Yep, yes.

20 - - - it’s your parents, not you, correct?---Yes, because we had a conversation, and he must have said something in the conversation that, that suggested that.

But that’s also because to this point, it’d only been you who had been engaging with Pacific Planning. Your parents hadn’t had any discussions with them at all.---Oh, I’d always passed on the discussions and, at every step of the way for my parents.

30 That wasn’t my question.---Sorry.

You were the person who’d had all the discussions with Pacific Planning. ---Yes, I was the conduit, yes.

So you were the person who did all of the engaging with MG Planning and Mr Thebridge in 2014, 2015, correct?---Yes.

40 You were the person who did all of the engagement with Mr Matthews and Mr Daniel of Pacific Planning during the course of 2016 and early 2017, correct?---Yes.

And so you would agree, would you not, that it could never be said, one thing that could never be said is that you made sure that you kept yourself at arm’s distance from the steps that your parents were taking in respect of those properties?---No, the whole reason that they’re engaged was to represent the interests of my parents, and that actually would give me a buffer. Ah - - -

But do you accept though, that you - - -

MR NEIL: Well, he's still answering, Commissioner, he's still answering.

THE COMMISSIONER: All right.

MR RANKEN: Okay, continue on.

10 THE COMMISSIONER: Is there something else you want to add to that, Mr Sidoti?---No, that, that's, that's the answer, but I, I think when, when he doesn't get the answer he wants, he wants to go back to it again and again and again.

MR RANKEN: Well, I'm going to ask again because you haven't actually answered my question. Do you accept that that is – that you were not operating at arm's length distance from what it was that your parents were seeking to achieve?---I believe I was.

20 You were intimately involved at each step of the way with the engagement of the consultants on behalf of your parents.---The consultants are independent and have got professional advice. They're not, they're not being directed what to say and what to do. They're, they've got – they're professional.

You do not see that your being involved in the engagement at all steps with Thebridge and MG Planning and Pacific Planning, that you think that that is still you operating at arm's distance, do you?---Well, I, I'm, I'm not a decision-maker in that.

30 THE COMMISSIONER: No, it's not being put that you are. I think the word was "involved".---Well, we've already established that I'm involved as a conduit.

MR RANKEN: Do you say that you made no independent decisions whatsoever in respect of the steps that were taken relating to the engagement of Pacific Planning and the engagement of MG Planning and the like.---Sorry.

40 Well, if you were just a conduit, Mr Sidoti, every time you had a communication with Pacific Planning, did you then speak to your parents, "This is what they've said. What do you want me to tell them to do? What do you want me to do?"---I, I - - -

Is that how it went?---Yes, I do that very, very often.

And then your parents would say, "This is what we want you to do," correct?---Most of the time they'd say, "They're professional. I'm supportive. Go."

So you received that email from Mr Matthews with the points relating to the resolution and you passed that on to your parents, did you, spoke to them about the points in that resolution before you passed it on to the Liberal councillors?---No - - -

Was that the process?---No, not, no. It wasn't. It wasn't the way the process was.

10 No. So you exercised your own independent judgment about what to do with that, correct?---No.

Oh, so then you didn't exercise any independent judgment. Whose judgment were you exercising?---My parents were, were exercising their judgment in allowing the planners to do their professional thing there.

20 And then you then received the advice and the information from the planners and then you made the decision to pass it on to the Liberal councillors, correct?---The Liberal councillors asked me. They asked me. I've said that numerous times. Please show me something that says, "No information. No more. I don't want, I don't need your help, I don't need anything." It was, there was never any pressure. This is all about me passing on information. This is for the community. They acknowledge that. They didn't get what they want at the end, and here I am, you know, all the pressure. The pressure's coming from the community, the shopkeepers, from the residents.

30 Well, the - - -?---They have to make a decision at some point, and the decision would then go to the Gateway, where then they have a process, and then that's the ultimate say.

Now, again, are you saying that at no step of the way, when you were engaging with Pacific Planning or MG Planning, did you ever exercise any independent judgment in terms of what you told them and what you did with the information that they told you?---They provided independent information.

I know. But you receive that information and then you need to do something with that information, don't you?---Yes, my parents.

40 Yes. You need either, you either need to make a decision yourself about what should be done or to convey it back to your parents - - -?---Yes.

- - - and have your parents make a decision, and then you to do something with that decision.---Well, no, I don't, just, I don't agree with that proposition.

Well, what part don't you agree with?---Well, the whole lot of it.

So what was the situation? You spoke with your parents and you asked them, “What is it that you want me to instruct Pacific Planning to do?”
---No. No. No.

Your parents spoke to you, did they, and they said, “You speak to Pacific Planning and you get them to provide whatever advice you think is necessary.” Is that what happened?---Pretty much.

10 So therefore you were the person who exercised some judgment in determining what it was that Pacific Planning would be asked to give advice about.---Not correct. Pacific Planning gave advice and my parents are satisfied from the professional advice that they paid for.

Mr Sidoti, are you just - - -?---Otherwise they wouldn't spend - - -

Mr Sidoti are you incapable of understanding the questions that I'm asking? Is that the position?---No, I'm answering your questions.

20 Now, let's move on with these text messages, shall we? In response to your message, in which you wanted to specify that the owners were Richard and Catherine Sidoti, not yourself, Mr Daniel has sent an emoji which appears to be an “A-O.K.” sign with the hand – if we need to enlarge them, we can do so. Which is message number 17, I think. Or 18, message number 18. Do you see that?---Yes.

And then he's indicated that there are eight councillors. Then moving over to the next page, you've identified that two will declare interest.---Yes.

30 And then you've also indicated that six to vote.---Yes.

And he said, “Ah, yes.” Okay? So you are very mindful there of the numbers and how they play out, weren't you?---Yes.

So, and that is because you were aware that if the motion was to be moved and supported by the Liberal councillors, then it would pass.---Well, yes.

And then there are some emails about the fact that, what was going on at the council meeting.---Yes.

40 Which is not relevant. But if I could draw your attention to the message at number 29, where he says, amongst other things, “Dealing with item 3 now.” Do you see that?---Yes.

And your response is “Great.” See that?---Yes.

And that's because that's the particular item that you were interested in. ---Sorry, where does it say, “Great”?

“Great” is at message number 20, sorry, message number 30.---Yes.

And you say, “Great.” Do you see that? And then the next message is Mr Daniel saying, “Let’s hope they move the new motion. Seems to be support with the speakers.” Do you see that? That’s at 7.15pm.---Yep.

And then your next message is “How’s it going?” Do you see that?---Yes.

10 So what you were doing there was trying to inquire and find out how the meeting was going, and particularly the outcome of that motion that you had sent to Dr Ahmed.---Yes.

Now, there is a response on that day from Mr Daniel.---Yes. Do you want to go to the council meeting? Or not really?

Do you want to go to the council meeting? Do you mean - - -?---Yeah, perhaps to show the document, yeah.

20 I’m happy to do so. If we go to the council meeting, we will go to - - -?
---2 August.

If we could go to page 1167. We’ve got the declarations of the pecuniary interests, but then if we could go to 1169. Down the bottom of – sorry, up the top of 1168 I need to see. Sorry, bottom of 1168. Item 3 at 6.54pm. Do you see that?---Yes.

30 And if we go to page 1172. Can you see that – sorry, I need to go to 1171. 1171, you see that the item after item 3, item 4, commences at 7.50pm. Do you see that?---Yes.

So the messages between yourself and Mr Daniels that occurred during the course of the meeting were those that were between 6.54pm and 7.50pm. Correct?---So this is the meeting of 2 August?

Meeting of 2 August. You can see that in the footer. Do you see that?
---Yes. Yes.

40 And do you see that the resolution that was passed on the casting vote of the mayor was that option 2 be adopted.---Yes.

In respect of the Waterview Street site.

MR NEIL: Well, Commissioner, it’s endorsed, not adopted.

MR RANKEN: So be endorsed, happy – yes, endorsed. And that no change occurred to the zoning for the controls of the other two sites that were looked at by Studio GL, and that a planning proposal amendment to the Canada Bay Development Control Plan and any consequential

amendments to the Canada Bay section 94 Development Contributions Plan be prepared to implement the recommendations of the additional sites report in relation to option 2.---Yep, and, and option 1, sorry, was - - -

Option 1 was the retention of the heritage listing for 39 Waterview Street.
---Right. Perfect.

And then the planning proposal, the draft Development Control Plan and the draft Contributions Plan be exhibited for public comment.---Perfect.

10

That following the public exhibition, consideration by council of the planning proposal be submitted to the Department of Planning and Environment for a Gateway Determination, and that should the planning proposal pass through Gateway, then it be placed on public exhibition together with the draft Development Control Plan and draft Contributions - - -?
---The rest is fine, thanks, Mr Ranken.

So do you see that essentially option 2 was taken up by the council?---Yes.

20

They did not move the resolution that you had put forward to Dr Ahmed.
---Yes, correct.

And it was resolved on the casting vote of the mayor.---Yes.

Now, it was the draft planning controls for the land on Waterview Street were then publicly exhibited over August and September of 2016.---Yes.

And ultimately it was to come back before the council in December 2016.---Yes.

30

Specifically on 6 December, 2016.---Yes.

In advance of that meeting though, there was an opportunity for interested parties to put in submissions concerning the planning proposal.---I take that as yes.

And you instructed Pacific Planning to do so on behalf of your parents.---Yes. At every possible exhibition there would have been a professional putting a submission in, yes.

40

And in due course a submission was put in on 12 October, 2016.---Yes.

Now, if we could go to page 1259, you can see that there's an email chain regarding the – this is part of an email chain.---Yes.

And if we could go to the previous page, page 1258, do you see at the bottom of that page is an email from Mr Matthews to you saying, "Please find

attached the submission sent to council today on Canada Bay.” Do you see that?---Yes.

And he goes on to say, “You will note there are two key points that I have made in the submission, firstly council is commended for endorsing option 2 and the removal of the heritage listing at 29 Waterview is supported.” Now, that was a typographical error, it was in fact 39 Waterview. Correct?---Yes.

10 And would you agree that that typographical error is only in this email?
---Yes. Oh, yes. I think it was fixed up after.

And, “But council omitted to investigate other alternative development outcomes where basement parking and greater FSR could be achieved.” Do you see that? “This in turn was not considered as part of the feasibility analysis by HillPDA, therefore council is requested to investigate alternative schemes with suggestions enclosed that may facilitate a laneway and a more desirable outcome.”---Yes, I see that.

20 And when it goes on, there’s a further paragraph, but then I’ll just draw your attention to the second-last paragraph where it says, “Also you will note that I did not specifically state who I was representing, however we can state this when we speak at the council meeting if required.” Correct?---Yes.

Now, at this stage you were the person who was dealing with Pacific Planning. Correct?---My family, yes.

But you were, the person who was actually engaging in - - -?---I’d spoken to them.

30 - - - the communications with them was yourself.---Ah, yes, yes.

And you were doing so on behalf of your family, your family’s interests.---Yes.

You weren’t doing it on behalf of any other property owners?---No, no, not there. At that stage, 12 October - - -

40 Well, you weren’t doing – perhaps I’ll phrase it differently. You weren’t doing it on behalf of, engaging Pacific Planning on behalf of the community in general?---No, that, that there was specifically for my parents.

Because that would be a problem if you were engaging them to represent your family’s property interests as well as represent the community in general, wouldn’t it?---Well, you wouldn’t want that to, to be like that, no.

And so the only persons they could possibly have thought they were representing at the time was your family or your family’s companies at least?
---Well, I, I, I’m not sure at that time, but they, they represented the views,

because one of the issues that's not in this particular email was land fragmentation. So I think Pacific Planning was looking at all the options and the different impediments then one of them was land being of a fragmented nature and hence others in that block came on board at some time, and I'm not sure if it's that time or later. You might, you could clarify that.

Well, they – sorry, did you say something?---You could probably clarify that.

10 So the point though is that at this point in time – that is 12 October, 2016 – you hadn't received instructions to engage Pacific Planning on behalf of anybody else, for example, Mr Durkin or Mr Tannous at number ■■■ Waterview Street, had you?---I'm not sure.

Did you at any stage receive instructions from either of those gentlemen to engage Pacific Planning to represent their interests as well?---No, Pacific Planning was engaged via myself to my parents, and they were represented at a particular stage.

20 So at some stage do you say that Pacific Planning did in fact come to represent each of 39, that is Mr Sean Durkin of 39 Waterview Street, and also Mr Tannous of ■■■ Waterview Street?---Yes. And, and - - -

How did they come to be introduced?---And 41 and 43.

Let's just deal with Mr Tannous. How did they come to be introduced to Mr Tannous?---I, I don't recall.

Did you facilitate that introduction?---I, I think I did.

30 So how did they come to be engaged by Mr Durkin? Did you facilitate that introduction?---I'm not sure whether it came from next door first or – 'cause the neighbours had been talking. But it's possible.

And what about the Cassis? Did you introduce the Cassis to Pacific Planning?---More than likely.

So you engaged – and these persons, that is the Cassis, Mr Tannous and Mr Durkin, together with I think you said someone at ■■■?---Yes.

40 And who was that?---It's a family, the Lagozzo family.

The Lagozzo family as well. You introduced them to Pacific Planning as well, did you?---Well, I'm not sure if, if Pacific Planning spoke to them at that stage.

And these were the constituents who you say were in favour of the zoning, and who you were representing when you put forward that recommendation to Dr Ahmed prior to the meeting of the council on 2 August, 2016?---Yes.

And so suddenly the distinction between the representation of your family's interests and those of your constituents was blended together in this way?
---Well, their, yes, yes.

10 So it was no longer the case, at least from some time prior to December 2016, that you were managing the perceived conflict of interest between your property, your hat, your parliamentary hat and your family's property interests by having separate consultants represent your family's interests?
---Separate consultants.

That's what you told us before.---Yeah.

One of the reasons why you had external consultants, separate consultants representing your family interests was so that there could be a distinction between you, wearing your parliamentary hat.---Yes, yes.

20 And your family's property interests, correct?---There, there had been, it narrowed because what happened was it's got away from the town centre to now Waterview Street, that particular block. So, yes.

But the point is is that it's now, it's now the distinction has become completely blurred and, in fact, annihilated because you're bringing the constituents into the tent for your family's property interests.---Well, no, it wasn't for my family's property interests. It was because they all had the same view.

30 THE COMMISSIONER: Mr Ranken, we might take a break if that's a good time.

MR RANKEN: Yes.

THE COMMISSIONER: So I'll adjourn.

SHORT ADJOURNMENT

[11.34am]

40 THE COMMISSIONER: Yes, Mr Ranken.

MR RANKEN: Now, Mr Sidoti, we were coming to the meeting of the council in December of 2016, and I took you to the email that Mr Matthews sent to you on 12 October, 2016 in which he provided you with a copy of the submission that had been put forward on behalf of your family's property interests at that time, although ultimately the number of persons on whose behalf Pacific Planning purported to speak did increase and include others, including Mr Durkin and Mr Tannous. Once you received that email from Mr Matthews on 12 October, 2016, do you recall that you forwarded

that email and the submission to Councillor Megna? If we can go to page 1258. Do you see that? “FYI, cheers, JS.”---Oh, yes, yes.

For what purpose were you providing this email and the attached submission to Councillor Megna, given that he was someone who was not entitled to participate in any discussions or decisions in respect of the matter?---I’m not sure. I’m not sure why I would do that.

10 You can’t think of any explanation as to why you would provide that to him.
---No.

Did you expect him to do something with it other than just simply have it for his information?---I’m not sure, I’m really not sure.

20 Now, you were in the hearing room when Mr Matthews gave his evidence, and I took him to the fact that there was a bit of to and fro between Mr Dewar and he about identifying who it was who, on whose behalf Pacific Planning were representing. And in due course, at page 1279, Mr Matthews advised that, “Pacific Planning has been engaged by the owners of 120 and 122 Great North Road, 2 Second Avenue and 37 Waterview Street, being Richard and Catherine Sidoti and Charlie Tannous.”---Yes.

But then also saying that, “These landowners have been engaging with the owners of 39, 41 and 43 Waterview Street.”---Yes.

30 Then if we go to page 1751, this is on 2 December, 2016, there is a message at message number 65 from Mr Daniel to you, referring to, “The council report regarding your parents’ land,” is how he refers to it. “Oh my, what a mess. We should meet to discuss strategy.” Do you see that?---Yes.

And did you meet with Mr Daniel to discuss strategy?---And the date of that is December, is it?

Yes, it’s 2 December, 2016. This was at 1.58pm.---Yeah, I don’t remember.

You don’t remember. Do you remember either before or having received this message from Mr Daniel, whether you actually went and read the report that had been prepared for the council meeting?---By, by Pacific Planning?

40 No, this is the report, the council report, that is the report that had been prepared by council staff in advance of the meeting that was to be held on 6 December, 2016.---Yes, I would have read the report.

And would you have read the report before you received this message or after?---Oh, I’m not sure.

Well, if we go to the report that was prepared for the meeting, if we go – just one moment. If we go to page 1327. This is the report that was prepared by

Mr Dewar in advance of the meeting of 6 December, 2016, and I suggest that it's likely that that's the report to which Mr Daniel was referring to when he talked about the council report.---Yes.

And it refers to the fact that, "Following the exhibition period in August/September 2016, that 18 submissions were received and the primary issues raised in submissions relating to the height facilitated by the proposed building controls and the impact of the additional development on the established community."---Yes.

10

And there was an exhibition outcomes report which was prepared by Studio GL and that recommended the planning proposal should proceed subject to the maximum height of development on Waterview Street being limited to three to four storeys, and the building height for land with a frontage to Great North Road remaining five storeys.---Yes.

Do you see that?---Yes.

20

So that would effectively, would it not, mean that all that would occur would be there would be the removal of the heritage listing of number 39. Is that right?---I don't remember. I think that was one thing I think, yes.

30

And the recommendation, if we go to page 1335, was that "A planning proposal and associated Development Control Plan be prepared to implement the recommendations of the exhibition outcomes report prepared by Studio GL, dated 26 November, 2016, that the planning proposal be submitted to the Department of Planning and Environment for a Gateway Determination, and that should the planning proposal pass through the Gateway, that it be placed on public exhibition, together with the draft Development Control Plan and draft Contributions Plan, and that authority be granted to the general manager to make any minor changes to the planning proposal and draft Development Control Plan prior to finalisation of the Local Environmental Plan."---Yes.

The effect of a resolution of that or a recommendation of that kind being passed at the December 2016 meeting would be that there would be no further consideration of the Waterview Street site?---I'm not sure.

40

Well, it wouldn't involve a further consideration of the possibility of rezoning the site?---"That should the planning proposal pass through gateway, that it be placed on public, together public exhibition again, together with the draft" – it's possible.

We might be talking a little bit at cross purposes. You're referring to the fact that there might have been the possibility that there would need to be some further study after it went to the Gateway Determination.---Possibly.

But at least between - - -?---Yes.

At this point - - -?---Yes.

- - - it wouldn't be part of any planning proposal that went through to the Gateway Determination.---I think you're right, yes.

Yes. Yes, so - - -?---Because it's planning controls only, if I'm correct.

But also the heights would be, as I took you to in the report.---Yes, four and three, yes, yes.

10

Yes. With the possibility of five along Great North Road.---Well, I think it was already five.

Exactly.---Yes.

It's already five. Which is effectively no real change.---It was a gain of a couple, two metres.

Yes. Along Waterview Street.---Great North Road.

20

On Great North Road.---Sorry.

Yes. So, and that's what Mr Daniel, you understood him to be referring to when he referred to it as being a mess, because there was not going to include any further consideration before it went to the Gateway Determination of the rezoning of Waterview Street, correct?---Well, I, that looked like a good outcome.

30

You're saying it looked like a good outcome, the outcome - - -?---That the community - - -

- - - that was being proposed?---Mmm.

Okay. So you agree with that outcome. Is that what you're suggesting? ---Well, I think it's a good outcome. It's recognition of work being done by Studio GL to come up with something different.

But that was recognition of effectively what Studio GL had determined in its outcomes report back in the 3rd of March of 2016.---Yeah.

40

It's option, it's giving effect to option 2.---Yes, yes.

Yes. And which was consistent with the resolution of the council on 2 August, 2016. Do you see that?---Yes.

So all that's happening is that what had been decided on 2 August, 2016 was going to proceed along to the Gateway Determination, correct?---Yes.

Now, but do you say that you were happy with such an outcome?---Oh, I think it's, it's, it, it's a good outcome. It's an outcome that has basically, if I'm correct, doubled the height and FSR of that whole block in Waterview Street.

So why is it, then, that Mr Daniel would be reaching out to you to suggest that you needed to discuss strategy?---That might be just his language.

Well, what - - -?---Not sure.

10

Well, if it was a good outcome, then there would be no need for it to be deferred.---I'm not sure.

Well, did you not discuss with Mr Daniel, and possibly Mr Matthews, the possibility of having, putting forward some application to defer the consideration of the item?---Yeah, I, I don't recall that. That, that's, we're December 2016 now.

December 2016.---I don't recall.

20

Is it likely that you did?---Oh, I don't know, you'd have to show me, I'm not sure.

Do you recall that on 3 December, 2016, so that is three days prior to the meeting, that you happened to encounter Ms Cestar whilst she was doing the Bay Run that morning?---Yes.

You have a recollection of that interaction that you had with her?---Yeah, I have a diary entry, yes.

30

You've got a diary entry that you made?---I did.

You made the diary entry at the time, did you?---No, no, I, I had the diary note booked in, "Exercise Bay Run."

Oh, okay.---Now, yeah, so I never really do that, but for whatever, I, it's usually because I'm meeting someone to walk with them.

But you weren't meeting with her to walk with her?---No, no.

40

No, so who were you meeting with, or - - -?---Oh, I - - -

You don't recall.---No, I wish I had something in there, so – yeah.

So the only – you're able to recall it because you have since gone back and looked at your diary.---Correct, correct.

And you do have a diary entry that indicates that says, "Bay Run."---7.30.

7.30. But other than that, it doesn't say any further detail, correct?---Nah.

Well, you heard Ms Cestar give evidence in this inquiry regarding the circumstances in which she came upon you that morning, and the interaction that the two of you had.---Yes.

And also the message that she sent to Mr Megna immediately after. Correct?---Yes.

10

And her message was sent at 7.25am on 3 December, 2016.---Yes.

And she said, "Bumped into John Sidoti on Bay Run just now. He is exploding, making threats, et cetera, et cetera. Can I call you after 9.00?" Do you see?---Yes.

And Mr Megna's response was that in fact he had had two calls from you the previous evening. Correct?---Yes.

20

And what it was that you spoke with Mr Megna the previous evening was the Five Dock Town Centre Study or the issue concerning the planning proposal that was to be decided by council on 6 December, 2016.---I'm not sure what I spoke to Michael about then.

But that's certainly what you spoke with Councillor Cestar about when you bumped into her on the Bay Run?---Oh, on the Bay Run?

Yes.---Yes.

30

And you were "exploding and making threats"?---No.

It is quite odd then, is it not, that Ms Cestar would, at 7.25 in the morning on 3 December, 2016, suggest that you had exploded and made threats about things?---It would be unusual.

Yes, that would be unusual.---Yes, it would be.

40

She was someone who you knew and had worked with as part of the Liberal Party for a number of years.---Yeah, we had a professional, colleague relationship.

THE COMMISSIONER: She used to also – I think her evidence was she'd worked on the stalls to assist you.---Oh, minimal, very minimal, yes.

But she did do that, didn't she?---Yes, I could count, I, over five years, I could count a couple of occasions, yes.

To support you, your re-election.---Well, I think – yes.

Okay. I just wanted to know whether you agree or dispute it.---No.

MR RANKEN: And do you recall that Ms Cestar gave evidence that she'd bumped into you, and it was before the council meeting, you were quite animated about the fact that the proposal and what you wanted for the rezoning was not something that she supported, and that you suggested to her that you would line up other councillors to run for council if she wouldn't play ball?---Mmm, that was her evidence, yes.

10

And what do you say to that evidence?---Totally false.

You say it's totally false?---Yes.

THE COMMISSIONER: Did you talk to her about the meeting that was coming up?---I did. But I didn't get far.

You spoke to her about the meeting of council coming up the next week in relation to the item concerning the town centre plan?---Yes. I didn't get to the item.

20

And in that discussion, what did you say about that subject?---So it was a very – sorry. It was a very brief encounter. I, I recall where it was, I don't think it was exactly where Ms Cestar recalled it, but it was a Saturday morning, I'd been running, I was hot, I came across her in Henley Marine Drive on the Bay Run, and we stopped and we just said hello to each other and I was puffing, and then I said to her, "How are you going?" And then I said, "The item's coming up, the Five Dock Town Centre, next week. Are you across all the detail?" And I got a strange look and I was huffing and puffing still and I said, "Oh, haven't you read it yet?" And that's as far as we got because she became very defensive and I remember the words really clearly, "How dare you call me lazy." And then there was a further exchange and I, to the best of my recollection it was something along the lines of, oh, "Who do you think you are?" Something on those lines.

30

MR RANKEN: When you say, "Who do you think you are," do you say that that's what Ms Cestar said to you?---Yeah. The first bit was exactly, the second bit was to, to that.

40

Do you say though that, you said that she said, "How dare you call me lazy." ---Yeah.

Do you say that you called her lazy?---Well, I, I think she, she came to that conclusion when I – I was, I asked her, "Have you, are you across all the detail?" And I think when I asked then, "Have you read the papers," and she didn't answer me, that's when that came up. So I think she, she took it the wrong way, that I was calling her lazy that she hadn't read her papers yet, and, and, and by that time there was people everywhere on the Bay Run, it

was really busy, it's getting towards Christmas, there's people every few meters and we're on the side, were on a, almost a corner and it's adjacent to a bike path, so there's people walking around you, and then she was quite loud and defensive and I didn't want to be seen having an argument in public.

So you say that she was quite loud?---She was. She was very defensive.

Right. It wasn't you who was exploding and making threats.---No, I - - -

- 10 Are you suggesting it was her, it was Ms Cestar who was exploding and making threats. Is that the position?---Well, she wasn't, they're not threats, they were, she was, she was upset that I asked the question.

Well, what threats did you make to her?---I didn't make, it didn't get to that. I put my hands up in the air at the end, you know, to say look, stop, stop, that's it, sorry, keep going, and I, I, I went on my way. And even when I just started leaving I could still hear her mumbling, and that's where it ended. It was, it was very brief.

- 20 It does seem very odd though that immediately after this interaction she would send a text message to Mr Megna, a person who she knew was someone who had a relationship with you, correct, outside of just merely being a member of the Liberal Party, correct?---Yeah, I find that strange too.

Yes, and would reach out to Mr Megna because she wanted to make sure it was recorded that she's had this interaction with you in which you had exploded and made threats to her.---I, I, well, I found it strange. I thought she may have rung Helen because she was closer to Helen, but I think the idea of her ringing Michael - - -

30

But what's also odd is that Mr Megna, his response does not seem to be particularly shocked at the idea that you might have exploded and made threats, but simply says, "After 9.30. I had two calls from him last night!"
---Yeah.

So what I want to suggest to you is that this kind of behaviour of you exploding was not necessarily isolated.---No, I don't agree with that.

- 40 And that it was that Mr Megna did not appear to express any shock or surprise that you might have engaged in that conduct.---No. The way I'd respond to that was from his evidence, I don't think he recalled it, and surely someone would recall something like that.

I'm talking about his response to Ms Cestar, to her text message which I just read out to you.---Yeah, I heard.

His response was, "After 9.30," because she said, "Can I call you later after 9.00?" He said, "After 9.30. I had two calls from him last night!" Correct?
---Yes.

And that seems to suggest that Mr Megna understood what it might be that Ms Cestar wanted to speak to him about following the interaction she'd had with you, but certainly doesn't express any surprise or shock that you might have acted in the way that she has suggested you have in her text message.
---I, I wouldn't read it that way. I'd suggest that it didn't happen.

10

You just suggest that just didn't happen at all.---Didn't happen, absolutely.

That in fact you weren't the one who exploded. If anyone exploded, it was Ms Cestar.---Most definitely.

20

THE COMMISSIONER: But you do agree what is common ground is that on this you were having your run, she's having her run, in the course of you encountering her, it wasn't a question of just talking about what a nice day it was or, you know, anything about exercise. The subject that came up was the Town Centre Study.---Mmm, mmm.

While you're both running, you know, on your own.---Yeah.

Of all topics, that was agreed was the topic that was - - -?---Yes.

- - - that you had introduced, as it were.---Yes, yes.

30

And when she seemed to you to be looking as though she hadn't read the papers or didn't know what you were talking about or something like that, what was your reaction to that, when she didn't seem to be on top of the papers, as it were?---I didn't get a chance to respond. She's - - -

No, but what was your reaction to that?---Oh.

Were you surprised that she hadn't done her homework?---Honestly, no, I wasn't surprised.

40

Well, were you annoyed that she didn't seem to be on top of things, not having read the papers you referred to?---I think it was common practice, really, and you've just got to deal with all people. We're colleagues. She had a habit of not reading papers. As long as she had her councillor badge and she attended functions, that was Mirjana. When it came to reading anything, she wouldn't read anything.

The point is were you somewhat annoyed that she hadn't read the papers?
---No, I wouldn't say I was annoyed.

No?---I wasn't surprised.

MR RANKEN: Now, I wonder if we could bring up page 1308. It's an email chain that includes an email between yourself and Mr Sidoti. Down the bottom of the page do you see there's the header of a message from Mr Sean Durkin that was sent to Gary Sawyer and Helen McCaffrey? Do you see that?---Yes.

And then if we go over to page 1309, we can see that lengthy email that - - - ?---Yes.

10

- - - I asked a number of questions of Mr Megna about.---Correct.

And as did the Commissioner when Mr Megna was giving his evidence. And it goes over to 1310 just briefly, I think.---And that was sent to me as well?

If we go back to page 1308, do you see that Mr Durkin, on 4 December, at 10.55am, forwarded it to - - -?---Oh, yes, drummoyne@[REDACTED].

20

- - - drummoyne@[REDACTED]?---Perfect. And then - - -

You appear to have forwarded it on to Mr Megna of all people.---Yes.

Even though Mr Megna could not actually vote or have any participation in this matter. Why did you forward it on to Mr Megna?---I was probably, because it wasn't the town centre as such. It was the proposal at that time was subject to one block, but - - -

30

But you knew he had declared pecuniary interests all along, including on 2 August, 2106.---Yes.

And he was, he was not participating in any decisions or discussion about that.---I'd agree with that. I shouldn't have said that.

And he's responded with a view that it was an excellent letter from him, but with respect he's since changed his views about that, correct?---Yes.

40

And you've then responded to Mr Megna and you suggested that the allegation involves a GM and senior staff and councillors.---Yes.

And you were going to, if it was to be referred, you were going to call for Mr Sawyer and Mr McNamara to stand down.---Mmm.

And so that you knew that there was absolutely no substance to the allegations that Mr Durkin had made in respect of council staff.---I wasn't, not here, not there, to be honest with you. It's gossiping between two colleagues.

Well, it was more than gossiping.---Well, yes.

You were suggesting that if it was to be referred, you would call for the general manager and the executive director of the planning department at the City of Canada Bay to stand down until that was investigated.---Oh, it's big talk. Yes.

It's very big talk.---Yeah. It's not - - -

10 THE COMMISSIONER: That's very serious, isn't it?---Well - - -

I thought Mr McNamara was admired by you and others who have given evidence in this inquiry. Did you admire him up to this time?---Well, if the letter was – the letter was pretty, pretty heavy.

I'm not talking about the letter. I'm just talking about, up to this time, before the Durkin letter, that you had held Mr McNamara in high regard, hadn't you?---I held Mr Sawyer in, in, in high - - -

20 No, Mr McNamara.---Oh, McNamara. I did for a number of years. I'm, I'm, I'm, towards the end, I, I'm thinking – well, I guess now, sorry, I've got a different view probably now. I would have said at the time, yes. 2016 there.

Before, just before the Durkin letter, up to that point - - -?---Oh. Yes.

- - - did you or did you not hold Mr McNamara, who was the head of planning, in high regard?---Yes, I, I, I held him in regard, yes.

30 In high regard, I put.---Well - - -

That is to say, an esteemed council officer in charge of planning. When I say high regards, I'm talking about you held him with some esteem.---I didn't have a lot to do with him, to be honest with you.

No, but can you answer my question, even, whether you did or you didn't? ---I didn't, high, held, high, in low esteem. I just - - -

40 Not high, not low, somewhere in between?---Yes, yeah. Oh, I didn't have enough to do with him, I think, to, to come to a formulation. But I had probably a bit more to do with the general manager.

But why, on what basis would you write to Mr Megna suggesting that so far as Mr McNamara's concerned – leave Mr Sawyer out of it for the moment – he had acted in some way which would warrant sending him to this Commission, being referred to this Commission?---Yeah, oh, I - - -

What was it that led you to write to him and say that?---Oh, it's, it's two, it was just between colleagues, two colleagues gossiping. It's, there's no, there's no substance to it.

Well, if there was no substance to it, why did you make the statement that, "I believe the whole thing should be referred to the ICAC"? The allegation involves the GM, and senior staff, and councillors.---Mmm.

10 If there was no substance to it, why would you write such a thing?---Well, I wouldn't have to, because that letter had been sent and, and I, there might, may have been an obligation from that complaint if there, to – there would have been certain local government rules to have to forward it, if they believed there was a complaint, but it was gossip, it's a private email between two colleagues, and I guess it looks different when you take it out of context between the two people, both from the same party that have known each other for a long time, and I can, I can totally understand, reading that in the context open to the public in front of a lot of people, how that could look.

20 MR RANKEN: Are you saying that you didn't believe that the whole thing should be referred to the ICAC?---Oh, look, if it's true, if, if there are allegations of impropriety, yes, there should be, if it's not the ICAC, to the relevant department, but that's, there's a trail there. Once that goes to council and there's a, a letter or a complaint, there's a process you'd have to follow. I can't, I haven't had that experience. I hear rumours, you hear gossip. At the end of the day before you refer something, you need evidence.

30 Again, my question - - -?---Sorry.

THE COMMISSIONER: Well, is this an example of you just, as it were, blowing your top? You really felt angry about either the council or Mr McNamara or any of the other staff in relation to the town centre study. ---No, I'm not an angry person, Commissioner. I'm - - -

40 Well, there's some evidence that you've – and this is not demeaning you, it's just, we all do it – that you do sometimes blow your top, either because you're passionate about something or because you're angry about something. Was that evidence a fair summation or not?---No, I, I - - -

No? All right.---I, I think the animative, yes. Loud, yes. That's just my background. I'm gentle. I, I like to help people. That's in my nature. I, violent? No, never. Considerate, go out of my way, all the time. That's just my nature. I, you know, I'm a bit disappointed, I must say, in some of the evidence I heard. I just didn't think that was the relationship I had with my colleagues.

MR RANKEN: If you believed the whole thing should be referred to the ICAC, why did you not make such a reference?---'Cause it would have had to have happened anyway as a complaint that went through to the council.

You could refer it to ICAC yourself, could you not?---Well, I've got no evidence.

Well, if you've got this email, the allegation from Mr Durkin.---Sure, but I've got no proof. I've got no proof.

10

Well, you believed the whole thing should be referred to the ICAC.---Can we go back to the email, if that'll help.

If we go to the - - -?---To the actual email.

- - - the actual email. If we go back to 1309.---Yeah, 'cause I did read it, yes. Well, he's disagreeing, I guess, with the way things had progressed, and, you know, that's gone to the general manager. So the general manager would have to do something there. If there are any improprieties or evidence or allegations of that, that would automatically take that course. There's no need for me to do that.

20

The suggestion was that somehow this was part of some campaign against your family if there was substance to the allegation, correct?---Well, he really, he, he refers to a, the relationship between myself and Councillor, the mayor and Councillor Kenzler. And, yes, it was a pretty ordinary relationship in the first three or four years, but - - -

Well, he says, "I am concerned that the political/personal animosity between councillors, council staff and Mr Sidoti is influencing the whole process." Do you see that?---Sure. But that's, that's on the basis that planning is based on personality, and I don't take that as to be a valid - - -

30

And on the bottom of the page it says, "None of the above makes sense other than as some kind of payback to thwart the plans of the Sidoti family." You see that?---Yeah, and I'd heard conspiracies like that, but the end of the day, you can't believe rumours.

So you didn't believe it?---About what?

40

You didn't believe that - - -?---Well, there's no evidence.

I mean, you didn't believe that the matter should be referred to ICAC because you didn't believe there was any evidence or substance to it, correct?---No, I, well, I've got no proof or evidence, yes.

So if we go back to 1308. Why did you suggest to Mr Megna that the whole thing should be referred to the ICAC and that that's what you believed?
---Oh, if it was correct.

THE COMMISSIONER: But you knew it. You strongly believed there was no substance to the allegation?---Well, it's followed, we've seen with the evidence here, it's followed a very robust process.

10 To make a statement such as he did against Mr McNamara and Mr Sawyer, there being no apparent evidence to support it, could only be described as scurrilous, couldn't it?---If I did an email like this publicly where everyone could see, you could say that. But this was really between two colleagues who have known each other for a long time, who speak to each other - - -

I don't think you're understanding. I think we might be at cross purposes.
---Sure.

20 For Mr Durkin or anyone to make a statement such as he did, adverse to Mr McNamara and Mr Sawyer, in the terms that he did, knowing – as we do know - - -?---Yes.

- - - there was no substance to it, could only be described as completely scurrilous, would you agree?---Well, I can't talk for what Sean Durkin did. I didn't write it, so - - -

30 But if he didn't have any substance to support to make the statement, as you've pointed out, no evidence whatsoever, not a one piece of evidence, would you then agree that what he is alleging against Mr McNamara and Mrs Sawyer could only be described as a scurrilous allegation?---Yes.

MR RANKEN: So there would be nothing served by providing that allegation on to the other Liberal councillors?---Well, it's feedback.

And you expected Mr Megna to forward it to the other three councillors, is that correct?---Oh, I don't think there was an expectation.

40 Well, in his initial response to you, he said, "Excellent letter from him. Will I forward it on to the others?"---Oh, that's the follow-up. Beg your pardon, yes.

And then later on he says, "I meant should I forward it to the other three councillors." That's what you understood he was - - -?---Sure. And did I, did I follow up on that?

Was that what you were expecting him to do?---I don't recall.

He seems to, in the first instance, anticipate that that might be what you were asking for him to do.---It seems that way.

By his question.---It seems that way but I - - -

You can't say as to whether or not that's what you wanted?---Well, I didn't say it.

No, but I'm just saying, you can't recall now as you sit in the witness box, whet her in fact that is what you had wanted him to do, that is, pass it on to the other councillors.---No.

10

That day though you did – sorry, if we just go back to page 1308. If I could just draw your attention to the time of your response where you say, “He got it,” is 3.22pm on 4 December. Do you see that? And Mr Megna's response is at 3.25pm. Could we then go to page 1311. This is a message from yourself to Ms McCaffrey, sent from your telephone, and the actual substance of the message is the next page, 1312. And you said, “Dear Helen. Please show some leadership and ask Tanveer his primary role as a councillor is to show up. This is disgraceful that the last two meeting Liberal councillors plan outings around their elected duties, particularly when the numbers are so tight.” Just pausing there, the numbers being so tight, you were referring to the fact that whilst the Liberals held the balance of the power, it was only by reason of Councillor McCaffrey having the casting vote. Correct?---Yes.

20

Yes. And this is two days before the meeting at which the planning proposal relating to the Waterview Street site was to be discussed and decided upon. ---Discussed, yes, and decided.

Well, decided upon in terms of a resolution for - - -?---Well, yes. Sorry.

30

- - - the planning proposal to be forwarded to a Gateway Determination. ---Yes.

And you said, “Everybody agrees the politics are playing out and to date the Liberals are just watching.”---Yes.

40

“That is when they show up.” So again you were casting, were you not, the issues in respect of the Waterview Street site as one involving the Liberals versus the non-Liberals?---Oh, there was, there were some politics playing. So at that time I heard a number of things. The councillors had all been talking amongst each other and the feedback I got was that it may be deferred because councillors not attending and then quorum issues, because you needed a quorum, and that's why I followed up this, this email. And again it was to my colleagues, a private email that I thought I had the relationship with and, and we always spoke and always met and got together, exchanged ideas.

But what you're talking about though, when you're talking about the politics playing out, you're talking about the politics playing out in respect of the

Waterview Street site and that planning proposal. Correct?---It was the whole LEP process.

But in respect of the Waterview Street site, that's what we're talking about. ---In relation to the timing, yes, I'd agree with that.

This is 4 December.---Yes.

10 Two days before the meeting.---Yes.

And it's directed to that particular issue and item which is coming up at the meeting on 6 December. Correct?---Yes.

And you were seeking to cast the issue in terms of Liberal versus non-Liberal. ---Oh, I don't think it's about Liberal versus non-Liberal.

20 Well, "This has come about because Neil Kenzler and staff confused the Liberal councillors that don't seem to understand planning." Do you see that? ---Yeah. Neil was very outspoken.

So you're casting it as Labor versus Liberal, non-Liberal versus Liberal. ---Well, no, I don't see it that way.

Then you go on to say, "Please rectify by one, calling Tanveer, 2, if failing that call an extraordinary meeting."---Correct.

"Three, if Kenzler doesn't show up, refer to code of conduct."---Correct.

30 Now, what role was it of yours at all to be engaging with Helen McCaffrey, who was the mayor at the time, about matter relating to the procedures of council?---We were good colleagues, friends, and I had been a mayor before. So, and it was important that she, as the leader, that they worked, they worked together, which they were doing.

When you say "they," who?---Well, the Liberal councillors are seen as, as, as, from the same political party.

40 So you're saying that it was your role, part of your role as the member in State Parliament for Drummoyne, for you to be telling Mayor McCaffrey what she should be doing in relation to matters concerning the procedure of council meetings.---No. I, I, that was as, as, as a party friend, as a colleague.

As a party friend?---A colleague, yeah.

She had not sought your advice about these such matters?---No, she hadn't there.

No. In fact she was a person who had extensive experience in local government?---Yes.

She had more experience in local government than you had in local government?---Yes. That could be seen that way.

She had more experience in local government than you had had in state government?---Yes.

10 She was not someone who needed advice from you as to what to do in respect of council procedures?---Well, I draw from her experience so I think it's important that, that you're always exchanging information and feedback amongst each other. So - - -

You were trying to tell her what you wanted her to do?---Well, I think there's an expectation that, that, you know, they're, they're things that you should do, show up to a meeting,

20 THE COMMISSIONER: Can't you answer that question directly?---Well, no, I, I don't see it that way, sorry.

MR RANKEN: "Please rectify by 1, 2, 3." Do you see that?---Yeah, I do.

Yes, that's a direction from you to Ms McCaffrey, telling her to do those three things.---Well, it's a poorly drafted – I haven't got the benefit of having a PA that write all my emails or opens the door for me, and closes the door. That's, that's a friendly colleague, from one colleague to another. Sorry, that's just the way it was.

30 THE COMMISSIONER: But you were castigating her, weren't you, when you said, "Dear Helen. Please show some leadership"?---I, sorry, I, I don't see it as castigating, sorry.

Well, it's in relation to her role as councillor that you're saying, "Dear Helen. Please show some leadership," wasn't it, in her role as councillor? ---Well, as the, as the leader of the Liberals, show some leadership, and starting by make sure everyone shows up for their civic duties.

40 So, were you talking about her leadership as a Liberal or as a leadership as a councillor, being mayor?---Her leadership as the leader of the Liberals.

Is that what you mean, seriously? Aren't you – just take your time, just read it again, the first line or two. Aren't you there telling her that she should show some leadership as a councillor because it's linked to Tanveer and his role as a councillor.---Yes.

Is that right, that's what you were saying to her?---Yes.

And when you were saying she should show leadership as a councillor, you were really saying that she should use her leadership to ensure that Dr Ahmed turned up at meetings that you arranged from time to time?---I don't think that's referring to meetings that I've arranged from time to time.

Well, leadership about what then, in relation to Dr Ahmed?---To, to show up to council meetings. I think we established that, because at the time that
- - -

10 To turn up to council meetings, is that what you say you were here referring to?---Well, I think, I think that was in reference to the timing of this, Mr Ranken, with regards to it just being for a council - - -

So you were not urging her to use her leadership to get him to turn up to meetings you organised with the Liberal councillors?---It's, it's been interpreted that way because this is an email between colleagues and when it becomes public, this would not be an email that is read or, or, sort of, in public.

20 Let's see if we can just come back and concentrate, though, on the point. Is what I put to you right, that you were urging her to show leadership as a councillor vis-a-vis Dr Ahmed to ensure that he shows up to meetings that you organised?---Sorry, where does it say "organised"?

Sorry?---Show up to meetings that I've organised.

They're the words on the page. I'm suggesting that they give rise to a readily understood meaning. That is to say, use your leadership to get Dr Ahmed to turn up to meetings that I organise.---No.

30 MR RANKEN: Well, I'm sorry, with respect, Commissioner - - -

THE COMMISSIONER: No, is that - - -

MR RANKEN: I think if you, Commissioner, I think if you go to - - -

THE COMMISSIONER: Is that council meetings, is it?

40 MR RANKEN: Yes, I certainly read it as this is disgraceful that the last two meetings Liberal councillors plan outings around their elected duties. So I had read that as - - -

THE COMMISSIONER: Well, all right, so - - -

MR RANKEN: - - - for my part, I had read that as elected duties being duties to attend council meetings.

THE COMMISSIONER: All right. So you've heard what Counsel Assisting has said. Were you urging her to use her leadership to ensure that he turned up at council meetings?---Yes.

Right, okay.

MR RANKEN: But do you say that you, despite what is written in that message, you were not directing her to call Tanveer or directing her that, if she didn't call Tanveer, she should call an extraordinary meeting, or
10 directing her that if Councillor Kenzler did not show up, to refer to the code of conduct?---Yeah, so point 2, failure as a mayor. So if you couldn't proceed with the meeting because there weren't the required quorum number, the meeting would have to be cancelled, and then it will take another month to come up again, and so if that failed you could actually, as a mayor, part of your duty could be to call a meeting on short notice.

But you were directing her what to do.---I was giving her the options.

20 She had not sought you out to be given those options? She had not requested - - -?---No.

- - - any advice from you about that?---No.

Now, you are aware, are you not, that Mr Matthews wrote to council on 5 December, 2016, seeking that the matter in fact be deferred to a point in the future to allow Pacific Planning the opportunity to meet with Studio GL and to understand the level of analysis that had been undertaken to inform the recommendations?---Yes. I, at that point, or even before that point Pacific Planning then pretty much did what they had to do, and it wasn't, there
30 wasn't a lot of correspondence at that point after.

Are you saying Pacific Planning had basically gone rogue at this point - - -? ---No.

- - - and were just doing things without instructions from you at all?---No, no, they were, they were seen as having exceptional planning experience and that, you know, the advice they'd been, had, was giving was, seemed to be true and correct, and pretty much do what you think you have to do.

40 So that was the instruction, you were saying, you go - - -?---Well, that was - - -

- - - you go for your life, you get the result - - -?---Well - - -

- - - you think's the best?---Well, no, not in those words but, yes.

So are you saying that you weren't aware or did not become aware that this request to have the matter deferred had been forwarded to the council?---I, I

don't remember it, to be honest with you. I, I subsequently read that I think it may have been deferred, the meeting.

You're aware it was in fact deferred at the meeting of 6 December, 2016?
---Yeah, and I came to know that at that time, but I just don't remember all the details around it.

But you knew that was what had been requested, though, before the meeting took place?---Oh, I don't, I, I couldn't tell you, Mr Ranken.

10

Is it likely that you did?---I just don't remember.

Well, did you have any conversation with or communication with Mr Daniel about it?---More than likely.

Well, what about with Mr Megna?---I don't, don't remember.

You don't remember?---No.

20

Well, perhaps if we could go to page 1751. This is an email exchange between Mr – sorry, message exchanges between yourself and Mr Daniel.
---Yes.

I want to draw your attention to message number 67 to begin with, which was sent at 8.49pm on 5 December, 2016.---From Matt Daniels to myself?

From Matt Daniel to yourself.---Yep.

30

Do you see he says, "Hi, John. Did you see the email we sent? The response we received was that they would pass the request on to councillors. Let's discuss when you are free. Matt." Do you see that?---"They would pass the" – what does that mean?

Well, we'll go through it piece by piece, then. If we could go back to 1313.
---Oh, sorry, requested deferral, is it?

Yes. Do you see this was the - - -?---Yep, sorry.

40

This is the email that I was speaking about when - - -?---Okay.

- - - Mr Matthews sought a deferral of the matter. This was on 5 December. And the date and the time of the email is 1.13pm. Do you see that?---Yes.

And do you see that the response from Mr Dewar is "Hi, James. Thanks for your comments. Your request will be circulated to councillors." And that's in relation to the request for the deferral.---Yes.

Correct? So when we go to page 1751, later on in that same day, in the evening, Mr Daniel is saying, “Hi, John. Did you see the email we sent? The response we received was that they would pass the request on to councillors.” That’s obviously a reference to - - -?---The deferral.

The request by Mr Matthews for there to be a deferral of the issue, correct?
---Yes.

10 Yes. And then do we see – we see your response at message number 68, which was at 8.53pm. You say, “Michael said you should of asked to defer simply. We want a motion. If it’s not tomorrow, next meeting. Exactly the same as the other side of Waterview Street. Five levels, bonuses on Great North Road and 2.5:1 in Waterview. We’ll ring you shortly.” Do you see that?---Yep.

So it’s plain from that message that you have had some discussion with Mr Michael Megna, is it not, about the request for the deferral?---It would appear that way, yes.

20 Because Michael said you should have asked to defer simply. So that’s suggesting that Michael said to you that Pacific Planning should have asked for a simple deferral of a matter, rather than a deferral, so that they could engage in some communications with Studio GL.---Yes.

So, and then you’ve gone on to say, “We want a motion. If it’s not tomorrow, then the next meeting. Exactly the same as the other side of Waterview Street.” You see that?---Yes.

30 “Five levels, bonuses on Great North Road, and 2.5:1 in Waterview.”---Yes.

And do you see that his response was, well, “Michael has been very difficult to get on the phone to discuss.” This is at message 69. “We felt we required a logical planning reason to request a deferral than just ask.” Do you see that?---Yes.

So there was some strategy about getting a deferral, correct?---It, I wouldn’t say strategy, but, yes, there’s a request to defer.

40 There’s a request to defer, but that was part of a strategy in order to defer it so it wasn’t decided, going to be decided and finally determined on 6 December, two thousand - - -?---I think that would be the result, yes.

Yes, but that was the result that you were hoping to achieve.---No, no, I think, but you’re taking it out of context. That Pacific Planning and the council had two different processes, and they – Pacific Planning – thought that the process, they hadn’t followed a particular path.

No, no, this is - - -?---And hence this was - - -

Pacific Planning had put in a submission on behalf of your parents and number 37 Waterview Street.---Which you mentioned, yes.

And that had been taken into consideration as part of the Studio GL outcomes report.---Yes.

10 And then the staff agenda report. The staff agenda report had recommended, consistent with the Studio GL exhibition outcomes report, that a planning proposal go to the Gateway Determination, correct?---Yes.

That would mean that there wouldn't be – before the matter went to the Gateway Determination – there wouldn't be any inclusion of the Waterview Street site as being - - -?---Yes.

- - - of the Waterview Street site as being either rezoned as B4 mixed-use or having the same levels as the - - -?---Yes. Yes. Yep.

20 - - - that part of Waterview Street that is south of Second Avenue, correct? ---Yes, yes.

And you weren't happy with that because you wanted a motion that would have exactly the same as the other side of Waterview Street, five levels, bonuses on Great North Road, and 2.5:1 in Waterview, correct?---That had been the, my, my advocating from day one. My, my advocating had never stopped.

But that's what you wanted.---Well, the process that, that allows that, yes.

30 “We want a motion, if it's not tomorrow, next meeting, exactly the same as the other side of Waterview Street, five levels, bonuses on Great North Road, and 2.5:1 in Waterview.” Do you see that?---Yeah, I do.

“We want a motion.”---Yeah, so again - - -

40 Yes, so that's what you wanted.---Again, they're, they're emails, sorry, they're text messages between colleagues that have known each other for a long time, and when you take them into the public arena, they have a different meaning.

THE COMMISSIONER: But what's it matter if they're between colleagues? The words are the words written, as spoken by you. Does it alter the meaning if it's between colleagues? In this particular case, message number 68.---I, I think it does. When you have a discussion privately, you may word things differently if you knew it was to be public.

Well, the words, “We want,” that's the ordinary English meaning, isn't it? That you - - -?---Well, Pacific Planning.

“We want a motion, if it’s not tomorrow, the next meeting, exactly the same as the other side of Waterview Street, five levels, bonuses on Great North Road, and 2.5:1 in Waterview.” That’s clearly stating, isn’t it, in very clear terms, what you wanted.---Well, it says “we.”

But that includes you.---The, the advice from Pacific Planning - - -

10 Does “we” include you?---Well, the advice from Pacific Planning - - -

No, no, no. Does “we” include you?---Yes.

Thank you.

MR RANKEN: And in any event, as we’ve already covered, the matter was adjourned or, sorry, deferred on 6 December, 2016, correct?---And does, can we go to that summary, please?

20 Yes, if you’d like to be taken to it.---Thank you.

If we could go to page 1364.---Just to the end, the recommendations, would be great.

The recommendations or the resolution?---The recommendations. And, and the vote.

30 No, the resolution was, it was moved by Councillors Kenzler and Parnaby that the item be deferred for consideration. Do you see that? At the first councillor workshop in 2017.---Yeah, and, and what were they resolving?

That is the resolution.---That the - - -

Item 5, Exhibition Outcome, Changes to Planning Controls for the Land on Waterview Street, Five Dock.---Oh, yep. Oh, so there was no discussion on the item?

40 Well, there was probably some discussion on the item. But the resolution that was passed is that this item be deferred for consideration at the first councillor workshop in 2017.---Okay. All right.

Do you see that?---Yes. So obviously the councillors were talking to each other, independently, because they, it was moved by the ALP.

Now, the matter then was to come before the council on 7 February, 2017. And you will recall that on that occasion, effectively the council adopted or resolved for the planning proposal which involved the removal of the heritage listing for 39 Waterview Street to go to the Department for a Gateway Determination.---Yes.

And there was an additional paragraph added that said that if the owners of property in the area believe there is a better planning outcome to be achieved, then the recommendation they lodge a planning proposal in the normal way.---Yes, I recall that very well.

But you also recall from that meeting that in the course of the meeting, Councillor Kenzler foreshadowed a rescission motion, correct?---Yes.

10 And the rescission motion proposed in effect going back to a position that would involve the retention of the heritage listing of 39 Waterview Street. ---Oh, back to it – square 1. And, and, sorry, and that was only – that didn't refer to anything else in the town centre?

No, it was only in respect of this planning proposal, because - - -?---Okay, the other one had already gone.

- - - you recall that the other one had already gone and in fact I think may have even been gazetted by that stage?---Right, okay.

20

And that was of some concern, that there might be some rescission motion that was heard, to you because that would necessarily be a step backwards if the heritage listing was retained?---Yeah. Particularly when they had moved to defer it.

Exactly.---That, that, that's played out exactly like the politics, I, I suggested.

30 THE COMMISSIONER: I don't think you need – I think you've answered the question. Don't - - -

MR RANKEN: And in fact you contacted the Liberal councillors in a panic about that, didn't you?---I don't recall being in a panic.

Well, if we could go to page 1792 and if we could go to messages 56 to 58. So starting at 56, see Ms Cestar says, "JS called in a panic over next meeting. Bloody hell." And the next meeting after 16 February, 2017, was 21 February, which was when the rescission motion was to be heard.---Yep.

40 And Mr Megna has said, "He called Helen and me."---Yes.

So it's apparent you'd also spoken to Councillor McCaffrey and Councillor Megna?---Yes.

About the next meeting.---Yes.

And Ms Cestar has said, "OMG. When will it end?" Do you see that? ---Yes.

And then at the meeting of 21 February of 2017, were you aware that a – sorry, withdraw that. At the meeting of the council on 21 February, 2017, the rescission motion was put but was ultimately defeated on the casting vote of the mayor?---Yes.

10 But in advance of that meeting, this Commission has heard evidence that Mr Matthews sent to Councillors Cestar and McCaffrey and copied to Councillor Ahmed and Council Megna an email, which is at page 1428 and following, which encouraged them not to support the rescission motion but also asks them to add some further points to the decision of 7 February, 2017.---Yes.

And those further points were to apply the bonus height provision to the land that fronts Great North Road, bound by Second Avenue and Barnstaple Road, to permit a building height of 14 metres and a maximum floor space of 2.7:1, where land has a site area of 1,000 square metres and a street frontage of at least 20 metres. Do you see that?---Yes.

20 And do you see also that the planning proposal should be amended accordingly and submission to the Department of Planning and Environment for a Gateway Determination?---(No Audible Reply)

We may have to go over to the next page.---Oh, sorry. Yes.

It's the 1 and 2 that are in italics.---Got you, yep.

30 So, that was seeking to have made some further change that would bring in greater height to the properties that fronted Great North Road?---I see that, yes.

And was that consistent with, or in fact actually going beyond a little what you were pushing for in your text message to Mr Daniel, where you said that you wanted the same as the other side of Waterview Street, five levels, bonuses on Great North Road, and 2.5:1 in Waterview?---I don't remember this one. I don't remember that.

40 So you don't remember having any discussions with Mr Matthews or Mr Daniel about getting this sent to the Liberal councillors?---No. Because Pacific Planning were pretty much dealing directly. I, I would assume they would talk to me on most things but I, I just don't recall this one. I, as I said, I remember, recall speaking and being content with what had happened but I, I just don't recall this one.

So, you were aware that this representation was going to be made to the Liberal councillors but you just can't recall the circumstances in which you became aware?---I, I don't even recall this going to the Liberal councillors.

Well, if we go back to page 1428, it's plain that it did go to the Liberal councillors because it's sent to Ms Cestar, Ms McCaffrey, Dr Ahmed and Mr Megna?---And, and I'm in there, am I.

No, no. No, I'm saying this is sent to the councillors. Well, it wouldn't have been sent to the councillors without your knowledge, would it?---Well, it's possible because by that stage Pacific Planning had been dealing directly, talking to council staff, talking to councillors.

10 But Pacific Planning were engaged to represent the interests principally of your family's properties. Correct?---Correct.

They're not going to engage in communications without any authority from those who have engaged them to do so.---No, but they'd been engaged and given the authority to do what they thought - - -

So you'd given them the authority - - -?---Well, I - - -

20 - - - then to seek some change that would ensure that there was a maximum building height of 14 metres and a maximum floor space of 2.7:1 where the land - - -?---Not exactly what's there, but the principles behind what had been the advice given over a considerable period of time.

Come on, Mr Sidoti, you know how this works. When consultants are engaged to represent the interests of someone, they take their instructions from that person. Correct? They don't go on frolics of their own to suggest things that and to advance - - -?---I just don't recall - - -

30 Hang on, just let me finish the question.---Sorry.

They don't go on frolics of their own to put forward recommendations for resolutions at council meetings without obtaining the imprimatur of those who provide them with their instructions.---I'd agree with that.

So you must have had some foreknowledge of the fact that this representation was going to be made to the councillors.---It's consistent with what Pacific Planning had been advocating via the process that they explained, but all the detail of it right down to being two pages with specifics, no, not exactly.

40 No, but let's just deal with 1 and 2, the part of the recommendation on page 1429. You must have known before this email was sent to the councillors that Pacific Planning were going to suggest to the councillors that there should be this amendment to the motion of 7 February, 2017. ---Yes, possible, yes.

Isn't it likely?---It's, one would think. I just don't recall that.

Whether or not you actually have an independent recollection now, will you accept that it's likely that you did have knowledge that they were going to send this to the Liberal councillors?---I just can't say yes a hundred per cent. I just can't. I just don't.

THE COMMISSIONER: Do you think it's likely?---It's, yeah, it's possible, but I just don't - - -

10 No, no. I didn't say that.---Yeah. It's hard for me, I just don't remember. I should remember something like this if I've seen it in all that detail.

Do you think it's likely that you would have seen it before Pacific Planning took it upon themselves to copy in the Liberal councillors? You being the Liberal member of parliament, the local member and having been engaged in their retainer?---Well, I would have thought I'd be CC'd in on the email as a first step.

20 Sorry, what's the answer to my question?---I, I, I – your question was was it likely?

Yes.---Mmm, I just really can't – I would have seen it.

Would you have seen it before it was sent to the Liberal councillors?
---Unless it was explained to me and then sent without me seeing the final copy, that's possible.

What's the answer to my question?---Possible.

30 MR RANKEN: Now, if we just go to 1430, so perhaps you saw it in this form, without all the rest of the detail. This was an attachment to the email.
---Yes, I think that could be – yes.

So is this the position, that you don't recall seeing the detail, the email that actually accompanied it, but you were aware that they were going to be sending this to the councillors?---I've seen this. I've seen that, yes.

40 And what you were hoping for is that the councillors would move this motion and pass it at the council meeting on 21 February, 2016, 2017?
---The, the advice I had, the advice I had from Pacific Planning was that this was part of the process that you could suggest something else.

THE COMMISSIONER: Could you answer the question now?

MR RANKEN: But that's what you wanted – sorry, Commissioner.

THE COMMISSIONER: Mmm. Would you answer the question, please?
Do you recall the question?---Ah - - -

MR RANKEN: This was the resolution that you wanted the councillors to move and pass at the meeting on 21 February, 2017.---That, that, that, well, that's one that they could.

No, that you wanted.---Well, I didn't want anything. It's up to them.

Oh, you didn't want them to do that?---It's up to them. No, no, it's part of the process, they're allowed to move whatever they like.

10 THE COMMISSIONER: It might be part of the process.---Sure.

But was it what you were hoping as an outcome?---I, I think that there is the ultimate outcome, but I'm, it's not up to me.

Please. You keep avoiding my questions. I'll put it again. Were you hoping that the outcome would be that the additional two points we see on the screen, numbered 1 and 2 on page 1430, would come to pass?---No.

20 You were not hoping that the resolution would be passed in those terms?
---No. I was hoping they would consider it.

MR RANKEN: Well, you must have wanted them to consider it for a reason.---Well, you have to consider everything, that's the process. The process allows you to consider. If the process didn't allow you consider, it's a different story.

30 Well, we'll go back to my original three alternatives. Either you wanted to see them pass that resolution or you did not want them to pass that resolution to you were indifferent to them passing that resolution.---Well, the indifferent if that means consider, yes.

No, were you indifferent to whether or not they passed it? You didn't care one way or the other?---Oh, yes.

"I don't care whether you pass that resolution."---Yep. Correct.

Despite what you had said in your text message to Mr Daniel in December about what you wanted in terms of a motion?---Yes.

40 Either at the December meeting or at the next meeting?---Yes.

In fact, that's not what you wanted? You just were indifferent about it?
---But, but you're, you're pulling conversation between colleagues out of context.

THE COMMISSIONER: Please, Mr Sidoti - - -

THE WITNESS: This is not a - - -

THE COMMISSIONER: Please, Mr Sidoti, would you answer the question?---I'm indifferent. Thank you.

Now, Mr Ranken, is that a convenient time to break for the luncheon adjournment?

10 MR RANKEN: Yes. I have one topic to complete and a very small aspect of another topic but I would hope to be done relatively soon after the luncheon adjournment.

THE COMMISSIONER: All right. Very well. We'll take the luncheon adjournment and resume at about 2.05.

LUNCHEON ADJOURNMENT

[1.08pm]