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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION WITNEY

Reference: Operation E19/1452

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 23 APRIL, 2021

AT 2.00PM

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

THE COMMISSIONER: Yes, Mr Ranken.

MR RANKEN: Thank you, Commissioner. Now, as it happens, Mr Sidoti, at the meeting of 21 February, 2017 the rescission motion was defeated on the casting vote of the mayor, Ms McCaffrey, but the further resolution that had been suggested by Mr Matthews in his email to the councillors was not
10 moved or voted upon. Correct?---Yes.

And then the planning proposal in respect of the Waterview Street site went off to the Department for a Gateway Determination. Correct?---Yes.

And that did provide, so Pacific Planning to make further representations to the Department, or there were some steps by Pacific Planning to make some representations to the Department. Correct?---Yes.

20 And it was the case, was it not, though, that the Department advised that because Pacific Planning was not the applicant, it could not consider those representations, because it needed to come from the council, something along those lines?---Oh, I wasn't aware of that.

But in any event, the planning proposal eventually came back to council in early 2018. February 2018, that is.---Yes.

Which was after the council elections that took place in September 2017. ---Yes.

30 And by which time the makeup of the council had changed, particularly insofar as the Liberal councillors were concerned.---Yes.

And after the September 2017 elections, the Liberal councillors on the City of Canada Bay Council were Mr Megna, Ms Di Pasqua, and Mr Yap.---Yes.

40 Now, I want to suggest to you that over the course of this period between late 2013 and mid-2017, your family had embarked on a strategy of adding to the family's property portfolio in the Five Dock area by purchasing properties within the Waterview Street block which focused on properties that adjoined 120 Great North Road.---Property, in the Waterview Street block.

Well, when I refer to the Waterview Street block, I'm referring to that block of land and properties that is bound to the south by Second Avenue, to the north by Barnstaple Road, to the east by Waterview Street, and to the west by Great North Road.---Yes.

Correct?---Yes.

Yes, so you agree then with me that the - - -?---Yes.

And the reason that your family had embarked upon that strategy was with a view to the possibility of developing those sites.---Yes.

And the reason why you sought to acquire properties that adjoined 120 Great North Road was with a view to being able to amalgamate the sites for the purposes of development.---Yes.

10

I also want to suggest to you that throughout this period, your focus insofar as the Five Dock Town Centre Study was directed initially to the prospect of achieving a greater floor space ratio and heights on all sites.---Yes.

And then following the council proposing the bonus provision, it was only following that that your family started acquiring these additional sites? ---Oh, I wouldn't agree with that.

20

You don't agree with that, that it was only after the bonus provision was decided upon by council?---It may have happened that way but, but it wasn't for that reason.

But do you agree that necessary preceded, in that occurred before, your family started to acquire other sites in that Waterview Street block?---No. Because they purchased one after everything had been done anyway, which is 124 Great North Road. So that wouldn't be in line with what you said.

30

I don't think you've understood the proposition I put to you. Your family did not start acquiring the additional sites in the Waterview Street block until after the council had already put forward, as part of its planning proposal, the possibility of a bonus provision for amalgamated sites?

MR NEIL: Well, there was a proposal Commissioner.

MR RANKEN: That's what I said.

MR NEIL: It was never put forward. It didn't go to a Gateway, well it wasn't put forward.

40

THE COMMISSIONER: Well, it did surface, didn't it, however you describe it. Do you want to - - -

MR RANKEN: Well, with respect to my friend, that's not correct. It was put forward as part of the original proposal that went to the Gateway Determination in June – as result of the decision of the - - -

THE COMMISSIONER: Put it in those terms then.

MR RANKEN: So, your family did not start acquiring properties in that Waterview Street block until after the council had resolved to forward to the Department for a Gateway Determination in June 2014, a planning proposal that included a bonus provision for amalgamated sites?---Oh, sorry, I still don't understand the question, sorry. They purchased in 2 Second Avenue in October 2014.

10 That's right, October 2014. Do that was necessarily after the council had resolved to forward a planning proposal to the Department for a Gateway Determination which had as part of it a bonus provision.---But there was no bonus provision in Waterview Street. Does that, does that answer the question? Sorry.

Well, no, it doesn't.

THE COMMISSIONER: Just listen to – put it again so he understands.

20 MR RANKEN: Do you recall that there was a resolution of the on 24 June, 2014?---Okay, yes.

And that resolution proposed that the planning proposal that had been developed following the Urban Design Study should proceed to the Department for a Gateway Determination?---Yes.

The planning proposal that proceeded on that occasion did have as part of it a proposed bonus provision for sites that had an area over 1,500 square metres and a frontage of 20 metres, correct?---Yes, yes.

30 And it was not until after that had been sent to a Gateway Determination that your family started acquiring other properties in the Waterview Street site?---Well, the dates show that, yes.

That's all I'm asking, you agree with that?---Sorry, yeah.

40 And that thereafter your focus shifted to the issue concerning the zoning of the Waterview side of that Waterview Street block?---My focus has never shifted. It's always been on both sides. I've always represented by constituents there, the Cassis, well before my parents even had property in 2014, in October. I was always responding to the concerns of my constituents.

Insofar as you responded to the concerns of your constituents, they were only ever the concerns that related to the Waterview Street site.---No, they came from everywhere, the concerns came from other areas as well. We've seen that.

You did not make representations in your capacity as the Member for Drummoyne in respect of any other issue other than issues that directly affected the Waterview Street site.---No, I wouldn't agree with that.

Do you agree that in respect of each occasion when the matter was to come before the council for decision that you took the initiative to attempt to contact the other Liberal councillors, specifically Councillors McCaffrey, Cestar and Ahmed, to meet with you as a group?---Yes.

10 So that you could discuss with them the proposals before council.---Yes.

Do you agree that on the plain meaning of the words that were used in your communications with those councillors, that you sought to persuade the councillors to particular views or positions that accorded with your views? ---No.

Do you agree that you on occasion used language that sought to frame the issue as a political one which cast it as a contest between Liberal and non-Liberal views?---No.

20

Do you agree that you sought to call in a, the sense that you and the Liberal councillors should be part of a team in relation to the planning proposal? ---No, we're a team, but not a team as a part of a planning proposal, no.

In relation to the planning proposal.---No, I wouldn't agree with that.

Do you agree that in the course of your communications from time to time you made allegations about the conduct of Labor councillors and council staff that were without substance or foundation?---Yes.

30

Do you agree that you also used threats in respect of the Liberal councillors concerning their political futures if they did not do what you wanted them to do?---Never.

Do you agree that from time to time you provided the Liberal councillors with the form of words for recommendations and proposed resolutions in the expectation that those recommendations or resolutions would be moved without the non-Liberal councillors having any prior notice of those resolutions?---I'd agree with the first part of your question but not at the end part without Labor not knowing, because it was always discussed and staff always spoke to councillors and vice versa.

40

Would you agree with the characterisation of your contact with the councillors in the lead-up to each of the meetings at which it was decided, that is the Five Dock Town Centre Study and associated planning proposals, was persistent?---No.

And that you provided pressure to those councillors that was relentless?
---No, that's false.

THE COMMISSIONER: Did you apply any pressure - - -?---No.

- - - to any of the three councillors - - -?---No.

- - - at any stage in relation to the Five Dock Town Centre Plan or issues arising under that plan or study?---No.

10

MR RANKEN: Do you agree that you did not keep yourself at arm's length from the Five Dock Town Centre proposal?---No, I believe I did.

Do you agree that you had a financial interest, insofar as your family's property interests were concerned, in the outcome of the Five Dock Town Centre Study and any planning proposals?---Sorry, could you say it again, please?

20

Do you agree that you had an interest, in the sense that your family had property interests, in the outcome of the Five Dock Town Centre Study and planning proposals?---I never saw it that way.

Do you agree that you never disclosed to any of the Liberal councillors that your family had acquired the properties at 2 Second Avenue or for that matter 122 Great North Road?---No, I disagree with that totally.

30

When do you say that you disclosed – you, that is you personally – disclosed to any of Ms Cestar, Dr Ahmed, or Ms McCaffrey that fact that your family had purchased 2 Second Avenue?---We'd met on numerous occasions, and it was my standard practice, I, I recall when we purchased in 2014, mum and dad, it was mentioned then, and 2015 when 122 was, and I even recall one of the meetings in my office, I took them on a tour, because it's literally in front. So they were all very well aware, and so were all the staff, the town planning staff, as came up in the evidence. So there's no possible way of any selective memory loss on issues like that. The decision-makers at all time knew who owned what and where.

40

Do you agree that each of the councillors had said that they were not aware of the fact that your family had purchased those others properties?---I heard the evidence.

THE COMMISSIONER: What standard practice were you referring to when you said on numerous occasions disclosed to the Liberal councillors, 2 Second Avenue?---I was advocating strongly for the Chamber of Commerce at the time, and, and there was a complaint in Waterview Street, and at the time – it shifted afterwards, because after they purchased 2 Second Avenue, that became part of the block behind. And so when we had a discussion

after 2014, I distinctly recall when I met, I said to them, just want you to know, this is in the block.

What was in the block?---2 Second Avenue, in the back block. So they were, they were very well aware. And I actually took them on a tour, and pointed out where 120, 122, and 2 Second Avenue were. So they knew everything in proportion, to where everything was.

10 And where did this meeting take place when you say you told the three Liberal councillors that your family owned 2 Second Avenue?---In, in one of the meetings in my office.

Which meeting?---Oh, there were several.

So you repeat - - -?---There were literally 10 meetings over three and half years.

20 Is your evidence that there was not one but several meetings in which you specifically disclosed to the three Liberal councillors that your family owned or had a financial interest in 2 Second Avenue?---Yes, there's, there, sorry, there's at least three, definitely, but there's probably more.

At least three?---Yes.

And what about 122 Great North Road?---Yes.

30 What?---I, I took them, I, I took them – because the, the meeting was in my office, it's three doors up. I took them to show where everything was in proportion.

What about 124?---I, I think that may have been after their time. I could be, stand to be corrected there.

MR RANKEN: That was in 2017, was 124.---Yeah, I'm not sure when in 2017. I don't recall that one. But, yeah. And the 120, as I said, everyone has attended.

40 THE COMMISSIONER: Have you heard any evidence given in this Commission inquiry that you did disclose your family interests, other than perhaps the general knowledge about the function centre in the community?---You may have asked the question. I don't recall them ever being pressed on the question. That may have been asked.

Yes, Mr Ranken.

MR RANKEN: Do you agree that these meetings that you had with the Liberal councillors was only possible by reason of the position you occupied as a member of the Liberal Party and as the Liberal member for the seat of

Drummoyne?---Only because I was? No, if, if, in the reverse position of the councillors, they would be in the exactly the same position. We're, we're a team. So, I don't think so.

So I'll repeat my question.---Please.

10 Do you agree that the ability for you to arrange these meetings was only possible by reason of the fact that you were the Liberal member for the seat of Drummoyne?---No. I think the same thing could apply if you were the federal member or any other member of the party. I think – no, no.

THE COMMISSIONER: No, not talking about federal members. We're talking about your position as the local member.---Sure. No, I don't believe I'm the only one.

MR RANKEN: Well, do you agree that it was only possible by reason of the fact that you were a member of the same party as those Liberal councillors?---No. Probably not even in that situation,

20 Well, what about, do you agree that it was because of the fact that you held a particular position within the party that enabled you to be able to organise those meetings with those councillors?---No, I wouldn't agree with that either.

Now, I want to ask about the preselection process concerning the local council elections in 2017.---Yes.

30 You wrote a reference in support of Ms McCaffrey's nomination, correct?
---Yes.

And you understood when she was nominating that you expected that she was putting herself forward, not only for the mayoral position but also other positions on the ticket?---At, at that date, do you recall the date of the reference? Is that February/March/April or something like that?

I think it was April 2017.---Yes. I, I, I came to, to, to know it at that point, yes.

40 And so you expected that in April 2014, when you wrote that reference, that she would be applying not only for, or nominating not only for mayoralty position but also for other positions on the ticket?---I'm not sure.

You would expect, I mean, from your own knowledge of how local council elections work, you would expect that someone who was putting themselves forward to be the mayoral candidate for the Liberal Party would also seek to be one or other of the, either the first or second position on the ticket?---One would think you would be number 1 on the ticket. I, I haven't heard of anything after that.

Certainly they would expect to be number 1 if they were going for the mayoralty?---I think so, yes. That, that would be the - - -

That would be a reasonable assumption, correct?---Yeah. I don't think there's any rules but I think that's the reasonable assumption.

10 But if not number 1, number 2 on the ticket?---Well, I, I wouldn't suspect anything after 1 to be honest with you but it's, that's, that's a process that you, you can actually do whatever you like and then ultimately it's up to whoever the selectors are.

I understand that but if someone was going to be the mayoral candidate, you would expect the party to put them up fairly high on the ticket?---You would think so, yes. But the, the party hasn't put anyone up, you put yourself up initially.

20 I understand that but one puts one – so you would expect someone who was nominating for the mayoral position to put themselves forward in position 1 or 2 at least?---Yes. I could say that, yes. The higher the better, your position, if you're mayoral candidate.

And do you say that when you wrote your letter of reference for Ms McCaffrey in April 2017, that you did so on the understanding that you were supporting her nomination both for the mayoralty but also for either probably the number 1 position or the number 2 position?---No. You don't, you, it doesn't work like that. She asked me for a reference.

30 A reference. I understand that.---I'm, so I'm assuming that she's planning to run and, and I, I think, I'm not sure if that reference went everywhere or whether it just went to the state director. But I was supporting.

Yes, but supportive of her being in either the mayoralty and 1 or 2?---Well, I'd say yes.

From your understanding about the process, that's what you - - -?---Well, I'd say yes but it's hard to commit to anyone until you actually know who's in the field.

40 But you had written this reference. Correct?---Yes, yes.

And you subsequently came to learn that the field was fairly crowded, if I could use that word?---Yeah. I had some telephone calls early on in the piece saying, "Who do you think's running, has anyone shown any interest?" And I, I'd heard of numerous names that came up, but you don't really know until nominations close.

But one of the name was Stephanie Di Pasqua.---Yeah, Stephanie approached me, yes.

Yes, she approached you and she ran it past you because she was interested in running for council.---Correct.

And you were supportive of her running for council as well.---Yes.

10 And did you then change your view as a result of learning that Ms Di Pasqua was going to run for council as to whether or not you should support Ms McCaffrey?---So when the nominations closed then we knew exactly who was in the field, I was always very supportive of, of Stephanie.

Well, did you – that doesn't answer my question.---Oh, sorry. Sorry.

Did you change your view in terms of the support that you were prepared to offer Ms McCaffrey as a result of Ms Di Pasqua putting her hat in the ring? ---No, not particularly.

20 So you were still supportive of Helen McCaffrey?---Yes, yes.

And you understood that Helen McCaffrey was nominating for the mayoralty position?---Yeah, I subsequently came to know that, yes.

And positions 1, 2, 3 and 4.---Correct.

You are aware that there was some confusion in relation to the forms initially.---Yes.

30 And there was a determination that was made by the state director or his deputy - - -?---Correct.

- - - to deem it that Ms McCaffrey had in fact nominated for all four positions on the ticket as well as the mayoralty.---That was the decision, yes.

40 And had you had conversations with Mr Joseph Tannous about the preselection process?---Yes, I've had discussions, as the local member a lot of people came my way and, and there were a lot of telephone calls. That's the general nature of a preselection.

Mr Tannous was someone who was well-known to you?---Yes.

Apparently because he had been your campaign manager both in 2008 and 2011.---Yes.

And you two were members of the same faction. Is that correct?---Yes.

THE COMMISSIONER: Was he also known as a powerbroker within the Liberal Party?---Powerbroker, ah - - -

No, yes or no?---(No Audible Reply)

Let's not spend time over it.---Okay.

I just wanted a yes or a no or whatever the decision be.---He's been called that many times, so yes, okay.

10

Thank you.

MR RANKEN: Do you understand he accepted that characterisation when he was giving evidence in the witness box in this public inquiry?---I might have missed that part, but I take your word if that's what he said.

So your discussions with Mr Tannous were about how to, were they about how to arrange for support for a particular ticket?---All about the preselection, who had nominated and so forth, for a particular ticket - - -

20

THE COMMISSIONER: Sorry, is that a yes or a no?---For a particular ticket, it came up, yes.

MR RANKEN: Yes. And was the particular ticket that the two of you discussed one that involved Mr Megna at number 1, Ms Di Pasqua at number 2 and Mr Yap at number 3?---That's how it ended up, yes.

And that was the ticket that the two of you promoted?---Yes.

30 And the two of you spoke with preselectors. Correct?---Yes, we had.

And did you divide up between you the preselectors whom you would contact, each contact?---I don't think it was formalised like that, no.

THE COMMISSIONER: It may not have been formalised - - -?---I don't think - - -

No, just a moment.---Sorry.

40 It may not have been formalised, it wasn't suggested in the question that it was. Was it divided up that you and Mr Tannous would lobby, contact, whatever word you want to use, different groups of delegates?---My understanding was Mr Tannous - - -

No, no, no, no, not your understanding.---Okay.

We're trying to get fact.---Yeah.

So if you could just concentrate on the question. Did you or did you not divide it up in the way the question indicated?---I just recall talking to a few
- - -

No.---I can't answer that.

Why can't you answer it?---Um, I don't know.

10 The question asks did that happen, that you would speak to some delegates, for whatever reason Mr Tannous would speak to others, perhaps for efficiency purposes or for some other purposes. I'm just trying to get to the first base as to what were the methodologies, that's all.---I, I spoke to a few local members, and I know Joe spoke to some state executive members. That's the knowledge of what I know.

MR RANKEN: And that was the broad division of labour, as it were, albeit may not have been formalised in any formal communication, but from your discussions with him - - -?---That's correct. Yes.

20 - - - that he would lobby, for want of a better word, the state office-appointed delegates, and you would lobby the branch-appointed delegates. ---No, you talk to people that you think you know.

Yes, but delegates within the branch.---Yes.

To that end, you had communications yourself with Mr Henderson.---Yes.

Mr Vellar?---Yes.

30 Mr Vellar was an adviser to the Minister of Planning at the time. Was that correct?---Yes, sounds correct.

And he was from your branch, that is, the branch of Drummoyne.---Yes.

You also communicated with Mr George Orban Junior.---Yes, I'm not sure if it was with, in regards to, to, to preselection. But I've spoken with George on many times.

40 And did you also communicate with Kevin Long?---Yes.

Robert Cousins?---Yes.

Jeannette York?---Yes.

Kenneth Blunden?---Yes.

Sarah Lawrence?---Yes.

And was she a senior advisor to you at the time as well?---I, mmm, I don't think so at that time.

Did you also communicate with Mr Alexander Dore who was from the Young Liberals?---I've spoken to Alex, but I'm not sure if it's about that, on many occasions.

And the purpose of you speaking with them was to throw your support behind the ticket of Mr Megna, Ms Di Pasqua, and Mr Yap, correct?
10 ---Yeah, so most of those, yes.

You understood at the time that you were doing so that that was contrary to the interests that each of Ms McCaffrey and Ms Cestar had in the preselection process?---I wasn't thinking about that, I was thinking about the best possible team to win an election. That thought never entered my mind. The strongest candidates.

The thought never entered your mind that in fact what you were doing was, well, the effect of what you were doing was likely to mean that either one of
20 them would not even make it onto the ticket - - -?---No.

- - - and whoever did make it on the ticket would have the least chance of anyone on the ticket of being successful at the election?---No, ultimately that's the decision for the preselectors.

No, but you were - - -

THE COMMISSIONER: Just answer the question, if you wouldn't mind.
---I thought I was.
30

No.

MR RANKEN: No, you were acting in a way that was seeking to persuade the preselectors to support the ticket that you and Mr Tannous were promoting, correct?---Yes. Yes.

If they were to act in accordance with the way that you and Mr Tannous were lobbying them, then that would result in a situation where one or other of Ms Cestar or Ms McCaffrey, or for that matter Dr Ahmed, would not
40 even make it onto the ticket.---That's on the basis that they're sheep, yes.

And secondly, that whoever of those three did make it onto the ticket would be on the lowest position on the ticket. Correct?---No, but that's a decision for the preselectors. It's, there's a lot of ifs here.

That was the outcome that you and Mr Tannous were working towards when you were lobbying and trying to persuade the selectors to support the ticket that you were promoting.---That's the preselection process, yes.

Yes.---Yes.

It's a political process.---Yes.

You're part of the political party.---Yes.

And that was the outcome that you wanted.---Well, honestly, that, that may have been the outcome that occurred - - -

10

No, that was the outcome that you wanted. You and Mr Tannous wanted that outcome.---No, I think the preselectors wanted that outcome.

THE COMMISSIONER: No, we're not talking about them. We're talking about you - - -?---Oh, okay.

You and Mr Tannous.---Yes, yes.

MR RANKEN: And the steps that you took to support that ticket.

20

---Candidates, yes.

And do you say that it played no part in your motivation that the Liberal councillors, that is Councillors McCaffrey, Cestar and Ahmed, had ultimately not gone along with the resolutions that you had asked them to move at the various meetings of the council at which the Five Dock Town Centre Study was decided upon?---So just break that down?

So you say that it played no part of your motivation - - -?---Correct. No, no, no part at all.

30

No part at all?---No.

THE COMMISSIONER: Was there any intention by you to assist in organising the ticket in the way that's been discussed in evidence now as a way which you wished to express your displeasure at the fact that the three councillors ultimately did not support the substantive resolutions you wanted to have passed by council in relation to the Town Centre Plan? ---There is no relationship at all.

40

MR RANKEN: I wonder if we could bring up page 1864. This is an exchange of text messages between Mr Daniel and Mr Megna. Can you see that?---Yes.

And it appears that Mr Daniel is corresponding with Mr Megna about some matter that was a planning matter before the City of Canada Bay Council, and do you see that Mr Daniel initially asked, "Can you add that point to allow the Gateway to consider? M." And then, "It is actually the secretary that deals with the issues, not council. The Department asked that to be

included, a simple note.” And then Mr Megna has responded to say, “Mirjana and Helen aren’t prepared to amend the recommendation. I have texted them both if they will. Labor won’t amend. Labor’s Fasanella may have support if Libs were all onboard. The recommendation will succeed as printed. Green will vote against anything.” Do you see that?---Yes.

And we’ve established that it’s likely that this did not relate, the particular issue, or planning issue, was not one that related to the Five Dock Town Centre Plan?---Yes.

10

Because firstly, obviously, it involves Mr Megna but more specifically Mr Megna’s referred to the fact that, “Labor’s Fasanella may have supported if the Libs were all onboard” and we know that Council Fasanella excused himself in relation to the Five Dock Centre Study, much the same way that Mr Megna did, correct?---Yes.

20

Then if we go over to the next page, and Mr Daniel has expressed his disappointment. “This is disappointing. It is one line in addition. How does the council think they are going to get the laneway? M.” And Mr Megna has responded, “I know. Speak to Sidoti about Mirjana and Helen’s astuteness in planning matters and his moves to remedy this at the coming preselection.” Do you see that?---Yes.

“Tanveer has no idea at all on planning and goes with the flow.” So it’s plain from that text message that Mr Megna seems to have an understanding that you had a particular view about Mirjana and Helen’s astuteness in planning matter and that you had some move to remedy that at the coming preselection, correct?---No. That’s not my email. That’s a discussion - - -

30

I’m not saying that it’s your email.

THE COMMISSIONER: It wasn’t suggested that it was your email. If you - - -?---You’re asking me to comment on what two other people have said.

No, no, no. Please, Mr Sidoti, will you just stop talking for a moment? It wasn’t suggested that it was your email. If you listened to the question carefully you would have understood that. So, we’ll go back over it again.

40

MR RANKEN: It’s plain from that message that Mr Megna has sent that he is under the impression that you had a particular view about Mirjana and Helen’s astuteness in planning matters and that you also had moves to remedy that at the coming preselection.---I, well, I don’t know where he would get that idea from.

Well, I’m going to suggest that he’d get that idea from speaking with you. ---No.

So you did not express to Mr Megna any views about Mirjana and Helen's astuteness in planning matters?---I had, I had over the, the, the course of the years I've known them, yes.

But do you say that you did not say to him anything about having any plans to get rid of them at the coming preselection?---No.

10 Because of your view about their astuteness in planning matters.---Planning doesn't form a view on the, on the Richter scale when it comes to selecting candidates.

So Mr Megna was someone who you had known for a long time. Correct? ---Yes.

You knew him to be I think a very competent councillor. Correct?---Yes.

He was not someone who was prone to wild fancies?---Well, it seems he is. He's gossiping all the time.

20 THE COMMISSIONER: Just a moment. Would you please mind not just making statements but listening very carefully to the point of the question and then directly answering the question. Amongst other things it saves time and it is what you are obliged to do as well. So we'll start again.

MR RANKEN: I'll put it another way. You did not know Mr Megna to be a person who made up things?---I think from time to time people exaggerate.

30 Well, there must have been something to exaggerate then, so you must have expressed something about the preselection.---I can't tell you how he's come to that view in a conversation that I'm not even involved with and haven't spoken to him about.

Well, if I could suggest to you that he came to that view because of a conversation that he had with you.---No. He may have come to that view on his own accord and why he's mentioned me I've got no idea.

40 And you would agree, don't you, that the result of the preselection meant that Ms McCaffrey was number 4 on the list?---Yes, I recall that.

And ultimately she was not successful in being elected to council. Correct? ---Yes.

And that meant that of the three councillors who were able to vote on the planning proposals associated with the Five Dock Town Centre Urban Design Study, none of those councillors were re-elected to council in September 2017. Correct?---Yes.

And do you agree that prior to the election in 2017, you had never spoken with Ms Di Pasqua about the Five Dock Town Centre Study or the associated planning proposals?---Prior to - - -

Prior to the local government elections in September 2017.---I don't recall.

10 You heard her evidence that she wasn't even aware of the Five Dock Town Centre Urban Design Study prior to being elected to council?---Oh, that's a course for the record. I don't remember her saying that, but yes, I'd take your word for it.

You heard her evidence, she said that you never spoke to her about it before she was elected to council.---It's possible, yes.

But you did speak to her about the issue prior to it coming back to council possibly in early 2018.---I think that was her evidence, yes.

20 And you took it upon yourself to explain the particular issue concerning the Waterview Street site by even drawing a diagram. Is that correct?---That's not my recollection.

Do you recall her saying that you drew it out for her, you drew a diagram? ---I may have, I don't recall that.

And did you expect, were you providing her with that information so that she could make a decision when it came to the council?---No, she wouldn't make a decision because she's always, she can't vote, she had a conflict.

30 Well, the matter hadn't come back before the council yet.---But regardless - - -

She hadn't declared a non-pecuniary interest in the matter yet. Are you saying that when you spoke to her you were aware of the fact that she was going to declare a non-pecuniary interest?---No, no.

40 So you weren't aware of the fact that she was going to declare a non-pecuniary interest.---No, I don't know. All I was aware of is, is the conversation I had in very basic terms just in case someone comes into the office and asks.

Is that what you say, you say that it was only in case somebody came into the office?---Predominantly, yes.

She'd been working in your office since 2014.---Yes.

This issue about the Town Centre Plan and the planning proposals had been back and forth between council and experts over the course of the period between 2014 and 2018. Correct?---Yes.

And yet it was not before early 2018 that you spoke with her and explained it, "Just in case somebody came in the front door," correct?---Correct. And do you need a reason or not?

She would have needed that information earlier when people were apparently coming in the door to make representations, correct?---Sure. But not, not when you work once a week or once every two weeks.

10 Well, you heard her evidence- - -?---Towards the end she was working full-time, or a lot longer.

She would have needed to have been aware of it, correct?---Yes.

In order to follow the system that you told us about yesterday where if they were prepared to give their name and their details that that could be recorded and entered into the computer, correct?---Correct.

20 So that could have happened at any time?---But all she needed - - -

That could have happened at any time, correct?---Yes. And it may have, have happened because she wasn't, she, she was one three staff members.

Yet she had no knowledge of the Five Dock Town Centre Study prior to it coming up on the council agenda after she had been elected to the council? ---And sorry, the question? Or is that a statement?

30 Well, I'm just suggesting to you, yet despite that she had no knowledge, correct?---Well, I'm, I'm, if that's the evidence she gave, that's, that's her, her evidence, yes.

Now, there's one final matter that I wanted to raise with you. You've given some evidence about the knowledge of your interest in properties, and in particular your knowledge or otherwise of the fact that you were the registered proprietor, one of the registered proprietors of 120 Great North Road, albeit as one of the trustees for the Deveme Pty Ltd Superannuation Fund, correct?---Sorry, I've given evidence?

40 Yes, you've given evidence that you did not know that you were the registered proprietor?---The trustee. I gave evidence, yeah, I, I did come to know that, yes.

But you told us that you came to know that in about 2017, was it?---That was my understanding, yes.

But that prior to 2017, you had no knowledge that you were one of the registered proprietors of that property, correct?---Yes, yes.

Do you also say that prior to 2017, you had no knowledge that you were a member of the superannuation fund on whose behalf the property at 120 Great North Road was held?---Sorry, the question? Can you - - -

Do you also say that you did not know before 2017 that you were a member of the super fund on whose behalf the property at 120 Great North Road was held?---I came to, to know that at a, at a certain point. I don't remember when.

10 Was it 2017 or was it earlier?---I knew I came to be on title in 2017 as I gave evidence to.

I understand that's what you say about being on title but I'm talking about the beneficial interest that you had as a member of the super fund.---Oh, beneficial, yeah. So the beneficial interest I came to know in 2019 when a lawyer, when a lawyer went through all of it for me.

So you say you didn't understand that before 2019?---Yes, yes.

20 After you'd been told that you were actually on title as well?---Correct.

So prior to that time, was it your belief that 120 Great North Road was owned, both legally and beneficially, by Deveme Pty Ltd?---Well, my parents, yes.

Or your parents.---My parents, that was my understanding.

That was your understanding, was it?---Yes.

30 I wonder if we could bring up in the disclosure brief page 144? This is a discretionary disclosure. We might need to go to the previous page, 143. Do you see it says, "Discretionary disclosures"?---Yes.

And if we go to page 144, "This discretionary disclosure was made on 4 November, 2014." Do you see that?---Yes.

And it's got your signature on it?---Yes.

40 And it was received by the office of Clerk of the Legislative Assembly on 4 November, 2014. Do you see that?---Yes.

And do you see that it says, "Below is a list of properties a super fund of which I am a member has invested in a unit trust which holds investment properties 120 Great North Road, Five Dock, 2 Second Avenue, Five Dock, 13 Andrew Street, West Ryde, 13/21 Arncliffe Street, Wolli Creek"?---Yes.

Do you see that? “I, John Sidoti, have invested in a personal fund trust called JAFS Investment Fund which has invested money in a property at 38 Cudgegong Road, Rouse Hill.” Do you see that?---Yes.

Now, just noting the date is 4 November, 2014, what was it that prompted you to put in this discretionary disclosure?---My understanding was I became the Parliamentary Secretary for Planning, and planning’s always controversial so I put in everything my parents owned.

10 But do you see that you’ve stated, “Below is a list of properties a super fund of which I am a member has invested”?---Yeah, I copied that from somewhere, from some document.

So when you – because this is your handwriting, is it not?---It, it is. It is.

Yes, so your hand went to paper with the pen.---Yes.

20 Are you saying that you were copying it and you did not understand that the words you were writing was, “super fund of which I am a member”?---Yes.

And so you had no appreciation when you actually put in this discretionary return that what you were saying was that, “I’m a member of a super fund that owns property at 120 Great North Road”?---Yes.

30 THE COMMISSIONER: I’m sorry, are you saying you did not understand? ---No. I just copied that off, off some financial document, because I was just going through mum and dad’s stuff, because I always thought planning was controversial, and hence I wanted to over-disclose, because it’s discretionary, and that’s what I did.

So you drafted this document, but you say you didn’t understand what you were drafting?---No, I, I’ve – no, I didn’t say that.

No?---I, I, I put in what I thought, to the best of my knowledge at the time, was all the property my parents owned.

40 And that those properties formed or were part of the superannuation fund, is that right?---Oh, I don’t think it’s entirely correct, looking at it now. 2 Second Avenue would have been Anderlis, 120 I think would have been 2014. Not sure if that’s Deveme or Deveme Super Fund.

MR RANKEN: Well, you understand that - - -?---And I’m not sure - - -

- - - you were a general beneficiary of the Anderlis Investment Trust Fund? ---I came to know that, yes. Not at that time, but.

So do you also understand that – which was the fund the property of which included the property at 2 Second Avenue, Five Dock?---Oh, I didn't understand it at that point. I, my idea was that - - -

No, do you understand now.---Now? Oh, yes.

10 Yes, and you understand also that one of the properties that was owned by Devenem Pty Ltd in its capacity as trustee for the Sidoti Family Trust was 13 Andrew Street, West Ryde?---Yeah, I didn't know the set-up, I, I, that's down there because of my knowledge of real property, property that my parents own, property that my parents get rent for, property that they pay bills for, and so forth.

But you understand that you are a general beneficiary of the Sidoti Family Trust?---Now, yes. Not at that time.

So you were a beneficiary in each of the trusts that owned 120 Great North Road, 2 Second Avenue, and 13 Andrew Street, West Ryde?---Yes.

20 So whilst they weren't all part of the one trust, you had a beneficial interest in them.---Yes, I've come to know that, yes.

But you appear to have known that back here, on 4 November, 2014. ---Well, I didn't. I'm, I, my idea was real property and, and their real property, I, the identities are a different story.

And when you got - - -

30 THE COMMISSIONER: But you're not only identifying the properties. You're identifying the fact that you're a member - - -?---Yeah, because - - -

- - - of the superannuation fund, which includes as assets of the fund the investment properties you set out. Is that right?---Well, that, that was the wording, yeah, but - - -

But you understand, you understood at the time that's what it meant.---No.

40 Did you not understand that when you said, "I'm a member of the superannuation fund," you understood what those words meant, did you? ---Yes, that - - -

That you're a member of a superannuation fund?---That I'd worked for 15 years and got money from my super that's in there, yes.

No, please. No, no, no, no. Just, no, please, just stay with my question and we'll get through this a bit more quickly.---Okay.

I hope. There's two things mentioned in the discretionary disclosure. One is that there was a superannuation fund of which you were a member. Now, you understood when you wrote those words what that meant, did you?---I understand I was part of a super fund, yes.

When you wrote the disclosure you understood that?---Because I worked for my parents, yes.

10 And that the assets held in the superannuation fund was real estate, details of which you then wrote out. Is that right?---That I wrote out, yes.

And you felt that because you were a member of the superannuation fund that that gave you some interest in the fund and therefore you should disclose it. Is that right?---No.

Well, why did you disclose it?---Because it's always important, because its discretionary and as much information as you can give and that's the information.

20 Well, you're saying that you went to the trouble of writing out, "I am a member of" - - -?---It's discretionary.

Well, you said, "Below is a list of properties and super fund of which I am a member has invested in a unit trust which holds investment properties," which you then detail. Did you understand at the time you wrote that what those words meant?---No, not exactly.

Well, to what extent did you understand what it meant?---Well, very little.

30 Did you understand anything about what you were writing, those words I have just read back?---I understand, I understand that they're the properties that my parents owned.

No, we're talking – I'm sorry. We keep talking at cross purposes I think. I'm talking about not your knowledge now but at the time you picked up the pen and got the piece of paper and wrote out what you see on the screen on 4 November, 2004, did you understand what you were saying when you wrote it out by way of or as a disclosure?---No, not exactly.

40 What didn't you understand about it?---My understanding from the discretionary disclosure is you list real property and that's what I've done.

MR RANKEN: Now, you told us that what prompted you to make this discretionary disclosure was the fact of your appointment as the Parliamentary Secretary for Planning, correct?---I think so, yes.

And that that meant that you appreciated that you needed to make additional disclosures over that which you would make in your ordinary return, is that

what you're saying?---Well, it was discretionary. So I thought I'd always been disclosing correctly and this was an over disclosure was my, my thought at the time.

Were you provided with information about the kinds of things that you needed to disclose now that you were the Parliamentary Secretary for Planning?---I don't think there was anything formal.

10 Well, did you make any enquiries concerning what you needed to disclose at that time?---I don't recall if there were some sort of workshops. I don't recall.

Oh, so there may have been a workshop that you attended?---Oh, I don't know. I don't - - -

20 Well, do you have a recollection of having attended workshops or some training in respect of your obligations of disclosure, whether as just an ordinary member of parliament or as a parliamentary secretary or minister? ---I don't recall, no. As, as a - - -

When you say you don't recall, do you mean that your recollection is that you have not received such training or attended any such seminars or that you have but you just don't recall?---Oh, I don't know.

You just don't know?---Ah hmm.

THE COMMISSIONER: You don't know which of those two things?---No.

30 MR RANKEN: But you certainly – something about being appointed the Parliamentary Secretary for Planning triggered in your mind a thought that led you to put pen to paper and make a discretionary disclosure, correct? ---Yes.

And what was triggered in your mind was the need to disclose more information to the parliament about your property interests?---Well, no, my parents' property interest.

40 And that was a matter though that then you – sorry. I withdraw that. You were still the Parliamentary Secretary for Planning, were you not, as at 25 March, 2015?---I'm not sure.

You told us earlier that you continued to be the Parliamentary Secretary for Planning from the time you took up the position in late 2014 until about August 2015 when you became a different parliamentary secretary. Correct?---So when I became a different parliamentary secretary I went back to my usual practice, just disclosing what I owned, not what my family owned.

Well, that was in August.---Well, and the declaration should show that.

Well, there was a requirement to submit a members' supplementary ordinary return which you submitted on 25 March, 2015. Do you recall that?---No, not really.

If we could go to page 86. Do you see this is a supplementary ordinary return you have submitted on 25 March of 2015?---Yes.

- 10 And you've said you, "Certify that there are no new pecuniary interests that I need to disclose as required by clause 6A of the Constitution (Disclosures by Members) Regulation 1983 in respect of the period from 1 July, 2014 to 31 December, 2014. Correct?---Yes. So is this a follow-up of the previous one?

The previous one was your discretionary return that you submitted on 4 November.---Right, so there's no change from the discretionary to this one. Is that what it's saying?

- 20 Correct. Yes.---Yes.

So that's the supplementary return.---Yes.

But of course each year you're also required to submit an ordinary return. Correct?---Yes.

And you're required to set out in the ordinary return all of the interests, the disclosable interests that you had. Correct?---Yes.

- 30 And your next ordinary return was submitted on 16 September, 2015.---I'd take your word for that.

And you did not disclose, would you agree you did not disclose any interest in 120 Great North Road?---And what position was I then?

- 40 Well, you told us that you were the Parliamentary Secretary for Planning until August 2015, but then you took up a position as a parliamentary secretary - - -?---Well, I think that was an estimate. Whatever it said on the website was the correct, but I'm assuming it wasn't because I would have gone back to my ordinary disclosures. You'd have to check that.

You did not thereafter ever disclose the interest in 120 Great North Road until 2017.---Correct.

Correct?---Yes.

And the only thing that prompted you to disclose in 2017 the fact of you being on title for 120 Great North Road was when the then Leader of the Opposition waved about your disclosures in parliament. Correct?---Yes.

Just one moment. Commissioner, they are my only questions of Mr Sidoti, however I should tender formally the disclosure brief, which has not been formally tendered to date.

THE COMMISSIONER: Yes.

10

MR RANKEN: And I should also tender text messages that have been referred to as text message at pages 1747 to 1865 of the rezoning brief. So perhaps if - - -

THE COMMISSIONER: Just give me the pages again.

MR RANKEN: 1747 through to 1865.

20 THE COMMISSIONER: The disclosure brief will become an exhibit and will become - - -

MR RANKEN: 37 I think.

THE COMMISSIONER: - - - Exhibit 37.

#EXH-037 – DISCLOSURES BRIEF

30 THE COMMISSIONER: And the text messages, pages 1747 to 1865 will also be admitted as one exhibit and become Exhibit 38.

**#EXH-038 – TEXT MESSAGES FROM THE REZONING BRIEF
(PAGES 1747 – 1865)**

THE COMMISSIONER: Thank you, Mr Ranken.

40 MR RANKEN: Yes, thank you.

THE COMMISSIONER: Yes, Mr Neil.

MR NEIL: Commissioner, when I made my estimate this morning it had been on the basis that my learned friend, and this is no criticism, was going to attempt to finish his questions by morning tea, and I'm now in the position that I want to ask for an adjournment because I won't finish today, even if we sit late, and the witness has been in the witness box for a long

period of time and we would, without any sense of seeking to do anything other than what's convenient, be convenient to the Commissioner, we would try to be available at an earlier date than what I understand has been proposed as a back-up date in June, even next week if convenient.

THE COMMISSIONER: Yes, no, I understand your position.

MR NEIL: The position is not easy unfortunately.

10 THE COMMISSIONER: No. Mr Neil, what I think I'll do is, I'll adjourn shortly for a short period of time just to consult the diary and I'll talk to Counsel Assisting as to the best way forward.

MR NEIL: Yes.

THE COMMISSIONER: So I'll do that and then we'll come back and see where things lie.

MR NEIL: I appreciate that, Commissioner.

20

THE COMMISSIONER: Thank you, Mr Neil. Mr Sidoti, you may step down.

THE WITNESS: Thank you.

THE WITNESS STOOD DOWN

[3.15pm]

30 THE COMMISSIONER: Yes, I'll adjourn for a short time.

SHORT ADJOURNMENT

[3.15pm]

THE COMMISSIONER: Mr Neil, perhaps if I address this to you.

MR NEIL: Yes, Commissioner.

40 THE COMMISSIONER: Yes, I'll certainly see to your application to adjourn.

MR NEIL: Thank you.

THE COMMISSIONER: The problem is always finding another date that's not too far ahead. To try and accommodate a further date both in respect of the Commission's calendar and Counsel Assisting, no doubt yours too, it's very hard to come up with a date that's going to suit everyone, but the

preferred date would be to adjourn it until Tuesday the 4th of May. I understand it may cause you some problems but it's a question of being able to try and see if you can manage your diary to accommodate that date.

MR NEIL: I'll just have to one way or another, Commissioner, because I'll have to give priority to this matter.

MR RANKEN: Just to be clear, Commissioner, the preference of the 4th of May is not Tuesday of next week but Tuesday of the following week.

10

MR NEIL: Yes, I had an impression from my learned friend that the Commission was considering Tuesday of next week but - - -

THE COMMISSIONER: I have been considering next week, it's not entirely clear cut. There may be a possibility of Tuesday next, 27th of April.

MR NEIL: I'd certainly have a preference for that as against the 4th of May but I'll fit in with the Commission. I've got a Supreme Court matter starting on the 3rd, which I will either have to get out of or return, one or the other.

20

But we are keen to take whatever the Commission can provide earlier than later.

THE COMMISSIONER: Mr Ranken, just looking at Tuesday next week.

MR RANKEN: I can make things - - -

THE COMMISSIONER: Can you change your arrangements to accommodate that?

30

MR RANKEN: I can change arrangements to make sure that I am available for Tuesday of next week. I agree with all of the sentiments being expressed that the sooner this is completed the better.

THE COMMISSIONER: Yes, all right, very well. Mr Neil, I'll fix it for next Tuesday, the 27th, next week.

MR NEIL: I'm much obliged to you, Commissioner.

THE COMMISSIONER: Very well. 10 o'clock.

40

MR NEIL: Thank you.

THE COMMISSIONER: Very well. Mr Ranken, anything else arising?

MR RANKEN: No, I think I've tendered all the remaining documents that I need to tender at this stage. I apprehend that there may be some additional documents that I am invited to tender by Mr Neil but we'll deal with them in due course.

THE COMMISSIONER: Very well. We'll adjourn to 10.00am Tuesday next the 27th of April. I'll adjourn.

AT 3.40PM THE MATTER WAS ADJOURNED ACCORDINGLY
[3.40pm]