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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION WITNEY

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 27 APRIL, 2021

AT 10.00AM

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

THE COMMISSIONER: Mr Ranken, are you ready to proceed?

MR RANKEN: Yes, Commissioner, we are. Perhaps prior to Mr Sidoti resuming in the stand there is, however, a number of documents that I ought to tender by way of completeness. They are documents that relate to updated information concerning codes of conduct in relation to the Canada Bay Council and related issues, and if I might tender three documents to comprise a single exhibit, which would be Exhibit 39. The first being the City of Canada Bay Code of Conduct dated 20 October, 2020; a circular to
10 councils from the Office of Local Government dated 18 December, 2018, concerning new councillor induction and professional development requirements; and the Councillor Induction and Professional Development Guidelines 2018, prepared by the New South Wales Government.

THE COMMISSIONER: Sorry, had that got a date?

MR RANKEN: The date of the - - -

THE COMMISSIONER: The guidelines.
20

MR RANKEN: 2018 guidelines.

THE COMMISSIONER: Two thousand?

MR RANKEN: 2018.

THE COMMISSIONER: Thank you.

MR RANKEN: The specific date on which they were released, I don't
30 think is identified within the actual - - -

THE COMMISSIONER: No, that's all right. That'll do. And the Canada Bay Code of Conduct is also, is that 2018 or - - -

MR RANKEN: No, that's 20 October, 2020, that's the most recent - - -

THE COMMISSIONER: I see. Very well. What are the exhibit numbers for those documents?

40 MR RANKEN: If they might be included as the one exhibit, Exhibit 39.

THE COMMISSIONER: Thank you. Yes. The documents, Canada Bay Code of Conduct, 20 October, 2020, the circular to council officers – is it council officers or just office?

MR RANKEN: It's a circular to councils.

THE COMMISSIONER: To council. And it's from?

MR RANKEN: It's from the Office of Local Government.

THE COMMISSIONER: Circular to councillors from the Local Government Office, is it?

MR RANKEN: Yes. The New South Wales Office of Local Government is the correct title.

10 THE COMMISSIONER: 18 September, 2018, and the Councillor Induction Guidelines 2018 will be together admitted as Exhibit 39.

MR RANKEN: Yes. That date, sorry, is 18 December, 2018.

THE COMMISSIONER: What is it?

MR RANKEN: 18 December, 2018.

20 THE COMMISSIONER: December, is it? All right. Thank you.

#EXH-039 – BUNDLE OF UPDATED POLICY CODES AND GUIDELINES

MR RANKEN: We will arrange for them to be placed on the restricted website.

30 THE COMMISSIONER: Thank you.

MR RANKEN: But I can provide the hard copies to Your Honour's associate.

THE COMMISSIONER: Yes, thank you. Very well.

MR RANKEN: And that was the only matter of housekeeping that I needed to attend to, Commissioner,

40 THE COMMISSIONER: Yes, thank you. All right. Ready to proceed, Mr Sidoti?

MR RANKEN: We are ready to proceed with the - - -

THE COMMISSIONER: Yes. Mr Sidoti, thank you. Good morning, Mr Sidoti.

MR SIDOTI: Morning.

THE COMMISSIONER: I'll just get you to take the oath again, if you would.

THE COMMISSIONER: Yes, thank you. Yes, now, Mr Neil?

MR NEIL: Yes. Thank you, Commissioner.

THE COMMISSIONER: I formally grant leave.

- 10 MR NEIL: Thank you, I appreciate that, Commissioner. Thank you. Mr Sidoti, some questions were asked about who paid the amount of \$146,904.45, which was a tax bill attributed to your wife. Have you been made aware through your solicitor of three assessments issued by the Tax Commissioner, one to Mr Richard Sidoti for \$415,903.80 for the year ended 30 June, 2016, one for the same amount to Mrs Catherine Sidoti, and one for \$146,904.45 addressed to Mrs Sandra Sidoti, all three care of Business & Taxation Concepts at Liverpool, and documents showing that total amount of those three amounts, being \$978,713.60 was paid by bank cheque issued on the account of Deveme Pty Ltd as trustee for the Sidoti Family Trust?
- 20 Have you been informed of those matters?---Yes.

Could I ask if that could be tendered, the documents that I've just referred to, Commissioner.

THE COMMISSIONER: Yes, Mr Neil. Have you seen this?

MR RANKEN: Yes, I have, Commissioner. I'm happy to formally tender those documents.

- 30 MR NEIL: I thank my learned friend.

MR RANKEN: And they would be Exhibit 40.

THE COMMISSIONER: So do you have hard copies of those or not?

MR NEIL: We've got what I understand to be the originals.

MR RANKEN: Yes, I have hard copies, Commissioner. I might just put them in the order in which my friend referred to them.

- 40 MR NEIL: The receipt is a little hard to read, Commissioner, but I think some effort has been made to make a good copy of it.

THE COMMISSIONER: Yes. Yes, if those could be handed up just so I can see them. So you're tendering these, Mr Ranken?

MR RANKEN: Yes, I am tendering those.

THE COMMISSIONER: Yes. The three notices of assessment for the year ended 30 June, 2016 issued to Mr Richard Sidoti, Mrs Catherine Sidoti and Mrs Sandra Sidoti will be admitted. So the document here is probably not intended to be part of it, a NAB account document, I'll hand that back.

MR RANKEN: No.

MR NEIL: It is part of it.

10 THE COMMISSIONER: Part and parcel of it, is it?

MR RANKEN: That records the payment.

THE COMMISSIONER: Oh, I see. The payment, I see.

MR RANKEN: The payment coming out of the account of Deveme Pty Ltd.

20 THE COMMISSIONER: In addition the NAB Business Everyday Account statement for the period 4 March, 2017 to 5 April, 2017, will all become one exhibit, Exhibit 40.

#EXH-040 – NOTICE OF ASSESSMENTS FOR RICHARD SIDOTI, CATHERINE SIDOTI AND SANDRA SIDOTI, NAB BUSINESS EVERYDAY ACCOUNT FOR DEVEME PTY LIMITED AND TAXATION RECEIPT

30 THE COMMISSIONER: Yes, Mr Neil.

MR NEIL: Thank you, Commissioner. Mr Sidoti, at the time those assessments were issued, were you made aware of it?---I don't recall ever seeing them. And, and the reason being is since 2011 all I ever owned was my family home with my wife and the only income I ever received and lived off was my parliamentary wage. So that was all foreign to me. But as evidence has come about and my accountant came to the stand here and other witnesses, it's, it's evident that this was the complicated set-up of, of my parents' scheme there and they had basically sold property and dispersed
40 some paper transactions and I've never seen them, and I'd know if there was money in, in our bank account.

I think your evidence has been that you've had a joint account with your wife and you're never aware of seeing any sum that was large, let alone \$700,000-odd into that account. Is that right?---Absolutely.

Now, you've mentioned that your parents had properties and there were matters of documentation that the accountant dealt with and you weren't

aware of, but I just want to ask you this. At Great North Road your parents first owned the property at 120. Is that correct?---That's correct.

Now, if I might, if it meets with your approval, Commissioner, I'm going to ask some questions of the witness in which, if I use the phrase "subject land", it means the Waterview properties between Barnstaple Road and Second Avenue, separate from and behind the properties on Great North Road. In other words the land that's the subject really of this inquiry.

10 THE COMMISSIONER: Yes, I understand.

MR NEIL: Thank you. I think you've told the Commission that your parents had at least some potential plans in relation to property. Could you just briefly explain what you meant in evidence, at one stage I think you said, that your mother was the matriarch of the family. What did you mean by that?---Well, all, all decisions are made by my mother. My mother had, was the business driver of the family, she had been involved in multiple investment in properties over the years, from Concord West, the major parcel there that then had a DA and was sold on, a boarding house in Manly, 20 where she got a DA and then that was on sold as well. A, a block of land in West Ryde, where it was demolished, she drove it, got the approval, built six villas there and, and then was instrumental in, in the sale of it all as well. This had just been their, mum's drive all the time. She was a very strong business-minded person. My father was the worker. End of the day, it would never have happened if it wasn't for my mother. Everything, the success of, of their investments is purely on the shoulders of my mother.

Now, until some recent years, was your mother in good health?---Yeah. My, my mother's been in good health but it deteriorated.

30 And when did it deteriorate?---Oh, around 2018/19.

Now, as one aspect of the matter, in short, some people put money in property, some put it in the stock exchange, some put it into motor vehicles, any amount of different things. Was it your mother's preference when she came into some money to put it into property?---Bricks and mortar, yes, all the time.

40 All right. Now, 120 was originally purchased when, please?---1992. 29 years ago.

Thank you. As matters stood, in 2014, had your parents still operated the function centre, or had they sold that business by then?---They'd sold the business in 2008. 2007/2008, somewhere in that period.

And number 122 was a property that was run as what kind of business? ---Initially it was a, a, a jeweller.

And did it change to something else?---It did. It, it then changed from a jeweller to a, a, a optomic, optimic, optomical – sorry – eyewear and hearing business.

And 124 was run as what?---As a, a dressmaker, and eveningwear, couture.

And do you have an understanding as to once your parents sold the function centre business, how well did that business go under the new operators?

10 ---While my parents were operating the business, they were all feeding off each other. They were all, they would come for a wedding, they would get the dress next door, the jewellery, the wedding rings, all that sort of stuff. When my parents then sold the business it started going downhill, and as a result those businesses that were next door then basically didn't become financial anymore.

If they had stayed financial, was it your understanding that the prospects of the owners of those properties selling would be low?---They would never sell.

20 Right. Now, subsequently we've learned that 122 became available for purchase and was purchased in the end of 2014, correct?---I thought it was '15, but - - -

Well, thank you, we can check that. 2015, and 124 was I think two years later in 2017, is that right?---Yes.

As and when the properties became available on the market, is that right? ---Yes, they became available, yes.

30 But until then, there was no guarantee they'd become available at all, correct?---Yes.

Now, taking number 120, is it correct that physically it is eight and a half metres high?---The building, yes.

And prior to the Town Centre Study, was it open under the then controls under B4, subject to approval, to take that height up to 15 metres? ---Absolutely right.

40 And hopefully keeping this short, but after the study and recommendations of GL and after some recommendations of the council staff that went even higher, followed by some paring back of the height, ultimately was it possible to take that building up to 17 metres?---Correct, two metres more.

And what type of potential plan, if you're aware, did your mother have for any possible development of 120?---Well, the, the, the, what they thought and what they knew was that the zone would allow them to build a, a mixture of commercial and residential, and that's mum's plan always, to

retire in a purpose-built unit above 120, and any income derived from that, they'd live off as self-funded retirees.

And subject to approval, could that be done without any change whatsoever to the zoning or controls on the subject land along Waterview Street?---Yes.

Now, number 2 Second Avenue was purchased when?---October or November of 2014.

10 And I think you've said that the or a reason for purchase was income protection for 120, is that right?---Yes.

Now, what does that mean? How does that work?---Well, it's a residential house that backed onto the driveway of 120 Great North Road, and there were always deliveries, as you can imagine, with many weddings and functions there are umpteen number of deliveries throughout the course of the week.

20 Into the rear lane?---Into the rear lane of 120 Great North Road.

Thank you.---And it became very noisy, particularly late at night when you can hear everything, and weddings finishing usually around midnight, and then having to clean up and set up for the next day's weddings, often you wouldn't get out of there before 2 o'clock in the morning. So the last thing you'd need would be a, a noisy environment of emptying all the bottles and the consumption of bottles from a wedding, and the noise associated with that literally centimetres away from a residential house.

30 And did you ever get complaints about those matters from the residents of 2 Second Avenue?---There were complaints all the time that you'd hear, that sometimes went well beyond, because people would park within 500 metres of the venue, and in residential streets. So sometimes, you know, the behaviour of some wedding attendees that may have, you know, had a good night and had a little bit to drink, or whatever it may be then, or speaking loudly at night where their car was parked in front of someone's house, we always tried to minimise any disruption as good neighbours.

40 Well, keeping, again trying to keep it short, was there a concern that these activities might bring about complaints from the owner or lessee of 2 Second Avenue such that there might be restrictions upon the activity of the function centre and affect its revenue?---That was the main reason.

All right. And when 2 Second Avenue became available on the market, did your mother move to purchase it, at least in part, to take over the premises and avoid the potential for complaints that might affect the revenue of the function centre?---That was the main reason.

Thank you.

THE COMMISSIONER: Just so I'm clear about it, was the function centre still operating as at the date of the purchase of 2 Second Avenue?---Yes.

In 2014?---Yes.

I thought your parents had retired in 2007/2008?---And they sold it to another organisation in evidence that operated it as a function centre.

10 What was the name of that organisation?---It first went to a Slaviero - - -

MR NEIL: Ottimo House.

THE WITNESS: - - - and they called it the same name, they carried on with the same name, and then they stayed there for a few years and then they on-sold it to an organisation that called it Ottimo House, which was the Cappetta family with a Mario Nicomedes [sic] being a partner in that.

20 THE COMMISSIONER: But your family had no further interest in the business after 2008.---Correct.

Thank you.

MR NEIL: But were your parents earning income as rent from the people who ran the place as Ottimo?---Yes.

And did they want to protect that?---It was a substantial amount of rent, it was in excess of \$4,000 a week.

30 All right. And protecting that income was, as I understand what you've said, a substantial reason for the purchase of 2 Second Avenue?
---Absolutely.

Now, in July of 2018, I think you've given evidence that you had some – not you, your parents had some pre-DA consultations with the council for a proposed mixed-use of 120-124. Correct?---Yes.

40 Now, once 120 and 124 had been purchased, regardless of anything happening at the subject land, was it possible to increase the height of those, subject to approval, to 15 metres and/or 17 metres when that came available?---Yes. So that, that, logical, yes.

And was there a proposal to combine the three properties into a new development?---Yes.

And in brief, what was the nature of that proposal?---It was two commercial dwellings on the ground floor with approximately 20 units up above.

And could that be done regardless of what happened to the subject land on Waterview Road, Street?---Yes.

Now, as of 2018, did your parents obtain some assistance from Zhinar Architects, who I think the gentleman there is Mr Kudinar?---Yes, they did. They, they engaged Tom Kudinar from Zhinar Architects and they went to the, they, they had a pre-meeting with the council to discuss some sketches and some preliminary advice. And that's generally done so you don't go to the expense, a full-blown DA where you spend, you know, in excess of
10 \$100,000 and then they come back and say, you know, you've done all this incorrectly. So it's just some preliminary advice on what they think you put before them.

THE COMMISSIONER: Just to get the chronology, when were, or was I should say, Mr Kudinar engaged for that purpose, for the pre-meeting?---I, I think around that 2018 stage.

All right. Thank you.

20 MR NEIL: Now, would you look at this set of plans that my learned friend will – sorry – my instructing solicitor will hand to my learned friend and a copy if the witness might see it, and a copy for the Commissioner.

THE COMMISSIONER: Thank you.

MR NEIL: Now, does that represent a preliminary proposed mixed-use development referring to 2 Second Avenue and 120-124A Great North Road?---I'm sorry, can you say that again, Mr Neil?

30 Look at the front page to the bottom right.---Okay, yes.

Is it said to be a development application, preliminary proposed mixed-use development, 2 Second Avenue and 120-124A Great North Road?---Yes.

Now, if you simply read those words, the reader might have the immediate impression that it was a development of the whole of those four properties. Would you agree?---Yes, until you turn to the first page.

40 All right. Well, let's go over the page and what I want to ask you is, are you looking at a page that's called Site Plan and it has page number 2 at the lower right and it has, in the centre and lower part of the page, the words, "Second Avenue"?---(No Audible Reply)

Are you looking at that?---That one or – that one or that one?

The second page of the document. The second page.

THE COMMISSIONER: Just to be clear about that - - -

MR NEIL: The one in your left hand.---The one, so, so, the one that's - - -

THE COMMISSIONER: Just to be clear about it. So, sorry, Mr Sidoti, just a moment. The document unfortunately is not numbered by page but the first page has got two sides to it. Are you drawing his attention to the second-half of the same document?

10 MR NEIL: Yes, yes, Commissioner. I'm drawing your attention to the back page of the first page.---Okay, thank you.

Which I am calling the second page, I don't know why, maybe I should call it the fifty-fifth, but I've called it the second, all right?---Sorry, I was looking at the one that was marked page 2. So when you look at that one there, it basically retains 2 Second Avenue, the houses, nothing touched there at all, other than the driveway being widened. It's all about 120-124 Great North Road.

20 Is part of the widening of the driveway shown in the light brown or orange hatching?---Yes.

Thank you. And what is the small portion of dotted, square, in the middle of the lower part of the driveway, adjacent to the residence of 2 Second Avenue?---The red dotted line is a garage.

Is that the garage of 2 Second Avenue?---Yes.

30 And above that, as we look, and below that, as we look, are there some portions of the backyard of 2 Second Avenue?---Yes, there is. The front yard and the backyard.

And was the proposed development a development that involved the three properties on Great North Road and a portion of the plot on which 2 Second Avenue was built, being backyard and garage. Is that right?---Yeah, I'd say side yard, side yard and garage, yeah.

40 All right, thank you. But excluding the actual residents of Second Avenue and the parts of the yard or garden that are shown in white above and below the depiction of the residence, is that right?---Correct. There's no construction there at all.

And is the, even before this proposal, was the laneway part of the title of 120 Great North Road?---Yes. It's always been the title of 120.

And was it proposed that the laneway be widened, and the widened land become part of the title of 120 Great North Road?---Well, I, I think that was the plan, yes.

All right, thank you. Could I ask, Commissioner, if that might be tendered?

MR RANKEN: Commissioner, I'm happy to do so, to tender those plans, noting that the date of the plans is identified as being - - -

THE COMMISSIONER: July, isn't it, 2018?

MR RANKEN: Yes. I think it's issue number 2, so it's 26 July, 2018. There does appear another date which indicates that issue 1 was issued for client review, but I understand if one looks at the bottom right-hand corner of each of the pages, one can see that it's, the numeral 2 above the word "issue" suggests that that's the issue that they're (not transcribable)

THE COMMISSIONER: Well, the first date of issue for the client review seems to be 16 July, 2018, doesn't it?

MR RANKEN: Yes, that was – but I think that might have been perhaps a previous issue of it, like a previous iteration of this document, but this document appears to be issue number 2.

20

THE COMMISSIONER: Oh, I see.

MR RANKEN: That's why I draw your attention, Commissioner, to the number in the bottom right-hand corner. So I think the date of these documents is 26 July, 2018.

THE COMMISSIONER: Yes, very well. The preliminary plans of Zhinar Architects, so it's Z-h-i-n-a-r, bearing dates in July 2018, in respect of Second Avenue, in respect of the properties shown, including 120 Great North Road, will become Exhibit 41.

30

#EXH-041 – PRELIMINARY PLANS OF ZHINAR ARCHITECTS IN RESPECT OF 2 SECOND AVENUE & 120-124A GREAT NORTH ROAD FIVE DOCK DATED 26 JULY 2018

MR NEIL: Thank you, Commissioner. Now, as I understand your evidence, those plans represent then intention of in fact your mother at July 2018. And was it your understanding that if that proposal had been approved, it could be developed regardless of anything to do with the Town Centre Study and regardless of anything that happened by way of change of any controls or zoning on the subject land?---Yes, correct.

40

Thank you. I think you've said in evidence that at some time there was in fact a development application lodged in respect at least of the properties on Great North Road, is that right?---Yeah, so the following year - - -

When – all right. And what happened to that application?---As a result of the preliminary, some advice was given - - -

Just, what happened to it?---Well, by that, oh, it was withdrawn.

Thank you. And did your mother's state of health at that time, as far as you understand, have anything to do with the withdrawal?---Yeah, that was the main reason.

10 All right, thank you.

THE COMMISSIONER: Can I just ask you, had you been involved in discussions with your parents and particularly your mother and Kudinar Architects concerning the subject of the preliminary plans which are now Exhibit 41?---Yes, I, I had, I had some, but – I had some discussions. But it was pretty much consultant, consultant-owner-driven, being mum and dad.

20 And did you engage with Zhinar Architects or Mr Kudinar, or was that done independently by your mother?---Oh, I think it's a combination because mum knew the Kudinar family for a long time.

You say, in effect, you both took steps to retain the - - -?---Yes, yes.

Thank you.

30 MR NEIL: Thank you, Commissioner. To your understanding, how long had your mother known Mr Kudinar?---At least 15 years. He had a, he had a function at, at the reception lounge when we owned it, when mum and dad, it was, it was Tom's birthday. I can't recall if it was 50th or 60th birthday. I think it was his 60th perhaps.

To your knowledge, had he given your mother any previous architectural advice about other properties?---Not, not that I'm aware of, no.

All right. Thank you. Now, I want to move to another topic. You became aware, did you not, that on 2 August, 2016, the council endorsed what became known, or what was put to them, as option 2?---Yes.

40 And you're aware, are you not, that your planner, Mr Matthews commended the council on that?---Yes, I'm aware of that.

Were you happy with the outcome of the council endorsing option 2? ---Option 2 was, I believe, a, a, a good option and I was content with it.

And why do you say it was a good option?---Because ultimately it doubled the height and floor space, so it was, a, a win, it was a win-win.

And do we see that, at page 1263, if that might be shown, Commissioner. Pardon me, Commissioner, I'm just trying to find the page. I might have got the wrong one.

THE COMMISSIONER: Yes, there it is.

MR NEIL: Could we try 1329, please? 1329, please. 1329, in Exhibit 24, pardon me. Thank you. Now, does the table at the bottom of page 1329 represent a summary of the differences between what were the controls over
10 the subject land prior to the Town Centre Study, and under Draft Proposal, what could be achieved on the subject land pursuant to option 2?---That's correct.

So that the zoning remained the same, correct, R3 medium-density residential?---Yes.

But you could go from "10.5 metre, two storeys, to 10.5 metre, three storeys, to 14 metres (four storeys)" under the option, correct?---Correct.

20 And you'd go from floor space ratio of 0.5:1 to 1.0:1, correct?---Yes.

And the front setback would change from 4.5 metres to six metres. ---Correct.

Did you consider that was a good outcome?---Oh, I, I did, I've been advocating all along for the Chamber of Commerce or the shopkeepers, and for those residents that were living in that block that didn't receive any investigation of substance to that parcel of land we're referring to compared
30 to the rest of the street.

Now, you're aware, are you not, that subsequently council reaffirmed and finally endorsed, following a deferral and following a workshop, that they finally approved the option 2 on 7 February, 2017, and then on 21 February, 2017, by virtue of rejecting the rescission motion, even more finally adopted option 2, correct?---That's right.

Now, after the original endorsement of option 2 on 2 August, 2016, did you by yourself or to your knowledge your planners advocate for the subject
40 land to be made B4 zone?---No, not that I'm aware of.

All right. Now, in February 2018, there was a council meeting and you've given some evidence of a discussion you had about that proposed council meeting with Councillor Di Pasqua. Do you recall that?---Yes.

Now, Commissioner, might the witness be shown Exhibit 24, page 1604? And do you see that on 6 February, 2018, there are five motions set out on that page, do you see that?---Yes.

And it's moved by Councillors Parnaby and Little that they be resolved, do you see that?---Yes.

And you see the six councillors who vote in favour there.---Yes.

And one against, do you see that?---Yes.

10 And was this in fact a formalisation after the procedures had been completed, subject to some minor amendments, of the adoption of option 2?
---That's correct.

Thank you. Now, I just want to ask you this – you were aware of certain objectors to various proposals, and it's fair to say, is it not, that some people did not favour B4 for the subject land, correct?---Yes.

Some did, although they were lesser numbers. Correct?---Yes.

20 In your view is the public interest determined by the number of objections?
---No, it's not. It's not.

What factors are to be taken into account where you have people who put in submission about a matter and they're opposed to each other, but they're all your constituents?---Correct. So you look at things on the basis of the overall, and typically something like this, this is all about the whole community, there are 50,000 constituents and this has impacts on everybody, so it's important that you look at it from a holistic point of view right across the board. That would include all the social, the economic, the environmental benefits that, that this plan would bring for the community over a generation. You take into consideration all views.

30 Now, if, and we know this didn't happen, but if B4 had have been approved for the subject land, over what period of time would you have expected any development to either commence and/or ultimately take place?
---It would certainly be long term. A decade, maybe more.

40 As contrasted with if your parents had proceeded with a DA to develop the properties at Great North Road, and if it had have been approved, they could go ahead upon approval. Correct?---Yes. End of the day my parents were going, were going to do something there. The biological clock was ticking, they were trying to plan for their health and their future and, and purpose-built, they live in a large home with multiple stairs, their health, you know, on a daily basis going up and down. This was their, their chance and, and they, they would have developed regardless of, of, of any codes or any changes.

And regardless of any change to the subject land zones.---Yeah, yes, that's correct.

Now, under option 2 for the subject land, firstly is it, are you aware of any development that has taken place since the option 2 was finally approved?
---There have been no development in any of the parcels of land from between Waterview Street and Second Avenue, nor has there been any on Great North Road in that parcel.

And in terms of the subject land, what time frame would you see as likely for the, any on-ground implementation of part or whole of the subject land, pursuant to option 2?---I think it's years away.

10

Now, you've had mention of shopkeepers and you've given evidence of the meeting of shopkeepers and Chamber of Commerce. What was the nature of the "heat" I think you've used the word, you were getting from those persons or organisations?---The, the heat was coming because there was frustration on behalf of all the shopkeepers, the small business operators that there was, you know, the absence of Liberal councillors' participation in, in a very important meeting, was very much noticed, yet in complete contrast the mayor and a Labor councillor were fully active in that meeting and even spoke in period about the town centre, so I think there was a bit of, if you like, contrast that the party that's meant to represent small business was absent yet the mayor and, and a Labor councillor that were there were fully participating in the discussion.

20

When you've sent some email or emails to only three Liberal councillors, as part of your reasons for doing that, was it your understanding that the Labor councillors had taken more interest and more knowledge in the matter than the Liberals at the time?---Yes, and that they were actually at the meeting, so they were fully informed, whereas the Liberal councillors weren't there, and they didn't see the mood of the room, the arguments that were brought forward. They just weren't present.

30

What do you say to a suggestion that seems to have been made that you were deliberately keeping the Labor councillors out of the loop?---No, no. That's, that's, that's absolutely wrong. The Liberal councillors weren't present at all, and they should have been.

Now, you've given some evidence about a problem of - - -

THE COMMISSIONER: Sorry, just on that. Was there not a question as to whether they had been invited by the Chamber of Commerce?---I, I'm assuming they would have been. I, I'm not a - - -

40

But you don't know.---Well, how does Councillor Fasanella then attend the meeting?

I don't know.---Yeah, well - - -

But you don't know whether they were invited or whether in fact there had been an omission to invite them, is that the position.---I subsequently found out that they were, because then what happened was I ended up organising a meeting for them, so - - -

When did you subsequently find that out?---Recently when I bumped into Glen Haron.

10 Well, how recently?---In the course of this inquiry.

Again - - -?---A couple of weeks.

What week was it? Is it this month?---Yes, it would have been the first or second week of the inquiry.

20 And how did you come to be discussing it with him?---I think he was watching it. And I, I was walking the dog and he was driving past and he saw me and he pulled over, and he basically came out and said, he, he saw what answers I gave, that I didn't recall the meeting that took place, and he, and he basically said, "Are you silly or something? Have you lost your memory? You organised the meeting for us." And, and then I said to him, "But was I there? I just don't recall." He says, "Of course you were there." He says, "You organised it and then you stayed in your own office and you didn't come in, because you just organised it as stakeholders, because they hadn't attended the Chamber of Commerce, to, to, to, the invite sent to them, sent to them. And so that's why you organised the meeting, so they could be present and hear everything that went on at the meeting."

30 And was Glen Haron on the board of the Chamber of Commerce at the time the meeting took place?---'14, yeah, my understanding, yes, he owned the property and he was the Vice-President of the Chamber of Commerce.

And you're saying that he said to you just this month that the Liberal councillors had been invited. Is that what you're saying?---Yeah, that an invitation had gone to all elected representatives.

Prior to then, you had no idea?---I didn't recall. I didn't, yeah.

40 Just one other matter. You've said that you were acting in the interests of and in fact campaigning for the shopkeepers and residents on the town centre study.---I made representations, yes.

You identified shopkeepers as including Glen Haron and Sam Caminiti. ---Yes.

Now, these shopkeepers you say you are representing, they were amongst them, those two? Is that right or not?---Yes.

Now, who are these shopkeepers, apart from in addition to them, that you say you were representing?---All the shopkeepers in the town centre.

Yes, but in your mind you were representing them all, is that right?---Yes.

But who of the shopkeepers had come to you, either making complaints or raising issues over the Town Centre Plan?---At that Chamber of Commerce meeting, all of them.

10 I'll come back to that meeting in a moment, but over the period from 2014 to '16, who were they? That is, who were the ones, if any beyond the two I've mentioned by name, who were the 'shopkeepers', in inverted commas, that you say you were representing, who were making either complaints or raising issues with you over the Town Centre Plan?---It, it was the Chamber of Commerce that were representing all the shopkeepers up and down that strip.

20 So you're not suggesting you had individual representations being made to you by a band of shopkeepers, you're saying that they were represented by the Chamber of Commerce, and when you say you acted for the shopkeepers, you're really saying, "I stood for whatever the Chamber of Commerce represented." Is that right, or not?---Yeah. The, the views of all the shop owners were consistent with the view of the collective Chamber of Commerce, and the vice-president and the president.

30 No, but who were they, who were they? That's what I'm trying to identify. You are referring to shopkeepers who are human beings, who belongs to this group of shopkeepers you keep referring to?---Oh, there's membership of, of the Five Dock Chamber of Commerce, and so if you look at any of the attendees at the meeting, all these, these were, were consistent with the overall view of the Vice-President and the President of the Chamber of Commerce.

40 So just to be clear about it, you're not suggesting you're representing a band or group of shopkeepers who had come to you with issues about the Town Centre Plan, I think this is what you're saying – but you correct me if I'm wrong – but rather you regarded the Chamber of Commerce and the vehicle through whom shopkeepers had been raising issues or complaints and in that sense you were representing shopkeepers, have I got it right?---I, yes, I, I would say you have but anecdotally through all my community street meetings and verbally, it was always very consistent. A lot of individual people, shopkeepers, had verbally said, said the same thing to me as well.

Well, how many?---Oh, numerous.

Well, what does numerous mean? Two or 200 or what?---Oh - - -

Or can't you really put a number on it?---Look, I couldn't put a number on it but it would have been substantial.

And they were raising, what, by stopping you and talking to you about different issues under the Town Centre Plan?---Yes, yes. I remember people coming to the Chamber of Commerce that I have never seen before and I have been there a lifetime in that area, so they were, you know, on first-floor and second-floor offices in, in Five Dock.

10 But you can't say – is this the position – until your computer database is searched as to whether any of them actually rang and left a message or sent an email to you or sent a letter to you? Is that that the position as at the moment?---As a written representation, yes.

So there's no record that you're conscious of, be it an email or a letter or a telephone recorded message, from any shopkeepers raising particular issues about the Town Centre Plan?---Yes.

All right. Okay, thank you.

20

MR NEIL: Thank you, Commissioner. Now, these events of the Chamber of Commerce meeting were over seven years ago. Other than the names you've given, can you remember the names of any other shopkeepers who were at the meeting?---(No Audible Reply)

Can we take it you can't remember any other names?---Well, I, I, yeah, I - - -

30 All right. Are you able to give an approximation of how many persons that come within what you would call shopkeepers were present at the meeting? ---There, there would have had to have been somewhere between 40 and 50 at least.

Now, Commissioner, might the witness be shown Exhibit 24, page 350, 350. Now, that's the minutes of the meeting and does it accord with your recollection that after the formalities shown in Welcome and Apologise and President, that the first item of business that was discussed was the Urban Design Study shown at point 3 on page 350?---Yes.

40 And how long did the discussion take place?---I think it dominated the meeting.

Now, if you look at, if the witness might be shown page 353, there Mayor Tsirekas, the Labor mayor, is shown to say at about the middle of the page in the dot point, "Lots of people have raised the issue of floor space ratio. Five Dock has had a very good floor space ratio, however no stimulation. Large developments required as well as smaller ones to stimulate the area."

Did you hear Mayor Tsirekas say either the words, “Lots of people have raised the issue of floor space ratio,” or words to that effect?---Yes.

And then the mayor says, “There’s been a lot of significant private interest to see what can be done and be part of Five Dock.” Did you hear the mayor say those words or words to that effect?---Yes.

10 Now, after that – I withdraw that. Is it fair to say that where we see references to you are speaking at page 351 – if that might be shown – and then 352 if that might be shown, and the mayor speaking at 353, if that might again be shown, that in addition to the presentation, you and the mayor spoke predominantly about the Town Centre Study?---I, I thought I spoke more about some of the other areas, but the area of interest was the town centre.

Now, I think you’ve given some evidence about sending an email to I think Councillor Ahmed saying, “I’m fucked,” I think you say that’s a reference to the fact you’d be embarrassed if Liberals didn’t start to become active. ---That’s the exact reason. As I said earlier on, the mood of the room was
20 terrible, there was an expectation that no Liberals made an effort to attend, it should have been a bread-and-butter issue with regards to small business, and the very nature of their presence being absent wasn’t a good look. I would have, you know, if they wouldn’t have attended a meeting or, or, or taken some interest I’d look stupid in front of the Chamber of Commerce and others.

Now, you’ve also given some evidence about the problem of Independents. Can you briefly tell the Commissioner what was the problem that you envisaged?---Sorry, I didn’t understand that, sorry, could you say that
30 again?

You’ve, you’ve given some evidence that you envisaged some kind of problem of independent shopkeepers running against the Liberals. What was the kind - - -?---Oh, I beg your pardon.

40 What was the nature of the problem?---That it was a heated meeting and the very nature that there were no Liberals there, that this could be an election, an election issue and there was a, there was a mood that this could potentially be an issue that Chamber of Commerce could run as, as Independents. And it was a view shared in the evidence by Helen McCaffrey with regards to similar sentiments in other areas which she mentioned Breakfast Point and Rhodes. And it was, it was basically the sentiment was we’re part of the same team here, I, I sympathise with your situation, and that it’s important that I pass on this feedback, because Independents running – and history has shown that – comes at the detriment of Liberal councillors.

Were you aware of previous occasions where Independents had run and, in effect, taken places on council from Liberals?---On every occasion except one.

And how many occasions are you talking about?---All elections from 2003 or 2004 onwards.

And you say Councillor McCaffrey was aware of the problem. Had she ever run as an Independent in any council?---She did.

10

Where and when was that?---Over in Concord.

THE COMMISSIONER: Mr Sidoti, accepting what you say about the meeting at the moment, and assuming there was a lot of heat being generated and shopkeepers talking and so on, there was, of course, the various stages of community consultation about the study, which we've been through, and workshops with stakeholders. Things seemed to have settled down – politically at least – on this issue amongst the councillors, had it not, when - - -

20

MR NEIL: I'm sorry, Commissioner, but I don't think the workshops had started in 2014. I may be corrected.

THE COMMISSIONER: Weren't they? No workshops. Okay.

MR RANKEN: I think the first workshop was on 8 April of 2014.

THE COMMISSIONER: 8 April?

30 MR RANKEN: Yes. I think that's what the evidence establishes. Well, at least there was a workshop on 8 April.

THE COMMISSIONER: 8 April, '14?

MR NEIL: Thank you.

MR RANKEN: Which was the - - -

THE COMMISSIONER: 8 April, '14?

40

MR RANKEN: Yes.

THE COMMISSIONER: First workshop?

MR RANKEN: I understand that was at least a workshop.

THE COMMISSIONER: A workshop.

MR RANKEN: I am not aware of a previous workshop. And, Commissioner, the date of the meeting of the Chamber of Commerce was 7 April, so it was the day prior.

MR NEIL: Yes.

THE COMMISSIONER: First, just so we're, make sure the facts are right here, first time this came before council for endorsement I think was 20 May, 2014, was it not?

10

MR RANKEN: No, the study came before the council on 26 November, 2013. That was when the lengthy study report was before the council, at which point it was endorsed and put out for public exhibition in December and January.

THE COMMISSIONER: Yes. That's right, I'm sorry, yes, I had the wrong page.

MR RANKEN: I think there was also a draft LEP that was put out for a non-statutory - - -

20

THE COMMISSIONER: So that was, yes, the first time was November, wasn't it?

MR RANKEN: Yes. 26 November.

THE COMMISSIONER: Thank you. So, Mr Sidoti, just to – as has been pointed out, the first occasion which councillors met on the question of the Five Dock Town Centre urban design, which they unanimously endorsed the Five Dock Town Centre Urban Plan for public exhibition, was on 26 November, 2013. And I think the next time there was a vote on it, subject to correction, was 20 May, 2014. Again it came before, the Five Dock Town Centre Urban Design Study came before council, and then subsequently on 24 June, 2014, again came before the council. And on that occasion my note is that all six councillors present at the council meeting – including Dr Ahmed and Ms Cestar, but not Ms McCaffrey who was not present – voted to endorse amendments to the Town Centre Local Environmental Plan, as recommended by council staff and refer it to the Department of Planning for a Gateway Determination. That, in summary, is my note of the history up to that time. It would seem that if there had been heat being generated amongst shopkeepers at the meeting to which you have referred, certainly politically all the councillors would appear to have been on the same page in endorsing the plan by 24 June, 2014, would it not appear?---It would appear. It, again, it's part of the process and it's a, a living document that changes and is evolving every time.

30

40

Of course.---Yeah.

But up to that time, whatever dissension had been in the community, and perhaps concerns, that this would filter through politically, things seemed to have settled down by 24 June, 2014, if the Labor, Liberals and the Green councillor was all unanimous in endorsing the amendments to the Town Centre Plan as the staff indeed of council had recommended. Would that appear to have been the case?---It's, it's possible. I, looking back now, I, I, I, it's quite a while back but you could be right.

Okay. Yes, Mr Neil.

10

MR NEIL: Thank you, Commissioner. Now, as of 7 April, 2014, had the Town Centre Strategy been on public exhibition between 1 December, 2013, and 31 January, 2014?---Yes.

And if the witness might be shown Exhibit 24, page 250, Commissioner.

THE COMMISSIONER: 350?

MR NEIL: 350, yes. If you look at the heading, 3. Urban Design Study, it says there, "The reason for government representation is two-fold. Finalisation of Urban Design Study," and then it goes on about consultants. Do you see that?---Yes.

20

Did you understand government representation to include you?---Well, yes.

And at that stage it was for consideration of finalisation of the Urban Design Study according to these minutes, correct?---Well, yes.

30

And was it a hot topic, at least at that time?---Oh, it was. To, to prompt me to send an email on the same night, absolutely.

And I just want to ask you this. Can you recall whether or not, amongst the persons you describe as shopkeepers, there was present a Dr Maleno? ---Yeah, that does ring a bell. Yes.

Can you remember him being there?---Yes.

40

A Mr Rizzo?---Oh, Rizzo, yes, yes. And just looking at those minutes, Anthony Natoli is also on there. He's part of the community, he's a real estate agent and a very well-known family in our, in our area.

And Mr Ranieri?---Oh, yes, the delicatessen, yes.

A Mr Whitford?---Oh, yeah, they're the appliance place across – yes.

A Mr John Price?---Yes, Civic Video, yes.

Now, I want to ask you a specific question. Your electoral office is at what address?---128 Great North Road.

And it's about how far from Fred Kelly Place?---Three or 400 metres.

Is it easily accessible to members of the public?---Yes. It's a shopfront with high visibility.

10 When you became a member of parliament in 2011, did you take over that particular office from the previous member of parliament?---Yeah. It, it extended well beyond the previous member. I think the member before that and perhaps even the one before that again.

It's not a position that you identified and designated, it was the government - - -?---It's a lease to the parliament basically. It's nothing to do with the person that's the member of the day.

So you took over the government office, is that right?---Correct.

20 Thank you. Now, could you tell the Commissioner what, as far as you are concerned, are your roles and duties as a state member of parliament.---So predominantly all the State Government responsibilities of health, transport, law and order, public transport. Health. But in saying that, it is making representations on all state issues to your state ministerial colleagues for replies, as well as all representations to local and Federal Government members and agencies. If you, if you want to survive and be a good local member and have rapport, the idea is to take an interest in all areas. People will come to the member of parliament that they probably recognise more, as opposed to whose responsibility it is, particularly that I'm the only one
30 that has an office in the centre there. The Opposition wouldn't. The federal member's in another electorate, kilometres away, and councillors don't have electoral offices.

Now, I just want to ask you about some specifics about the Bay Run. And I'd ask if the witness might be shown – and also handed up to you, Commissioner, and my learned friends – some photographs. Now, I'm showing you seven photographs. Do they represent a typical scene at various parts of the Bay Run?---They do.

40 And the time when you met Ms Cestar, in December, is that a busy time? ---It's always a busy time, but December is even more busy because it's hot and people generally tend to exercise more in those summer months as opposed to the winter months.

Could I ask Commissioner if those photographs might be tendered.

MR RANKEN: I'm happy to tender those photographs.

THE COMMISSIONER: The seven photographs of the Bay Run will be admitted, become Exhibit 42.

#EXH-042 – 7 PHOTOGRAPHS OF BAY RUN

MR NEIL: Now, I just want to ask you a specific about disclosure matters. As you've been asked by Counsel Assisting, you filled in a declaration for the year 2014, which added more than had been in your previous declarations. Why did you add the additional material?---Because up until that point, all I knew was that I, I owned my family home with my wife. Come 2014 for a short period of time, I was the Parliamentary Secretary for Planning, and Planning's always controversial. So I thought I was actually overdisclosing, and so I put everything my family, my parents owned.

And could the witness be shown Exhibit 24, page 144, Commissioner. Sorry, disclosures brief, page 144. I apologise. At the time you completed that page, did you have any understanding as to whether a member of a superannuation fund had to become a trustee?---No.

After you got into parliament, I think you've given some evidence about talking to your accountant. Is that correct?---Yes.

Now, between the time you entered parliament and up to the declaration in 2013, in 2014, at the time you got in until the declaration of 2014, were you of the belief that you were accurately filling in declarations?---Oh, yes, absolutely. All I owned was the family home in the name of my wife and I. I had no, no other reason. I had no, no income other than my parliamentary wage, I had no rents, I had no, no bills coming in, no insurances, no, nothing to suggest that I was involved in any other properties at all.

And did you deliberately fail to disclose anything in your declaration?---No. Never ever intentionally set out to mislead in any shape or form.

Now, after the 2014 declaration, part of which we've seen at page 144 of the disclosure brief, as I understand for the next year you took out some of the items that you'd put into the 2014 declaration. Is there any reason for that? ---I took out everything. I went back to my normal disclosure of my, my family home and it may have come on at that time a 10 per cent share in a property at Rouse Hill, and that's all I owned. As I said to you earlier on, I, I, I didn't have any bills, insurances, land tax, anything associated with anything, so I only put what I thought I owned. That's what I knew to own.

And had you put the extra information into the 2014 declaration, as a matter of what I think you've said in evidence, is over-declaring.---Yes.

More caution.---Yes.

Why didn't you try and adopt more caution thereafter?---Well, I, I went, because then I basically went from one portfolio to another, into Roads and Transport, and then subsequently other ministerial, sorry, parliamentary secretary roles that are pretty straightforward, there's no involvement of property as such or, so I just went back to my, my ordinary disclosures.

Now, from I think about 2017 you had, as I understand it, what you would say is what you understand you're required to put in. Is that right?---Yes.

10

And what happened in 2017 that brought this about?---So I was sitting in Question Time and the Leader of the Opposition, the then Leader of the Opposition, Luke Foley, produced some document of all my disclosures and waved it around, basically saying I was on title of 120 Great North Road and I was publicly shamed that I, I hadn't disclosed that I was on, on a title deed of a property.

20

Did you believe you'd done anything wrong?---No, absolutely not. I, I immediately set out there and then on the spot to text message my wife to find out what's going on, can you ring Tony, the accountant, and, and then I sent text messages and he was sending text messages backwards and forwards and I had a long conversation with him the same day.

But is it your belief that in your returns from 2017 on that are in evidence, you've disclosed what you have to disclose or are you still, as you understand it, over-disclosing?---Sorry, can you say that again, sir?

30

Well, in terms of your more recent returns from 2017 on, do you believe you're complying with your obligations or are you doing more than your obligations, in your belief?---Well, I believe I'm doing more because I was, I was cautious after that time.

Have you at any time deliberately or intentionally failed to disclose material in your declarations?---No. I've, I've, never deliberately done that. Never. In hindsight, in hindsight, it would have, you know, if I had my time over again, I, I probably would have engaged lawyers to look at it because they're, they're almost legal documents.

40

Might the witness be shown disclosure brief, page 160, Commissioner? And is that a letter that you wrote to Minister Goward on 24 October, 2014?---Correct.

And there, in the second portion of the letter headed Five Dock Town Centre state, "There is also a proposal for the Five Dock Town Centre currently on exhibition. My parents own 120 Great North Road at Five Dock and 2 Second Avenue, Five Dock. I again wish to exclude myself from any correspondence or discussions that may lead to a conflict of interest." Do you see that?---I do.

And by the last sentence, did you mean to exclude yourself from any correspondence or discussions about those matters or anything that could involve those properties in your acting as the Parliamentary Secretary for Planning?---Yes. That's correct. So, so, to add to that, Mr Neil, there would have been a response that came back as the result of this and it pretty much, it clearly shows the response but, in other words, I'm not a part of the decision-making process. So if this at all came up in my capacity to represent the Minister for Planning on her behalf at any meetings, and this
10 came up, that I would exclude myself.

Yes. And I think we see the minister's response at – well, it's in the disclosure brief, Commissioner.---Yes. And, and, and as I said, it says my parents - - -

All right. Thank you. Well don't – just a minute.---Yeah.

And at page 160 of the disclosure brief, you've disclosed to the minister that your parents own those properties there set out, correct?---Correct.
20

THE COMMISSIONER: Mr Neil, if you're going onto another topic.

MR NEIL: Oh, thank you, thank you.

THE COMMISSIONER: Is this a convenient time to take a - - -

MR NEIL: It is indeed, thank you, Commissioner,

THE COMMISSIONER: Yes, very well. We'll take the morning tea
30 adjournment. I'll adjourn.

SHORT ADJOURNMENT

[11.32am]

THE COMMISSIONER: Mr Neil.

MR NEIL: Thank you, Commissioner. Could I ask if the witness be shown
40 volume 24, page 2118. This - - -

THE COMMISSIONER: Is there a problem there?

MR NEIL: 2118, sir.

THE COMMISSIONER: 2118.

MR RANKEN: Is that Exhibit 24?

THE COMMISSIONER: Exhibit 24.

MR NEIL: 24.

MR RANKEN: It can't be Exhibit 24. I don't think it goes up to 2118.

MR NEIL: Well, I apologise.

THE COMMISSIONER: Perhaps if you - - -

10

MR NEIL: Maybe we'd better go to the disclosure brief.

MR RANKEN: I think it's Exhibit 37.

THE COMMISSIONER: Exhibit 37, thank you.

MR NEIL: Now, Mr Sidoti, this is a document that's a contract of sale dated 13 November, 2007. Now, how old were you then?---In 2007, 37.

20

This was before you went into parliament. Correct?---2007, yeah, that's 14 years ago, that was four years before I got into parliament.

Back in 2000 there had been some document that's in evidence about which I think your evidence is you weren't aware of anything to do with trustees and beneficiaries. Do you recall that?---Yes, I do.

30

2007, this is a transfer from Deveme Pty Ltd as trustee of the Sidoti Family Trust to the forenamed person, Cath and Richard, John and Sandra Sidoti as trustees of Deveme Pty Ltd Staff Superannuation Fund. Did you understand that you became an owner of the property?---No, 'cause I'd never received anything, you know, it's, it's, it's, I never received income, I never received tax from it, I never received bills, insurance, land tax, anything. It's, it was, it was, you know, well before I even got into parliament. My understanding looking at that, it was just from an internal signing of a document from, from a parents' entity to another parents' entity. That's my understanding.

40

Now, you were asked some questions about the heat of issues and it was suggested that the heat regarding issues might have been less or none after about 8 April, 2014, but what do you say as to how long heat regarding anything to do with the town centre continued.---Well, the heat continued but it became less as decisions were being made down the track. There was a lot of heat, I think, around 2015 and the, that basically was one of the meetings where the staff had made a decision to resort back to the original ideas of the Studio GL, if you like, report, that you know, heights were less and the FSR remained at 2.5:1. Pretty much after 2015/16, after that time, there was very little then.

Was the principal problem that arose once the town study issue was made public, as far as shopkeepers and business people were concerned, was the lack of an increase in the floor space ratio?---That, that was the major, the major heat point.

Yes, thank you. And how long did that concern continue?---Up until when council then endorsed and made decisions and then that was pretty it for the town centre.

- 10 THE COMMISSIONER: Well, which shopkeepers are we talking about again were agitating over floor space ratio? You keep talking about this undefined group. Which shopkeepers were making representations ongoing or at all concerning FSR prior to 2015, and including 2015 and '16, for that matter?---All, all the shopkeepers mentioned.

Which ones?---Well, there was the, the Rizzo ones, there was the Price one, the Whitfords, all the ones mentioned, and that's just to mention a few of them.

- 20 Well, they're the names that were fed to you this morning in the questions. Did the reference to them bring it back that these were amongst the shopkeepers?---Yeah. These were, were amongst the shopkeepers, correct.

So that's two or three. Who else?---No, there was more than two or three.

Well, how many?---Multiple.

Who were they?---(No Audible Reply)

- 30 We're talking about the FSR issue in particular.---Oh, it, it was common, it was a common theme, all of them.

Who were they?---Natoli would have been one, Rizzo was another, Price was another, Whitfords was another and, and, and all the ones present, there was a universal understanding, unless FSR changed, nothing would happen.

You've mentioned a few names. What other names?---Well, that's all I can, I can recall now.

- 40 And are you suggesting that those named shopkeepers in your last answer or two spoke to you, wrote to you or emailed you or not?---Spoke to me.

But not emailed or lodged any written complaint or written issue?---Not, not that I recall in writing, no.

And I suppose it would be difficult to say when these named shopkeepers spoke to you. Are you able to say when or not?---Yeah, yeah.

When?---When I, when I, when I saw them in the street, which was regularly.

Yes, I know. That's place, but when in time?---Oh, oh, exact time. Apart from the Chamber of Commerce meeting, I couldn't give you an exact, yeah.

MR NEIL: Thank you, Commissioner. Can you recall whether a Mr or Mrs Frogassi raised the matter with you?---Yes. Very well.

10

Who is he or she?

THE COMMISSIONER: What did they say about FSR?---Um - - -

Or don't you remember specifically?---No, I, no, I do remember. In a nice way it was 2.5:1, nothing was ever going to happen but he did it in very colourful language.

MR RANKEN: I wonder if we could have the spelling of that surname?

20

MR NEIL: F-r-a-g-a-s-s-i.---He was the owner of a shop.

F-r-o-g-a-s-s-i, pardon me, Commissioner.---Len might come up as Leonardo as well.

And could I ask if the witness might be shown Exhibit 24, page 396, Commissioner.

THE COMMISSIONER: Sorry, 24. What page?

30

MR NEIL: 396.

THE COMMISSIONER: 396.

MR NEIL: If you look at the centre of the page at item 20 – 29. Is that a submission that the Chamber of Commerce made or reference to it? ---Number 20?

The second one from the top.---Yes.

40

20, thank you.---Yeah. Yes.

And did you acquaint yourself with that submission at the time?---Oh, I've seen it.

In 2015, there was a staff recommendation to remove some bonus provision. What did that relate to?---Additional height in the town centre.

Did you have any heat from anybody regarding that proposal?---All the Chamber of Commerce and shopkeepers again were all jumping up and down.

THE COMMISSIONER: Well, again, if you were asked to identify who they were, are you able to do that?---It, it would have been amongst the names that were mentioned.

10 Not “would have been”, but are you in a position to say, from memory, who they were?---I, I – no, I can’t tell you name, time, day in 2014.

I understand. Yes, I understand.

MR NEIL: Before this Commission hearing, have you ever been asked to recall the names of any of the persons who raised with you concerns about FSR?---No.

20 Now, the – you’re aware, are you not, that at times motions that have been referred to in evidence were provided either by you or by your planners to councillors?---Yes.

Or your parents’ planners, right?---Correct.

And to what extent – I withdraw that. Did you see anything wrong with providing motions only to Liberal councillors?---No.

30 And the same considerations apply as you’ve given earlier evidence about other information to Liberal councillors?---Correct. It was welcomed. It was welcomed. There was never any heat, never any pressure. It was seen as being informative. I was seen as being closer to, to what was going on, having been, having lived in that area all my life. The, the two, two of the councillors basically were in Concord. They weren’t seen regularly in the Five Dock area. So at no point was there any, you know, it was always welcomed. It was only as a result of the Commission that I’ve seen evidence now that suggests otherwise, that there was some sort of heat. There was never any heat.

40 Might the witness be shown Exhibit 24, page 1414, Commissioner. That is an email by Mr Matthews to Mr Daniel and also to you. And it refers in the centre of the page to a bonus provision initially applied, and might the witness be shown page 1430, Commissioner. And the two principal points are set out there as part of an email to councillors set out at page 1428, if the witness might be shown 1428.---Yes.

Now, do you agree that if you to go page 1430 and look at number 1, to apply the bonus height provision to land fronting Great North Road et cetera, that that applies only to properties on Great North Road?---Yes.

You were not agitating for anything further to be done in respect of what I'd call the subject land. Correct?---Correct.

Now, did you understand that you were entitled to put that proposal forward?---My understanding, that was all part of the process.

And did you have advice from the planner, Mr Matthews, or his firm, to do, to make that application?---Oh, I don't, I don't remember to, to – can you say that again, Mr Neil?

10

Well, did you do that on the, did you – were you given advice - - -?
---Well, yes.

- - - by Mr Matthews - - -?---Yes.

- - - to seek to have the bonus height provision applied?---My understanding is everything is done on the, on the basis of the planners' advice. That's why they're, that's why they're basically engaged.

20 Does that include that motion?---Well, looks that way, yes.

Now, I just want to ask you something about preselections. Firstly I think we've been told there were four branches in the Drummoyne area. Correct?
---Yes.

And did you attend branch meetings regularly?---Yes.

And how often would you attend them?---I think they're every six to eight weeks.

30

What was your purpose?---To branch meetings?

Yes.---Oh, because we're members of the same political party.

And what would you do at the branch meetings?---Talk about Liberal Party matters, what's going on in the local neighbourhood, issues that may be pertinent to the community.

40

Did you find that branch members welcomed you?---Oh, very much so.

Were they appreciative of interaction with you?---Oh, very much so. Unless they're very active in the community, it was one means by them meeting with their local member.

And to participate in the democratic process.---Well, it goes without saying, it is a democratic process.

And which they were participating in.---Exactly.

And did you see at any of these branch meetings at which you attended, any of the Liberal councillors attend also?---Yes.

And what would they do there?---They often gave updates and spoke and listened to, to, to the other members, engaged with the other members and spoke about everything far and wide.

10 And in 2014 through to 2017, how would you describe your relationship with the Liberal councillors?---Oh, I've always had a good relationship with the councillors, a very professional, cordial, very good relationship.

And in terms of preselection, we've heard here that – and I'll try and keep this short – that Councillor Yap and Councillor Di Pasqua came to some understanding I think with Councillor Megna about organising some mutual support, sometimes called a ticket, is that right?---Yes.

20 But is it the case that no such – other than preliminary discussions – canvassing of that nature doesn't commence until the nominations are in? ---Correct. So nominations open, and they closed, I understand, in a two-week period.

And is it open to any candidate to seek to garner support of other candidates?---That's standard procedure.

And who are the people who actually come up with what is described as a ticket?---Once nominations close, it's usually in the interests of the actual candidates to do that. And that's what happened.

30 And you've said that you gave some support to some ticket, along with Mr Tannous, but had you devised the ticket?---No.

And why did you give some support to a ticket that – I withdraw that. Did you give support to a ticket that you understood had been devised by Councillors Megna, Yap and Di Pasqua?---Yes.

And why did you do that?---Oh, because they were the best candidates by a country mile.

40 Now, did you attend at the Abbotsford Public School on the day of the council election at the polling booth?---Yes, it's one of the biggest booths in the electorate.

And, Commissioner, if I might ask if the Commissioner you be shown, and my learned friend and the witness, be shown a page of a, what appears to be a return of some results at Abbotsford Public. I'm told it's the public school. Now, is that the first preference results for the mayoral election at the booth of Abbotsford Public School?---Yes.

And were you actively supporting Councillor McCaffrey for mayor?---Yes.

And what did you do to provide that support?---Well, I gave her a reference early on in the piece and I worked, I worked my backside off on the day on one of the biggest booths.

And what did you do?---Got, got a great result for her.

10 Yes, but how did you do it? Did you hand out how-to-vote cards?---Oh, yeah, sorry, yeah, I worked all day on polling booth and handed out how-to-vote cards and, yeah.

Now, according to this she got the number of first preferences, but as I understand it, she – when the preferences were distributed – fell short of the mayoral vote, correct?---It was a close result, yes.

20 Now, if she had have won the mayoral vote, albeit if she were three or four on the Liberal ticket for the ordinary councillors, what effect does the mayoral vote have, if she'd won it, on her prospects of becoming elected as an ordinary councillor?---Her quota transfers to the candidate ticket and it automatically gets you another councillor.

And in your considerations of who you might support in terms of Liberal councillors, you've said you're one of the best councillors and you supported the ticket, Megna, Yap and Di Pasqua. If that was successful, then those three would be elected, correct?---Correct.

30 But if, by virtue of winning the mayoralty, did you expect that the likelihood was that Ms McCaffrey would also be elected as an ordinary councillor? ---Oh, yes, very much so. She was incumbent. She was the incumbent mayor. Profile, well, incumbency in politics means a lot. Looking back now, it, it, you know, it was not a lot of time. So she was limited, I guess, to the, the, the usual doorknocking, the very personalised face-to-face contact with constituents. So she was limited from that perspective but, you know, that was the best opportunity to get the most number of councillors up. It was certainly my expectation because the boundaries of the state seat covered the council, as we've established. So it's the same electors, so one would anticipate that the state result would reflect the local result and give
40 us a, a, a majority of councillors.

So if Ms McCaffrey got in as mayor and councillor and if the other three got in, although Ms Cestar missed out, do you consider that would have been a good result for the party?---Oh, most, most definitely. It would have been a fantastic result.

Do you consider it would have been a good result for the people of Canada Bay?---Most definitely.

And it means that Ms Cestar wouldn't get elected. Was that a good thing or not?---Look, as I said earlier on, Mirjana was about Mirjana, you know, it was about establishing sister cities with Croatia that wasn't in the interests of everyday residents. This, this was just about her wearing a badge to further her own name wherever she went. Mirjana wasn't, I, I would say, a worker. You know, she did the bare minimum. You know, she's, she's conceded to this Commission that she never read, she never read documents even when they were only eight pages long, yet they're making decisions that affect the livelihoods of thousands upon thousands of people. So, again, I can only go back and say that the preselectors weren't asleep. They would have been privy to all of this. So I, I, you know, they wanted fresh, young, enthusiastic candidates that cared and engaged with the community and I think that was the obvious result in the preselection.

Now, in terms of supporting the persons you were supporting, and in terms of your discussions with Mr Tannous, did you approach some of the preselectors?---Yes, I, I rang some of the preselectors, yes.

20 And did you consider you were entitled to do that?---Most definitely. "Please consider."

Are candidates entitled to speak to preselectors?---Yes. Any, any Liberal Party members are entitled to speak to – it's all part of the democratic process.

Is any Liberal member entitled to speak to a preselector and give them their views on the candidates?---Most definitely.

30 And did you and Mr Tannous, as far as you were concerned, were you giving preselectors views that might assist them with their decision? ---Certainly.

And is that process within the party of longstanding?---I think it, it, it, it certainly is and I think it, it, it, happened 40 years ago and it'll happen in another 40 years' time. It's the usual practice that goes on.

40 Is it based on the premise that the preselectors, after taking into account all material available to them, will make conscientious, independent decisions on who they are going to select for running for important office?---Very much so. Done, done in the essence of a, at Concord RSL Club in a closed room, where they really can do whatever they want without anyone else knowing anyway.

In your discussions with any preselectors, did you do so on the basis of trying to inflict any retribution upon Councillors McCaffrey or Cestar? ---No. No. I, I had a very, very good relationship with them all and I was quite surprised to see some of the evidence but again I wasn't privy to it

because often the discussions were between them and others, not between me.

How important to success in preselection is the speech by the individual candidate on the day?

MR RANKEN: I object.

THE WITNESS: Critical.

10

MR RANKEN: I object. I object for this reason, that that would depend on the individual preselector as to what effect a particular speech is going to have on them.

THE COMMISSIONER: Yes. Mr Neil - - -

MR RANKEN: It's effectively asking Mr Sidoti to give evidence as to what preselectors, and there are 25 I think, what value they might individually put on the speech as to other - - -

20

THE COMMISSIONER: Mr Neil, I think you can ask him questions as to what he considers the part that presentation presents normally in his experience rather than putting it in the form that you - - -

MR NEIL: I'm content with that. Thank you, Commissioner. What part does the presentation by way of speech of candidates on the day normally play in the preselection?---A huge, huge role.

30

Why is that?---Well, it's, it's the one opportunity that the preselectors can see what you're pitching to them, what your ambitions, what your plans are for the next four years, and it actually places value in the selectors' role that you're actually treated them, their membership with being open and understanding and you're placing value on them being members.

And on the day are candidates subject to questions put to them by the preselectors?---Yes, equally as important.

Now, no disrespect to her, but would Ms Cestar be in fact at some disadvantage by not being present on the day?

40

MR RANKEN: I object. She was present.

MR NEIL: I'm sorry, I withdraw that. Ms McCaffrey.---Yes. I think she'd be at a substantial disadvantage.

And would a preselector, would a candidate such as Ms Cestar, who was overseas and returned the day before, be at any disadvantage in terms of

canvassing for support?---Oh, most definitely, most definitely. I'm not aware of her contacting anyone.

And I think it's said that in terms of canvassing preselectors, you approached some of the local members and Mr Tannous approached persons from the head office, if that's the right name, or the state executive. Is that what happened?---That my understanding, yes.

10 And is that a usual practice?---Yes. I think all preselectors would be contacted. It would be unusual if they weren't.

Pardon me, Commissioner, I'm just about to finalise, check our notes. A specific matter – did you discuss, did you discuss, in addition to the Five Dock Town Centre planning matter with Liberal councillors, planning matters relating to Rhodes, R-h-o-d-e-s?---Yeah, multiple, multiple, multiple different projects.

And what about Parramatta Road?---Yes.

20 Breakfast Point?---Yes.

The Bushells Factory?---Yes, yes.

Five Dock Bowling Club?---Yes.

The water tower at Drummoyne?---Yes.

30 Anything else?---The sports club Drummoyne, any, any planning proposals in the community or anything of, you know, sale of council assets or anything of importance to the community was always discussed.

Did you discuss the former bowling club on the corner of Lyons Road and Great North Road?---Yes. I, I, I recall even putting out a, a flyer to all the community in that area because it was a valuable piece of open space that council, in their wisdom, decided to, to approve a change of use that would allow residential development.

40 Was the issue whether or not, in substance, that land should be kept as open space for parklands and the like or be turned into a block of units?---Well, my view and the view of the community - - -

No, was that the issue?---Yes.

All right, thank you. And did you talk to councillors about it?---Yes.

Thank you. Now, did you ever attempt to improperly influence any person – including any councillor – to dishonestly or partially exercise any of their official functions?---No, not in any way.

Did you ever intend to do any such thing?---No.

Did you ever attempt to influence any person, including councillors, in respect of the advancement of amendments to development controls affecting the subject land?---No.

Did you ever attempt to do any such thing?---No.

10 Nor in respect of any rezoning of land or any proposals to develop land in Great North Road or 2 Second Avenue?---No.

Did you have any reason to believe that any of the councillors could be susceptible to any attempts of that nature?---No, absolutely not. The process doesn't allow that.

And did you believe that their characters were such that they weren't likely to be in any way susceptible?---Absolutely not. They were very strong and independent people. No way.

20

And did it ever enter your head that you were doing the wrong thing in discussing these development controls or amendments or proposals with any of the councillors?---No.

And I think you've said that no councillor at any time asked for you to desist from discussing these matters with them?---Correct.

Those are my questions. Thank you, Commissioner.

30 THE COMMISSIONER: Yes, thank you, Mr Neil. Yes, Mr Ranken.

MR RANKEN: Yes, there are a few matters arising, if I may, Commissioner.

THE COMMISSIONER: Yes, certainly.

40 MR RANKEN: Mr Sidoti, I just want to deal with an aspect of in relation to the development proposal in respect of 120 to 124 Great North Road and 2 Second Avenue, which were the subject of those plans that were tendered as Exhibit 41. And you may recall, when giving evidence, there was a reference to the fact that the issue – which has been tendered as Exhibit 41 – was issue number 2 and was dated 26 July, 2018, but there was a previous issue, issue 1, which was dated 16 July of 2018.---I, I, you brought to that my attention. I'm not aware of it.

Well, I wonder if we could bring up, from Exhibit 24, page 1738. So 1741, actually, if we may. This is part of a string of emails between Mr Kudinar and other persons in his firm. Do you see that, though, the first full email

you can see on that page is an email from Mr Kudinar-Kwee dated 26 July? And it's to Mr Jeffrey Anwar and Mr Ramiro Lopez Peña, copied to Mr Bilotta, Vince Bilotta. I think Mr Bilotta was a partner of Mr Kudinar, and the two of them, I think - - -?---Yes.

- - - were the ones who got you to be involved in the development at Rouse Hill, correct?---Yes.

10 But just in respect of this, do you see that it says, "Do you have the fee proposal back so I can email it to him?" Do you see that?---Yes.

Now, I want to suggest to you that that is a reference to the fee proposal for the work that they were doing in respect of this, these drawings for 2 Second Avenue and 120-124 Great North Road. So this is a – it's an early stage, effectively, is the point, correct?---Yes. So - - -

20 And given the dates that I have taken you to, it's likely that they were only engaged to prepare these drawings, is it sometime in either late June or early July of 2018. Does that accord with your time frame?---No, not really.

Well, do you - - -?---It's possible.

What do you say as to when Mr Kudinar-Kwee and his firm were engaged to prepare these development concept drawings and plans for the purposes of the development application?---Well, I'm not sure. It's probably around that time.

30 Around that time. And you accept, or you would agree, would you not, that by that time the original changes to the City of Canada Bay LEP that had been proposed as a result of the Urban Design Study had already gone through and been gazetted by that stage?---And, and, and what stage was that? July.

This is July 2018.---Yes.

And in fact they had been gazetted in August 2016, that is the original proposal?---If you say so, yeah.

40 And indeed the subsequent planning proposals that were adopted and put forward by the council as a result of the adoption of option 2, as it has been referred in respect of the Waterview Street site or block, they went through to gazettal, to be gazetted on 27 April, 2018. Does that sound right?---Yes.

So these plans were prepared at a time when all of the changes to the City of Canada Bay Local Environment Plan had been finalised, as it were, correct?---The sketches, yes.

And so these were development plans that were put forward as concepts within that framework, correct?---The, the, yeah, the concept, yep. I guess so.

Now, I want to turn to another topic, which is the conversation that you had with Mr Haron recently where you became aware that in fact he, I think, made some reference to the fact of the invitation to attend the meeting of the Chamber of Commerce on 7 April, 2014, had gone to all elected representatives?---Yes.

10

And you told us that that was a conversation you had when you were walking the dog.---Correct.

Walking your dog, and were you doing that on the Bay Run?---No. That's just down, well, it's another bay run but not, not the one we're referring to. Down where I live in [REDACTED].

Not the famed Bay Run but a bay run of some kind?---Yeah, a shorter one, yes.

20

And you told us that it was during either the first or the second week of - - - ?---The hearing.

- - - the hearing, is that right?---Yes, yes.

And you told us that part of the conversation was that he had been – I think Mr Haron had indicated to you that he had been following the evidence? ---Yes.

30

And he had heard what you had said about not remembering whether or not you had attended a meeting at your office?---Yes.

And he said to you something along the lines of, “What are you talking about? You were there,” et cetera. That's right?---Yes.

Right, okay. Do you see - - -?---“Don't you recall?” He said, “Don't, how, how can you not recall? You organised the meeting for us.”

40

You see, you commenced giving evidence in this hearing on Tuesday of last week, correct?---I, I, sorry, I - - -

You commenced giving evidence at this public hearing on Tuesday of last week, correct?---Yes.

That was the Tuesday of the fourth week of this hearing.---Yes.

So it's absolutely not possible for you to have had a conversation with Mr Haron in the first two weeks of this public inquiry during which he raised

this issue.---Oh, that's when I thought I did, yeah. It came up in the discussion that we had when I bumped into him, yes.

So, what I'm saying is, is that it just cannot be possible that Mr Haron, having heard your evidence in the first two weeks of the hearing, spoke to you about, with some incredulity, that you had suggested that you hadn't attended the meeting and reminded you that in fact that you had.---No, but it came up in some form that there was a Chamber of Commerce meeting or he must have shown the minutes of that meeting to others or it came up in that form. Maybe I'm incorrect in what, the way I worded it, yes.

What I'm suggesting to you, Mr Sidoti, is that you have made up that evidence - - -?---No.

- - - of this conversation with Mr Haron.---No, absolutely not.

And it is false evidence.---No, that's not correct at all.

Now, I want to move on to another matter, which is in respect of some evidence you gave concerning some correspondence with Ms Goward, but before I go to that correspondence, you were asked by Mr Neil some questions about your roles and duties as a state member, and you told us in response to that question that your role involved making representations on all state issues to parliamentary colleagues and also making representations to local government on behalf of your constituents. Is that - - -?---That's part of it, yes.

Or something to the effect that they're part of your duties?---Yes, yes.

And if we could bring up on page 160 from Exhibit 37, you were taken to this piece of correspondence by Mr Neil in his examination of you and your attention was I think directed to what you've indicated in respect of the Five Dock Town Centre. Correct?---Yes.

And what you were wishing to disclose there was the potential for a conflict of interest to arise if you were involved in any correspondence or discussions in your role as the Parliamentary Secretary for Planning. Correct?---Yes.

As a result of the fact that you had been appointed to that position. Correct?---Yes.

And if you were to be engaged in any kind of correspondence or discussions about that, that that might lead to a conflict of interest because of the existence of your family's property interests in respect of in particular 120 Great North Road and 2 Second Avenue.---Yes, yes.

So as at 24 October, 2014, you were clearly aware of the potential for at least a perception of a conflict of interest if you were to make representations relating to the Five Dock Town Centre.---No.

You had no appreciation that that might, there then might be a potential for a perceived conflict of interest?---No. What I'm saying is, that's in my duty if I'm representing the minister and I'm in a position where I make decisions on her behalf when she's not present, that's what that is about.

10 But you told us that one of your roles and duties as a state member was to make representations to the council or to local government - - -?---Yes.

- - - on behalf of your constituents. Correct?---Yes.

And it would follow, would it not, that there would be a need to be clear when doing so to identify on whose behalf you were making those representations?---Yes.

20 And that would be particularly so, would it not, when there was a possibility that the interests that you were supporting by your representations coincided with the property interests of your family?---I don't agree with the premise of the question.

So it wouldn't be necessary to make it clear on whose behalf you were making these representations so that it could be clear that no one could have any doubt that it was not on behalf of your family's property interests. ---No. What I'm saying is, in order to have a conflict you have to be part of the decision-making process and I'm not part of the decision-making process.

30

It was necessary for you to make it clear the position for which you were advocating was one that was likely to be of benefit to your family's property interests when making that representation. Was it not?---No. You've taken this whole letter out of context.

I'm just talking about in the exercise of your role and your duties as you described them to make representations on behalf of your constituents to local government.---But this is, this is not, this is talking about my specific role as a - - -

40

I've moved away from the letter, Mr Sidoti.---Yeah, but you're still talking about it, that's why it was up on the screen.

No, it's now been taken off the screen.---Okay. So it's a different question in a different context?

I've come back to your roles and duties as a state member.---Yes.

And one of them you told us was to make representations on behalf of constituents to local government. Correct?---Yes.

And you would agree with me that as part of that it was necessary for you to be clear when doing so to identify on whose behalf you were making those representations?---Yes.

10 And it would also be important to identify if it was the case that the interests that you were supporting by your representations coincided with the property interests of your family, would it not?---Yes.

And it was therefore necessary for you to make clear that the position for which you were advocating was one that was likely to be of benefit for your family's property interests, correct?---It's important. Everyone – it's clear, yes.

Yes. And it was not sufficient for you to assume that everyone knew about your family's property interests.---No, that's not correct.

20 Oh, it was sufficient for you to assume that everybody knew that you owned, your family owned property in the Waterview Street block?---And - - -

And that was sufficient? You didn't need to actually make it express?---No. Evidence has suggested that. All the staff members, particularly in the town planning area of Canada Bay Council, absolutely knew that. To, to think that they don't talk to councillors is one thing, and I've already given evidence that, on multiple occasions I met with the councillors, and they were fully aware.

30 Now, so I'll just put the proposition to you in a slightly different way, then. Do you say that you were entitled to assume that everybody knew about your family's property interests in the Five Dock area and not make that explicit when you were making representations on behalf of constituents in respect of the Waterview Street block?---Sorry, that's longwinded. Can you break that down, please?

40 Do you say that you were entitled to assume that everybody knew about your family's property interests when making representations on behalf of constituents in respect of the Waterview Street block?---I think everybody knew the position that my - - -

That's not my question, Mr Sidoti.---So, so - - -

My question is, do you say that it was sufficient for you to assume, or you were entitled to assume, that everyone knew about your family's property interests when making representations on behalf of constituents in respect of

the Waterview Street block?---Everybody knew about the interests. So the premise of the - - -

That's not my question.---Okay, but - - -

My question - - -?---But the premise of the question is incorrect.

Mr Sidoti, my question is - - -

10 THE COMMISSIONER: Mr Sidoti, just listen to the question so that you are addressing the question. Try again.

MR RANKEN: Do you say that you were entitled to assume that everybody knew about your family's property interests when making representations on behalf of constituents in respect of the Waterview Street block?---Look, I don't understand the question. You may have to put it a different way.

20 Well, what, do you not understand the word "entitle"? Do you not understand the word "assume"?---But that's what you're doing. You're assuming and entitled. You're assuming. I've said to you that all the staff have given evidence that they knew.

THE COMMISSIONER: Mr Sidoti - - -

MR RANKEN: Let me ask you the question - - -

THE WITNESS: The community knew.

30 THE COMMISSIONER: Mr Sidoti, please. Mr Sidoti.

MR RANKEN: Let me put it a slightly - - -

THE COMMISSIONER: Just, just - - -

THE WITNESS: I know you don't like my answer, but that's not going to change my answer.

40 THE COMMISSIONER: Mr Sidoti. I am talking to you, Mr Sidoti. I'm addressing you. Do you understand that?---Yes.

I'm addressing you about the problem we're having getting a question put and answered. The question's been put a number of times. It's a straightforward question. And you persist on arguing with Counsel Assisting and the word "assume" and the like. You are not permitted to do that. It's not just you, it's any witness. You must cooperate with the Commission to answer the question whether you like it or not, and not to make a statement which is avoiding the question, which is called obfuscation. I've been down this track with you before, as you've heard me

do with other witnesses. I don't think there's any need for me to explain it any further. And I don't want to, at this stage, use my power to direct you to answer questions, because I'm sure that you will cooperate by answering the questions and it'll be unnecessary. So just listen carefully, if you would, and I'll ask Counsel Assisting to put the question once more.

10 MR RANKEN: Yes. Do you say that you were entitled to assume that everyone knew about your family's property interests when making representations on behalf of constituents in respect of the Waterview Street block?---No.

And it follows, then, that it was incumbent upon you to make it clear, when making those representations, that your family had property interests that might benefit from the position for which you were advocating, correct?---I believe I've done that at all times.

20 Now, I want to ask, then, just some questions about the preselection process. One of the things you told us was about the importance of the presentation that a candidate for preselection makes to the preselectors at the preselection event itself. And you said it was the one opportunity to communicate with the preselectors to explain your position on issues and to outline what you would do as a person, a candidate would do as a councillor. You agree ---Yes.

And that's not strictly correct though, is it, because it was open to candidates to communicate directly with preselectors in the run-up to the preselection event, correct?---That's correct, yes.

30 And in fact we heard some evidence from a number of them that they contacted or attempted to contact preselectors and speak with them?---Yeah.

Correct?---Attempting and doing are two different things but yes.

Well, communicating and speaking with preselectors, correct?---Correct.

So it's not the only opportunity, there are other opportunities as well, correct?---There are other opportunities, yes.

40 But it is the last opportunity. Is that the real significance that you would make about it?---(No Audible Reply)

It's the final opportunity to really bring home the point about the candidate's candidacy?---Yes, that's, that's correct.

And you said you weren't aware of what other councillors or candidates for preselection contacted the preselectors? That was in answer to one of the questions from - - -?---Today, yep.

- - - Mr Neil, you said that you weren't aware what contact had been made by other candidates to the preselectors?---No, not for sure, no.

How would you expect to become aware of that?---Because generally what happens is everybody is talking, all branch members start to talk, all, all, all party membership holders are, are interested.

So when you were speaking with these preselectors, were you asking them, "Had Mirjana Cestar contacted you, have Ms McCaffrey contacted you?"
10 ---No. It, it, it would have come up.

Well, why not? I mean, if that's the kind of thing that happens, you all talk about it.---Sure.

And they're the preselectors and you're speaking to preselectors about a particular ticket. Why not enquire as to whether or not they had been spoken to by the other candidates?---Well, that's one of the things that would have come up as a result of the discussions.

20 So are you saying you did speak with them about whether or not they'd been contacted by Mirjana Cestar or Ms McCaffrey?---No, not, not specifically about who contacted who. It generally comes up. So when someone does that, and contacts them and there's almost the automatic comparison, "Well, you're the only one that's contacted me" or, "Two people contacted me," or, that's generally what happens.

And you also told us that the preselectors weren't asleep to Mirjana Cestar's performance on the council, if I could paraphrase it a little bit, but your words were the preselectors weren't asleep to that. Do you recall that?
30 ---Yes.

And that was after you had provided a fairly, if I could respectfully say, a negative and somewhat pejorative assessment of Ms Cestar's performance as a councillor, in your evidence.---Well, that's my assessment now, yes.

THE COMMISSIONER: Can I just ask you on that. As I understood it you didn't have a great deal to do on a daily basis with what councillors actually do in the course of their functions in the local government, and does that apply to Ms Cestar? It's not as if you were in a position to evaluate what she was doing on a daily basis?---I, I'd come to understand what they do on a daily basis or what they didn't do by the number of people coming into my office with local government issues. So - - -
40

So is that the basis upon which you feel you are able to make a judgement as to her capacity and conscientiousness?---No, her contribution as a Liberal Party member, particularly holding a number of positions in the party and her workload was substantially less to anyone else in an equivalent position.

Yes, I understand you're not criticising her as a - - -?---Person.

- - - public officer in local government performing her official functions, but rather you're talking about whether she pulled her weight in terms of supporting the political interests of the Liberal Party?---Yes.

10 MR RANKEN: So, were you part of the process by which the preselectors were make aware or advised of your assessment of Ms Cestar and her performance?---No, I had conversations with a number of preselectors, but it was, and the feedback coming back was the current crop were looking for young, energetic, different, looking to pave a different path. It wasn't - - -

This is feedback you were providing to the preselectors, wasn't it?---This was feedback coming back to me now.

20 So you didn't mention that your views and your assessment, as you've just told the Commission a short while ago, of Ms Cestar as being really only for herself and only about establishing sister cities, that didn't come from you, is that what you're saying?---No, that's, no, that's my observation of her.

That was your view, yes.---But I, I, my observation is that go for the strongest candidates, and that's what actually happened.

But didn't you express a view, these views about, that you've now just told the Commissioner, didn't you express these views when you had these conversations with preselectors, about Ms Cestar and her performance?---No.

30 Well, why not? They seem to be pretty strong views that you had about her performance.---Well - - -

And her value as a candidate. Surely you expressed them.---No. No. The idea is to select the strongest candidates, and that's what happened.

And surely that would involve also being able to create some distinction between the candidates that you were putting forward and the candidates that those persons were up against, such as Ms Cestar.---No.

40 A comparator.---(not transcribable)

You didn't do that at all?---No.

You didn't trash talk Ms Cestar when you spoke to the preselectors?---No, I think by this, the evidence given here, I've been trash talked by Mirjana Cestar.

That wasn't my question.---Of course it's not.

My question was, did you not trash talk Ms Cestar - - -?---No.

- - - when you spoke with the preselectors?---No.

Are you sure about that?---Yeah.

Thank you, they are my only questions.

THE COMMISSIONER: Yes, thank you.

10

MR NEIL: Commissioner, could I just point out, I think I failed to ask if this document could be tendered. So could I ask if it could?

MR RANKEN: Yes, if we might tender. I think it's a first preference by venue and aggregated vote type for the position of mayoral candidate in the 2017 New South Wales local council elections for Canada Bay at Abbotsford Public.

20

THE COMMISSIONER: Yes, that document, 2017 local council elections mayoral contest, 2017, in respect of the polling place, Abbotsford Public School, will be admitted and it'll become Exhibit – just a moment. I'll just check it.

MR RANKEN: I think I may have been provided. Just one moment.

THE COMMISSIONER: Exhibit 43.

MR RANKEN: Exhibit 43.

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#EXH-043 – 2017 NSW LOCAL COUNCIL ELECTIONS CANADA BAY MAYORAL CONTEST FIRST PREFERENCE RESULTS

MR RANKEN: Commissioner, I just wonder if you could excuse me for a moment. I just need to raise something with Mr Neil about that document.

THE COMMISSIONER: Yes, certainly.

40

MR RANKEN: Sorry. I think I've accurately described the document to be tendered. I just wanted to confirm that I had.

THE COMMISSIONER: Yes, thank you. Yes, you may step down. Thank you, Mr Sidoti.---Thank you, Commissioner.

THE WITNESS EXCUSED

[12.58pm]

THE COMMISSIONER: Yes.

MR RANKEN: Yes, Commissioner, that completes the evidence.

THE COMMISSIONER: Thank you. Mr Sidoti then is excused from further attendance under the summons, and I'll adjourn.

10 **AT 12.59PM THE MATTER WAS ADJOURNED ACCORDINGLY**
[12.59pm]