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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 THURSDAY 30 SEPTEMBER, 2021

AT 2.15PM

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THE COMMISSIONER: Yes, Mr Neil.

MR NEIL: Thank you, Commissioner. Mr Haron, I represent Mr John Sidoti. Do you understand that?---Yes.

10 And I will be speaking a little louder than usual because of the health requirements, masks, but if you can't hear me, please ask me and I'll speak even louder.---You're coming across loud and clear.

Thank you very much. Now, you're, as I think you've told the Commissioner, an engineer by background and with some particular area of expertise. What is that?---Lighting design.

Thank you. And can we take it that one of the important aspects of your professional life is to be precise about matters wherever you can?---Indeed.

20 And prior to moving to the CBD, do I understand that you had an office on First Avenue, near the intersection of Great North Road at Five Dock?---I did.

You lived at Great North Road, Abbotsford, is that correct?---Yes.

Approximately how far was your residence from, say, the Kelly Centre?
---Two kilometres.

30 Thank you. Is it a fact the you are very familiar with Five Dock town area?
---It is a fact, yes.

And surrounds?---Yes.

And you were also a business proprietor within the Five Dock town area, correct?---Yes.

40 And I think you've indicated that you had a property that was of small or modest proportions such that it would not benefit from any development aspects of the Town Centre Study, is that correct?---That's correct.

Can we take it that your interest, when you joined the Chamber of Commerce, well amongst your interests, was the development of the town centre area if possible?---Yes.

The Town Centre Study Plan was the type of proposal that came about once every, what, 20 or 30 or more years?---Correct.

And was it your opinion that it was important that this study be pursued to its maximum potential?---Yes.

To the extent that it might assist persons who were involved in development, was it your position that you favoured, no doubt with proper conditions, some redevelopment of the Five Dock Town Area?---Yes.

And did you consider that would be to the benefit of the people of Five Dock generally?---Yes.

10

Now, I think you've described yourself as an acquaintance of Mr Sidoti. ---Ah hmm.

And I think you've said that you would see him in the street now and again, correct?---Yes.

Basically a nodding acquaintance in that regard, but also you would have some dealings with him, can we take it at least once you became Vice-President of the Chamber of Commerce on matters of community interest? ---Yes.

20

But you're not a personal friend of his?---No.

You don't attend family gatherings of his?---Never have.

You don't attend, other than perhaps business association meetings, you don't attend social functions with him?---No.

30

And you did remain, for a short time, I think as Vice-President of the Chamber of Commerce after moving to the CBD, can you recall about how long that period was?---Four years or five years, five years.

All right. And did you retain your interest in the Chamber of Commerce because you retained an interest in the beneficial aspects of the Five Dock community?---That would be a good summary, yes.

Thank you. Now, before some events earlier this year, did you know Mrs Lisa Andersen?---No.

40

And I think you've said you've had some few number of telephone calls with her, is that right?---Yes.

And some emails?---Yes.

Have you ever met her personally?---No.

All right. And in terms of her husband, Mr David Andersen, do you understand him to be a partner in a firm of solicitors?---I knew he was a solicitor, he did mention that to me, yes.

But until earlier this year, about the time of April, had you ever met him?
---No.

And other than the time at the Starbucks, can you recall meeting him on any other occasion?---I, I can't.

10

Thank you. Now, as it appears from some of the text messages, and I'll keep this short, unfortunately in about March or April this year your father became deceased, is that correct?---8 May, yes.

Thank you. And at much the same time you were moving offices, is that right?---Yes.

And you were very busy, correct?---I was, yes.

20

And you seemed to have some, which I will come to, communication with some persons regarding a document which had some typing on it and handwriting on it, which you eventually gave to your secretary, taking virtually no notice of it, or I think your phrase was "ignoring it", and it came out of the system the day before yesterday, is that right?---Correct, yes.

But you also had some discussions and emails regarding what became your statutory declaration of 12 May, 2021, correct?---I did, yes.

30

Now, preceding that particular time, you've given evidence, as I understand it, you say that you had a chance meeting with Mr Sidoti at least in early April, 2021, at The Parade, which I think you say is in Drummoyne. Is that so?---That's correct.

And is it a street that intersects at some place with Moore Street?---It does.

And can we take it this meeting was one that had not been arranged?---It wasn't arranged, it was by chance.

40

By chance. And as I understand from your statutory declaration and your evidence, it was after either seeing or hearing of some evidence in this Commission. Is that so?---I believe so.

I think one source you mentioned was the Sydney Morning Herald digital pages, is that right?---That's correct.

And was it after seeing or hearing of some evidence of a councillor of Canada Bay?---I, I, sorry. I, I don't know. I don't, I don't believe so. I don't know.

Well, could the witness be shown Exhibit 46, please, Commissioner?

THE COMMISSIONER: Yes.

MR NEIL: I just want to take you to paragraph 5 of your statutory declaration if you'd just have a look at that.---Mmm.

10 You say, "I believe I saw John and had the conversation referred to above after either seeing or hearing of" - - -?---Yeah, yeah, so that - - -

- - - "the evidence of one of the councillors of Canada Bay but before John Sidoti gave his evidence." Was that sentence true and correct?---Yes. So I'm sorry. I didn't, I, I thought you meant evidence as, as opposed to, so what I've said, hearing evidence of council, so it was them giving evidence. I, I didn't hear their evidence but I heard of them giving evidence.

20 Well, you heard of it and you saw or heard of it in some reports. Is that right?---Yes. Yes. I didn't hear the actual evidence, yes.

Now, this conversation commenced, as I understand it, with you being in a motor vehicle and Mr Sidoti, to your observation, walking his dog. Is that so?---That's correct.

There was some discussion and then you, as I understand your evidence, moved your car round the corner into Moore Street, can we take it, for a more appropriate parking position?---Correct. It was safer there.

30 Did you get out of your car to talk to Mr Sidoti?---Well, after I parked it, yes.

Thank you. And there was a conversation. Are you able to put any length of time on the conversation before you departed?---15 or 20 minutes.

40 Thank you. And there seemed to be a number of matters discussed but is it the case that a fundamental matter that was discussed was the topic of Mr Sidoti having arranged a meeting of some Liberal councillors with yourself and Mr di Giacomo a relatively short time after a Chamber of Commerce meeting that had taken place in 2014?---Yes, that was a key point of discussion. Yes.

Thank you. And did you in substance in your discussions with Mr Sidoti point out that as far as you were aware, he had organised that meeting? ---Yes.

And I think in terms of your statutory declaration, you've told my learned friend that you do not have an actual recall of Mr Sidoti, sorry, councillors

being invited to a Chamber of Commerce meeting but you believed they had been invited?---Indeed.

And was part of your belief based upon the fact that, as I think you have told the Commission, that prior to Chamber of Commerce meetings, you were involved in discussions as to who should be, if anybody, invited?---That's correct.

10 And did you convey any words to Mr Sidoti along the lines that in your chance meeting with him that you believed that the councillors had been invited?---I believe so. It would have been part of an overall discussion.

Thank you. Now, just one point about the question of invitations, might the witness, thank you, Commissioner, be shown in the bundle page 61? Yes, I'll just wait. Now, you've been asked some questions about this document which is three pages between bundle page 61 and page 63.---Ah hmm.

20 And I'll return to some of these matters later. There does appear to be some material in this document that, I'm going to ask you would you agree, is material that you would have or most likely would have emanated from you and which you conveyed to some other person, but for the moment could I ask you to look at page 61, paragraph 9 at the end of the page.---Ah hmm.

Now, that follows a number of paragraphs which include paragraph 6. Do you see paragraph 6?---Yes.

30 And that says, "The Chambers of Commerce normally held meetings on a monthly basis to discuss different topics," and then you proceed with some detail. Do you see that?---Yes.

Paragraph 9 you say, "Invitations for the meetings were sent out by the Chamber's secretary Alexia Pettenon, the president by walking up and down in Five Dock letting people know or calling people to attend, his wife, or by Stephanie Kelly by sending out invitations." Do you see that?---Yes.

Now, is the information in that paragraph 9 correct?---Yes.

40 So amongst other persons in addition to Ms Pettenon, there could be the president – by the words "his wife" does that mean it's the president's wife? ---Yes.

And Stephanie Kelly.---Yeah.

Was she a lady that worked for the council?---Yes.

I think in one of the planning divisions. Is that right?---Economic Development.

Economic Development. Thank you very much. All right. Now, I'll just return briefly to ask you just something further about the chance meeting. Towards the end of that meeting I think you say that as you were leaving you volunteered to Mr Sidoti that if you could do something to assist in some way you'd be prepared to do that. Is that right?---I did.

Now, I just – and did he say something in response along the lines, well, would you mind if his solicitor contacted you, or something like that?---He did.

10

Thank you. Now, do you recall the meeting occurring?---With?

With Mr Sidoti.---Yes.

Chance meeting at Drummoyne. Correct?---Yes.

And what do you just say to any suggestion that any account of that meeting had been made up?---No, it happened.

20

Thank you. Now, I just would like to ask the witness to return to have a look at page 61 which I think is still on the screen. Just trying to, just want to ask you these matters. I don't want to go into details but you recall having some discussions with a lady from the solicitor's office. Is that right?---I do, yes.

If you look at paragraph 1 on page 61, giving your name, your business name, you were the managing director, you started the business in 1985. Is that information that you must have conveyed to somebody?---Yes.

30

Paragraph 2, "I'm an electrical engineer, operating in servicing buildings et cetera." If you just take a moment to read it.---Yes.

Is that information you must have conveyed to somebody?---Yes.

And would the same apply to paragraph 3?---Yes.

Paragraph 4?---Yes. Oh, hang on.

Please, please, just have a look.---Yes.

40

Paragraph 5, please, if you have a look.---Yes.

Paragraph 6?---Yes. Oh, sorry. Yes, yes, we looked at that before, yes.

Thank you. What about 7 through to 12?---I don't know. Let me see.

Take your time.---Yes, up to 9 seems to be in accordance with something I'd say.

Thank you. What about 10?---Seems to be okay.

Now, there's a number of paragraphs thereafter that have various writings, but if we look at paragraph 12, would that be something you would have conveyed to somebody?---Probably.

10 Now, just asking you about the typed words in paragraph 13, "I recall seeing Megna, the mayor, Angelo Tsirekas, Tony Fasanella and Neil Kenzler, being the second-in-charge for Labor and also a strategic thinker, as well as John Sidoti from time to time." Is that information you would have conveyed to somebody?---Probably.

And what about the typed parts of paragraph 14?---Probably.

And what about the typed parts of paragraph 15?---Probably, yes, the essence of some of that, yes.

20 Paragraph 16 says it was, the typed parts, "It was frustrating that Labor seemed to have their strategic thinker and Liberals had no one." There's a lot of striking out thereafter, but that sentence, or that part sentence, "It was frustrating that Labor seemed to have their strategic thinker and Liberals had no one," is that information you would have conveyed to somebody?

MR RANKEN: I object.

THE COMMISSIONER: Yes.

30 MR RANKEN: I object because that is part of a sentence and it needs to be read in its context as how it was typed.

MR NEIL: Well, look, I'm happy to - - -

MR RANKEN: This is not a separate sentence. It's - - -

MR NEIL: - - - do that but I, I can't work it out.

40 MR RANKEN: Well, I think - well, perhaps the witness can do his best to read out what is typed.

MR NEIL: So, could you please read out as best you can the typed parts of paragraph 16?---Sure. "It was frustrating that Labor seemed to have strategic thinker and Liberals had no one. Megna and Sidoti attended when it came to voting or such things. They recused themselves saying can't push too hard on this issue and left Liberals with no one represent them, to represent them."

Thank you. Would that have been information you conveyed to somebody?---Not the detail but the, I guess the essence of it, the essence of it.

THE COMMISSIONER: Can I just ask you this about politics in the council at this time on any particular issues, but concerning the urban design plan for the town centre. Was it the position that there seemed to be, as at April, at least up to April or perhaps even beyond April 2014, a bipartisan approach being taken by all the councillors, that's not just Liberal or Labor but Greens, as well?---I, I believe so. I, I

10
- - -

In other words, sorry. Go on.---I didn't have much to do with the Greens, but I believe so. There was no dissent there.

And did that apparent bipartisanship continue at least, well, certainly up to the time there was the first official resolution upon which councillors were asked to vote on the urban design plan?---I believe so.

20 And I think history shows, I don't think there's any controversy about this, that there was a unanimous resolution amongst the councillors of whatever stripe, to adopt the town centre plan as it had developed up to that time? Does that accord with your recollection?---I, I, I know the meeting event was deferred and then the follow-up, the second meeting, they approved the plan but I don't remember the voting, sorry.

Thank you. Thank you, Mr Neil.

MR NEIL: Thank you, Commissioner. Just asking you to look at page 62, 30 sir, paragraph 17.---Mmm.

“On a few occasions, the Chamber said should get their own people in instead of relying on the Liberals that were in at that time since they continue to recuse themselves and not take an active role rather than a passive role.” Was that information you would have conveyed to some person?---Perhaps. I, I mean, I, I didn't say that they would get their own people but there were - sorry. That's a bit of an extension on the, the feeling that people had, like, out of, that, that's not how I would, no, it's not - - -

40 Was it your view that Liberal members were recusing themselves and not taking an active role rather than a passive role?---No. I had no, no take on that, no.

Did you have any knowledge of any proposal by the Chamber of Commerce or any members of the Chamber to try and support candidates for council who they considered better represented business interests than the present council members?---No.

Well, then I'll take you down to paragraph 24. This is to do with a meeting. You say "on one occasion, not sure if in 2014 or 2015" and I'm reading the typed part.---Mmm.

"John organised a meeting and stayed outside while I spoke to the members."---Mmm.

10 "It was a very tense meeting and combative. I was frustrated and it seemed like they didn't get it. I was trying to explain things with diagrams, an explanation of how light works and the fact that you won't be able to see buildings unless looking from far away because the buildings are pushed back. They didn't seem to understand." Now, first question. Is that information that you would have conveyed to some person?---Mmm. Sounds like it, yes.

And is the occasion of this meeting a meeting organised, you say, in this paragraph by Mr Sidoti following the Chamber of Commerce meeting in April 2014?---I believe that's what it's referring to.

20 Thank you. And were the - - -

THE COMMISSIONER: I'm sorry, just to clarify that, the meeting that's referred to in paragraph 24, do you say you have a recollection as to what year that was?---2014. So I don't have any recollection but I assume that reference is to the meeting with the Liberal councillors in John Sidoti's office.

30 I see. But it's recorded here you're not sure it was 2014 or '15. Is there any information you've - - -?---Sorry - - -

- - - got now that you didn't have then when you were talking about that matter?---Well, this is the meeting that John organised that seems to be referred to, so it would have been in 2014.

MR NEIL: All right, thank you.

THE COMMISSIONER: Well, why would it have been confined to 2014? ---'Cause it's the only time - - -

40 Could it not have been later?---No, it was only one meeting ever.

I see.---At John's office. Only one meeting.

At his office?---Yes, with the councillors. Is that what I was saying there? I'm not sure what – is that what it's saying (not transcribable)

I'm not sure what you're, whether you're saying a meeting took place at the office or whether it took place - - -?---Yeah, I mean this - - -

- - - whether it was a workshop meeting or whatever it was.---Mmm.

Do you remember?---I assume this is about the meeting – it says John organised a meeting, so I assume it’s a meeting in his office. It says he stayed outside, so that’s in accordance with what my recollection is of other, yeah.

10 MR NEIL: You have a recollection of a meeting with some Liberal councillors at which Mr Sidoti made introductions, I think, according to your statutory declaration, and then he did not attend the meeting?---Yes.

Thank you. Now, could I ask if the witness, Commissioner, be shown bundle page 94?

THE COMMISSIONER: Yes.

MR NEIL: Now, this is part of an email which commences on page 93. ---Ah hmm.

20

If we just go back to that page for a moment. It’s from you to you, with CC to Andersen2074. Is that Mrs Lisa Andersen?---I believe so, yes.

And is it your practice that you, in order to keep a record, you send something to yourself but CC the person to whom you want it to go?---It’s elevating it to the top of my inbox, yeah.

30 Thank you. And there are some statements in the two paragraphs in 93, and then we go over to 94. The third paragraph, you say, “The business chamber believed that meeting with councillors was required and the two councillors, Megna and Fasanella, who were aware of the details and issues surround the plan, have pecuniary interests in Five Dock and could not vote on the plan.” Do you see that?---Yes.

Now, yesterday I think you said that at least shortly after the Chamber of Commerce meeting, the absence of, I think, Liberal councillors was noted. Is that what you said?---During, during the meeting.

40 It was noted during the meeting, was it?---Yes.

All right, thank you. Now - - -

THE COMMISSIONER: Sorry, when you say noted by, by whom and how was it noted?---A couple of the attendees. I think Joe Rizzo mentioned it, where are the other councillors if these ones can’t vote. He, he made the comment, one of the attendees.

Thank you.---And - - -

MR NEIL: Thank you. If you look at the third, if you look at the second paragraph on page 94, that's a reference to something you reminded Mr Sidoti of at the chance meeting, is that so?---That's correct.

Thank you. That he facilitated the organisation of the meeting, et cetera, correct?---Yes.

10 Then you go on to say in your email, page 94, third paragraph, "The business Chamber believed that meeting with councillors was required as the two councillors, Megna and Fasanella, who were aware of the details and issues surrounding the plan, have pecuniary interests in Five Dock and could not vote on the plan." Was that your understanding?---Yes.

20 Then your next paragraph you say, "I confirm that the Five Dock-based councillors had attended Chamber meetings and participated in discussions on the issues of business and the development of Five Dock and that the other Liberal councillors had minimal involvement with, or visibility within Five Dock." Was that your understanding?---Yes.

And you say that this last point had "Caused much angst within the business Chamber and on behalf of the business Chamber who sought to understand their position on the plan and to explain ours." Was that your position? ---Yes.

And were the non-Five Dock Liberal councillors, were they all of, or did they include Councillor Cestar, from Drummoyne?---I'm sorry? You're asking me the ones that didn't attend the meeting?

30 No the ones that did attend, were they Councillor Cestar?---I'm sorry, just to be clear. Did they attend the urban planning meeting?

No, no. The meeting in Mr Sidoti's office.---Oh, yes. I'm sorry.

Did they include Councillor Cestar?---Yes.

And was she from Drummoyne?---I thought Concord, but - - -

40 Was she one of the non-Five Dock - - -?---Yes.

- - - members that you hadn't been able to liaise sufficiently with?---Yes.

And was Councillor McCaffrey one of the persons who attended that meeting?---Yes.

And was she from Concord?---Yes.

And was Councillor Ahmed one of the persons who attended that meeting?

---Yes.

And was he from Drummoyne?---Yes.

And at page 94, paragraph the third or fourth from the bottom you say “The meeting with councillors arranged by Sidoti and attended by myself and Joe di Giacomo, John Sidoti introduced everyone and left the meeting room, closing the door behind him. He was not” capital n-o-t “involved in the planning of the meeting discussion or any discussions.” Is that correct?

10 ---Yes.

Thank you. Then you say, “He did re-enter the room on one occasion when voices were raised and suggested we all calm down. He left immediately after getting our agreement to his request.” Now, I’d ask you then to, perhaps if the witness might be shown bundle page 63, Commissioner.

THE COMMISSIONER: Sorry, page?

MR NEIL: 63.

20

THE COMMISSIONER: 63.

MR NEIL: Towards the middle of the page, if you look at paragraph 24, please.---Ah hmm.

Now, the occasion mentioned in 24, “John organised the meeting.” Is that the same meeting that is mentioned at page 94 talking about raised voices?
---It appears to be.

30 Thank you. Now, at page 63, when you say at paragraph 24, “Mr Sidoti stayed outside while I spoke to the members. It was a very tense meeting, and combative.” Now, there was yourself and Mr di Giacomo and the three councillors.---Ah hmm.

Now, was it combative in the sense that groups of persons were taking sides or the whole five didn’t agree with each other? How - - -?---No, it was more people talking over one another, I think, from recollection and then trying to explain – so there was resistance to height increases and we were trying to explain that height wasn’t the, the enemy, in fact it was a positive
40 tool and so they kept going round and round and round and everybody, I guess, was getting a bit frustrated with going over the same points. That’s, that’s my recollection of that.

And was there any mention of floor space ratios?---Oh, there would have been, in the meeting. I think that’s what, what it was about.

Was it your view that floor space ratios, or FSR, were in terms of getting any development actually done, very important?---Yes.

Why is that?---Oh, the more you can build the more it covers the cost of the site.

Yes. And went directly to the commerciality of the site. Correct?---Correct.

And the commerciality of any business of the owner of the site?---Correct.

10 THE COMMISSIONER: Can I just come back to this paragraph 24. You said you were trying to explain things with diagrams. You said, “They didn’t get it. I was trying to explain things with diagrams, an explanation of how light works and the fact that”, well, it should read “you won’t be able to see buildings”. Sorry, what was the issue about light and seeing buildings that you became frustrated about because they didn’t get it? What was the - - -?---So depending on where you see the building – sorry, I’m not sure this is the exact thing but - - -

20 Just a short explanation will do.--- - - - it’s just, you know, a podium blocking your view of a higher building behind and the relationship between that and the angle means you can have a high building and no one see it from the street, but it provides daylight into street.

And they couldn’t quite get it.---And then if you set it back you could get light through an axis and so you’d get, ensure that there’s light in the street instead of building a wall that blocked the light. And I was trying to explain how that would relate to each site.

30 Yes, I see.---And there was like a lot of questions and no answers, if that makes sense. It wasn’t, I mean it’s probably overstating it saying it was incredibly tense but it was, everybody was like trying to move it forward. We were all there to try and get a better resolution but it was not clicking, if that makes sense.

Thank you.

MR NEIL: And these were councillors who were allowed to vote on Five Dock Town Centre development proposals. Is that right?---That’s right.

40 They’d shown less interest than you had liked them to show prior to this meeting. Correct?---That we could see, yes, yes.

You were amongst other things at the meeting trying to educate them on what you understood to be important issues. Correct?---Yes.

You were getting nowhere with them. Is that right?---Yes.

So is it your view that you were faced with a proposition of up to three Liberal councillors voting on important matters of which they were ill-equipped?---It could appear that way, yes.

THE COMMISSIONER: Have they been required to vote on anything up to this time in April 2014 concerning the Five Dock Town Centre plan?---I don't, I don't know.

10 Had anybody been required to vote on it as at that stage?---I don't believe so.

It's still in the planning phase. Is that right?---(No Audible Reply)

Just got to record a yes/no.---Oh, yes. I don't believe that it had been voted on. Sorry.

Thank you.

20 MR NEIL: Was there a meeting at which there would be votes due to take place in the relatively near future?---Yes.

Within about two weeks?---Yes.

Thank you. And was it to be 20 May, 2014?---I don't recollect the exact date but I know it was very close to the, to the Chamber meeting.

30 THE COMMISSIONER: What was that about, do you recall, the vote on - - -?---The vote was on accepting the urban plan. So it was actually formalising council's acceptance of the urban plan. So we only had from the dates that I've quoted, three weeks to - - -

Is that the one that was the unanimous vote?---I think it was deferred. The decision was deferred to the next meeting because they couldn't get a unanimous vote and, yeah.

MR RANKEN: I didn't hear that last part. Because they couldn't get?

THE COMMISSIONER: Sorry?

40 MR RANKEN: I didn't hear the last part of that answer. Because they couldn't get?---They couldn't get a unanimous vote.

There couldn't be a unanimous vote. Is that what - - -?---Oh - - -

THE COMMISSIONER: Sorry, we're just trying to hear you, that's all. ---Yes, I, I understand that I addressed both council meetings. The first council meeting there was a bit of discussion about perhaps they shouldn't be approving the plan and it was deferred to the following week.

I see. Thank you.---So - - -

MR NEIL: Thank you, Commissioner. Could the witness be shown Exhibit 26, page 408. It's the main exhibit.

MR RANKEN: 24 I think.

10 MR NEIL: Thank you very much. 24, page 408. Now what I'd like to have the witness look at is item 3, which is a little further down. Could you just look at that item, sir. Do you see that the end of the page shows that it's page 5 of the minutes of the council meeting of City of Canada Bay Council held on 20 May, 2014?---Yes.

Do you see that you're recorded as being in attendance?---Yes.

And were you in attendance?---Yes.

20 And you're recorded as having addressed the council. Did you address the council?---I did.

Thank you. Are you able to say in short form what your point was?---I'm sorry?

30 Would you be able to say in short form what point you made?---That the proposed town plan, I believe, was missing an opportunity and that it needed to be enlarged and floor space ratios needed to change, there needed to be some incentives given. Just the general, in line, we'd been consistently advocating this, variations in the, in the plan.

Thank you. And do you recall, as it's shown here, that it was, the matter was deferred to consider issues of height, setbacks, overshadowing, mix of development and the amenity of the surrounding residents?---Yes.

Thank you. Now, did you go to a later adjourned meeting, can you recall? ---I believe I did.

Thank you.

40 THE COMMISSIONER: Just in relation to that resolution, your attention's been drawn to Councillors Kenzler and McCaffrey. Did you have anything much to do with Councillor Kenzler?---Yes.

Was he a Labor or Green?---Labor.

Labor. Thank you. And Ms McCaffrey, you knew her as a councillor? ---Yes.

Did you have dealings with her from time to time?---No.

Thank you.

MR NEIL: All right. Now, is it your understanding that at some later meeting the proposal was endorsed and went to the Gateway?---Yes.

10 Thank you. Now, Commissioner, might the witness be shown bundle page 52? This appears to be an email from – I’m sorry, I’ll just complete the last matter. Can I withdraw that, Commissioner, and ask for Exhibit 24, page 944 to be shown to the witness. I do apologise.

MR RANKEN: Was that 944?

MR NEIL: 944, please. Yes, thank you. This seems to be a meeting of 20 October, 2015 - - -?---Right.

20 - - - at which you are shown as having attended and addressed. Do you recall that?---Oh, I don’t, the exact date, but I know I did talk to council. Is that on the same issue?

It’s the post-exhibition planning proposal draft development, et cetera. ---Yes.

And again on that occasion it was deferred pending some addendum report. ---Yes.

30 All right, thank you. Now, if the witness could be shown again, Commissioner, bundle page 52. Could I just ask you to familiarise yourself with what seem to be two emails on page 52, one to John, Joe and Michael though it’s headed John Sidoti.---Mmm.

And then it’s two others.---Yes.

And that’s 9 July, 2014, at 13.19.10.---Mmm.

40 The other one is 8 July, 2014, at 12.43. Would you have a look at those. ---Yeah. Well, I’m not seeing the 8 July one. There.

Was it the case that as of July 2014, you were still advancing your views to persons such as the local member and others and Mr McNamara and Ms Kelly?---Yes.

THE COMMISSIONER: This subject Urban Study 181 First Avenue, that’s your property?---It is.

And why were you at this stage interested in your property in terms of the urban plan development or the urban study?---Well, I still owned it and I was just looking at how the urban study impacted it.

How?---How the urban study impacted it and what the development potential was 'cause I believe I was considering selling it, so it was more selling the property and then looking at the urban study and looking at how, I guess, maximise the sale price in the near future.

10 Thank you.

MR NEIL: And if we then go over to page 53 of the bundle, do we see there an email from Mr Pomeroy to Mr Row I think it is. Dow, Mr Dow, sorry, Mr Dow which you've - - -?---It was, yeah, it was Rob, Rob Lowe that would have been.

Rob Lowe. Thank you very much.---He's from Savills real estate.

20 And you've forwarded that on to somebody. Is that right?---Yes, I believe so.

Did you agree with the contents of that communication thereby leading you to forward it on to somebody?---Yes.

MR RANKEN: Sorry. I just - - -?---Hang on (not transcribable)

30 I wonder if that could be clarified, what my friend means by "agree with the contents" as in, does he agree that that is the contents of the email that was sent forward or does he agree that it accurately records - - -

THE COMMISSIONER: I understood Mr Neil was saying, well, perhaps you could clarify, Mr Neil?

MR NEIL: Well, was it your view that at that time, the Urban Design Study report was only a draft document?---Yes.

That it will not come off exhibition till the end of the year?---Yes.

40 And that it was being attributed to Paul Dewar, D-e-w-a-r - - -?---Mmm.

- - - that he was of the opinion that they were going to make changes "to bring it more into line with the current DCP controls for the area which are three-storey street walls with setbacks to 'loft-style' apartments on the upper floor (similar to adjacent department development)"?---Yes.

And that "the DCP will seek to restrict height to four storeys irrespective of the 15-metre height limit defined in the LEP for your site"?---Yes.

Did you think that was a good thing or not, that there would be such a restriction?---I believed that's a bad thing.

Why?---Because it limits the height of the development to less than what was in the current plan, so what was existing, so we, we went for an urban plan to increase heights and the effect of the urban plan was to actually reduce it.

10 And as far as you understood, the source of that proposal or the source of information as to that proposal was Mr Dewar, Head of the Strategic Planning at Canada Bay Council?---Yes.

MR RANKEN: I object. The difficulty here with this email is because when one looks at it's by a Mr Pomeroy and he's recounting information that was provided to him, not by Dewar but by a fellow called Joe, who is said is said to be Danny Salem's architect, and Mr Pomeroy is paraphrasing from his notes of something that this person called Joe told him apparently about a conversation that Joe had with Mr Dewar. So we can see we're about third or fourth-hand hearsay. It's just very difficult to be able to say
20 that that can be properly attributed as being things that were said by Mr Dewar.

THE COMMISSIONER: Well, I'm of the view it can't be attributed to Mr Dewar. Mr Neil, we're starting, the chain starts with Joe from Danny Salem's, or he is Danny Salem's architect. In the call that he received from that gentleman, he said where they came up with their much lower number of apartments was a conversation he had with Paul Dewar and (not transcribable) all over the phone, told them certain things there. We don't know what specific site or area he's talking about. They're not talking
30 about loft development throughout the whole of the area of the Urban Design Plan.

MR NEIL: Well, Commissioner, could I just - - -

THE COMMISSIONER: I'm not going to allow it in because it's so indirect and not sourced. If you want Mr Dewar called to give evidence, well, we'll give some consideration to that but I doubt – but you can't have it this way.

40 MR NEIL: Can I just respond with this. It's about 181 First Avenue, Five Dock. Can I just ask – I'll withdraw the last question and ask this question.

MR RANKEN: I'm sorry, I just need to make something clear about that before my friend continues. That email does not seem to be about 181 First Avenue, Five Dock, in terms of the conversation because 181 First Avenue, Five Dock, as I understand was Mr Haron's building, but this is referring to a call that a person who is an architect for Mr Danny Salem, not Mr Haron, some conversation that the architect for Mr Danny Salem had with Mr

Dewar, and it may be that there is some perception that these things have a bearing upon 181 First Avenue but it doesn't seem to be that the conversation that's being conveyed, or the substance of which is being conveyed by Mr Pomeroy is one that was had with Mr Dewar in the context of discussing 181 First Avenue.

10 THE COMMISSIONER: Well, what was the subject matter that was being discussed with Paul Dewar in relation to their calculation, which resulted in much lower number of apartments? Again, the problem, Mr Neil is that it is built upon at least, if you like, hearsay multiplied by two. Anyway, let's not waste time on it, Mr Neil. Let's get on with it, please.

MR NEIL: If I can take you back to page 52.---Yes.

I'll ask you, did you forward the email at page 53 to Mr McNamara to seek his views about the contents of that email?---I did.

And at about three-quarters of the way down - - -

20 THE COMMISSIONER: Sorry, which page are we on, 53?

MR RANKEN: 52, I think.

MR NEIL: 52 and 53. It's - - -

THE COMMISSIONER: Sorry, what page, Mr - - -

MR NEIL: The bundle, 52 and 53.

30 THE COMMISSIONER: 52 and 53, thank you. Yes, I have it.

MR NEIL: At 52, in the third-last line of your email, you say, "Note comments below received from my architect as a result of discussions he has had with a developer regarding my site." You see that?---Yes, that's correct.

And what was your site?---Danny Salem is a developer.

40 And what was the address of the site?---181 First Avenue, Five Dock.

Thank you. Now, did you get a response from Mr McNamara to this?---I don't recollect.

Well, Commissioner, I guess we'll have to wait and see. All I can say is that this is part of a bundle we were provided this morning - - -?---Yep.

- - - which I thought was going to be tendered. That's all I'll say. Now, if – could I just ask my learned friend, then, I don't want to trespass upon any rulings of yours, Commissioner, but - - -

THE COMMISSIONER: Well, Mr Neil, rather than leave you in the dark about it, I'll ask Counsel Assisting what reliance may be placed on these two documents, A52 and 53, if any at all, or whether it's just been put in there to try and put all of the documents that have been produced by whatever source in the bundle so that there's not been any undue selectivity.
10 I don't know myself. I'm prepared to ask now. Mr Ranken?

MR NEIL: I appreciate that, Commissioner. If it could include 54, please.

THE COMMISSIONER: 54.

MR RANKEN: Yes, it is the latter, Commissioner.

THE COMMISSIONER: Sorry?

20 MR RANKEN: It is the latter, Commissioner. We endeavoured to, in terms of the holdings of the Commission in relation to material that has been produced bearing upon the Urban Design Study, to identify relevant material that involved Mr Haron, so that could be included in the bundle so there wasn't selectivity - - -

THE COMMISSIONER: All right. Is there any submission that you're going to make that depends, either in whole or in part, Mr Ranken, having regard to these documents, 52, 53 and 54?

30 MR RANKEN: No, I mean, what this, to the extent that it evidences anything in particular is that Mr Haron did have particular interest in the possibility - - -

THE COMMISSIONER: In his property.

MR RANKEN: In his property that the - - -

THE COMMISSIONER: Which he's frankly conceded.

40 MR RANKEN: Yes.

MR NEIL: Commissioner, could I just consider our position overnight as to whether we might ask my friend to tender it? I'd just like to consider it.

THE COMMISSIONER: Sorry, Mr - - -

MR NEIL: I'd just seek leave to consider overnight - - -

THE COMMISSIONER: Yes, certainly.

MR NEIL: - - - whether or not we might want to ask it be tendered.

THE COMMISSIONER: Yes, certainly. The other option, Mr Neil, is for these pages to be removed from the bundle, so they're not in evidence. And that, I don't know whether that is going to alleviate any concerns you have, but I'm prepared to order that if that's of any assistance to you.

10

MR NEIL: I won't be asking for that because I've asked questions on them, Commissioner.

THE COMMISSIONER: Yes.

MR RANKEN: I can indicate it is my intention to, in due course, to tender it as part of the tender bundle, so it's not - - -

MR NEIL: Thank you. Thank you.

20

MR RANKEN: So if that alleviates my friend's concern.

THE COMMISSIONER: Okay.

MR NEIL: Thank you very much. Now, could I ask if the witness be shown page 83 of the bundle. You'll see this is an email to you from Soheil Nejad.---Yes.

30

And it contains what appears to be some working or early version of statutory declaration. Do you see that?---Yes.

And at paragraph 3 of that page, it mentions – I've also now been shown pages 1758, 1781 and 1782. Is it your evidence that there's no way you would have signed the final statutory declaration without having those pages available to you?---Of course.

Thank you. Now, could the witness be shown page 93. And I've shown you this before, but I'd just ask you briefly. This is Tuesday, 11 May, at 9.52pm.---Ah hmm.

40

You say, "See below which replaces item 1 and 2. Not sure about 3." Would it be correct to consider that what you're saying you're not sure about 3 is the paragraph 3 on page 85, which I've just showed you?---Yes, it references the proceedings.

Thank you. Because here what you're doing is providing some responses to the draft, and in order to make sure that the statutory declaration that you ultimately swear would be accurate.---That was the aim.

And at page 94, about the centre of the page, as my learned friend's taken you to, you point out that, paragraph 2, "I'm unaware of any evidence," et cetera. That's a reference to the paragraph 2 of the previous draft, is that right?---Could I have a look at the previous – sorry.

Yes, page 85.---Just is a, yeah. "I'm unaware of any" – sorry, which, which paragraph? Oh.

10 THE COMMISSIONER: Are you asking what part of 94?---Yes.

Could you - - -?---Sorry, what part of 85 (not transcribable)

85.

MR NEIL: Well, page 94 has, in the centre of the page, about the third-last paragraph, the figure 2 with a colon, and then saying, "I am unaware of any evidence" et cetera.---Yes.

20 Is that a reference to paragraph 2 of the draft of page 85?---I think it was just replacing it and getting to replace it.

All right. Replacing it.---Yeah.

And at page 94, where you, in more or less the centre of the page, you say, "4, 5, 6, 7, 8, 9, 10 all okay" - - -?---Yes.

- - - are they references to those paragraphs in the draft starting at page 85?
---Yes.

30

So is it the case that you were carefully and precisely going through a process of ensuring that what you ultimately signed would be correct?
---Yes, of course.

Thank you. Now, there seems to be a number of documents that are possibly repetitive and there may be some extra copies of some of the drafts, but if I take you to page 100, is that a - - -?---Similar, yep.

40 It's a different format of your email without the headings and the like, is that right?---That's right.

All right. Then if we go to page 101, there seems to be a further draft of a statutory declaration with some red lining. And as my learned friend pointed out to you, at paragraph 5 on page 101, there's the introduction of the word "of" in the second line, "either seeing or hearing of the evidence". Do you see that?---Yes.

Now, that represents – that’s designed to deal with the fact that you wanted to convey that you’ve, in effect, seen some reports of the evidence, although not seen or heard the direct evidence, is that right?---Correct. Correct.

Thank you. Now could the witness then be shown page 108 of the bundle, Commissioner?

10 THE COMMISSIONER: Sorry, just on that one, if you didn’t see or hear the evidence, which I think is your evidence, why would you leave that in after it, “either seeing or hearing”, when you knew that you hadn’t either heard or saw it?

MR NEIL: Well, Commissioner - - -

THE WITNESS: I don’t know.

MR NEIL: - - - the point I’m making is that in paragraph 5 - - -

20 THE COMMISSIONER: Yes.

MR NEIL: - - - what has been done is to insert the word “of”.

THE COMMISSIONER: I understand the point there.

MR NEIL: Oh, I’m sorry.

THE COMMISSIONER: But, yes, all right. Your point is understood and noted. I think we can move on.

30 MR NEIL: Thank you, Commissioner. Perhaps just a little further in, the draft on page 101, paragraph 4, you say that you have not seen the evidence of Mr Sidoti other than what you’d seen in the media et cetera, correct? ---Yes.

Thank you. Now, could the witness be shown bundle page 108? It would seem to be the position that at 7.37am on Wednesday, 12 May, you sent an email to Lisa Andersen saying “Seems okay.” Is that a reference to some early version of the statutory declaration?---It is.

40 “Just need to understand and see the pages referred to in the stat dec.” Was that your wishing to have the pages of the transcript so that you could satisfy yourself of the contents of a proposed statutory declaration?---Yes.

Now, could the witness be shown page 120 of the bundle, please? Is it the case that prior to your email at page 108 of 7.37am on 12 May, 2021, Ms Andersen, in the email that’s shown second on page 120 at 6.29am, 12 May, 2021, had sent you a draft third and final version?---Yes. It appears so, yes.

And you've emailed back to her on page 108 asking for the transcripts.
---Correct.

10 She had been saying to you at page 120, "Please read through the stat dec and the transcript pages sent by Bassam." I think, without going into the detail of the documents here, Bassam Kazi doesn't appear to have sent the transcripts to you, but rather Lisa Andersen sent them to you together with her email of the same day, 12 May, 2021, at 8.03am where she says, "Glen, here is the finalised statement and transcript section referred to. Please read
10 through and David will see you at 12.00pm today." Is that what happened?
---Sure. Yeah, I, I, I mustn't have read those, but yeah, but she sent them, she sent them. Yeah, she's, she's saying that she sent them.

Yes, I think you've agreed with Counsel Assisting, she sent them to you, you didn't go through them. Some close enough to four hours later, you met with Mr David Andersen at the Starbucks.---Yeah. I think it was a bit later than that, but yeah.

20 Oh, thank you. The final version of the statutory declaration was available and you had before you at least by then the transcripts, correct?---Indeed.

And did you check the final version of the statutory declaration and the transcripts?---I did.

Did you satisfy yourself that what you were signing when you signed the statutory declaration was true and correct?---I believed it was, yes.

30 You have said in answer to my learned friend that there are some matter or matters that you've described as mildly inaccurate. Correct?---Yes.

But certainly can we take it that on the substantial point of whether or not you met Mr Sidoti by chance at The Parade, (a) you did meet him and, (b) your statutory declaration's correct about that event. Is that right?---Yes.

About that event occurring and happening?---Yes.

Correct?---Yes, about it occurring, yes.

40 Thank you.

THE COMMISSIONER: My note of your earlier evidence, I thought was that you didn't see or read the, I think you were referring to the transcript sections.---Yeah.

Until you met with David on the occasion when you signed the stat dec.
---That's right.

That's I think what you earlier said.---That's right.

That's the truth of the matter. You didn't - - -?---Yeah, sat, sat down at a table and - - -

You read, you say, the sections of transcript - - -?---Yes.

- - - at the meeting with David?---Yes.

Which lasted for how long?---15 minutes.

10

MR NEIL: Well, I think a few minutes ago, you've agreed that Ms Andersen sent you the transcripts with the final version - - -

THE COMMISSIONER: Yes, he did - - -

THE WITNESS: Yes. I just didn't open them, I just didn't open them.

MR NEIL: You've accepted you received them?---Yes.

20

You did not attend to them then?---Correct.

But they were before you when you met Mr Andersen?---Correct.

And did you attend to them then?---Yes.

And carefully and precisely?---I, I believe so at the time, yes.

Thank you. And was there any pressure at all put on you to sign that statutory declaration?---No.

30

Thank you. Now, just a few matters. Could the witness be shown Exhibit 24, page 397, Commissioner. Now, this is part of a minute of the meeting of the council of 20 May, 2014. In the left column, there's a reference to your name and it's in a column that seems to be headed Submitter. Is that a reference to you being designated as a submitter because you had made a submission to the public hearing, the public - - -?---Yes.

- - - exposure process?---Yes.

40

And does the centre column on page 397 contain - - -?---I'm not seeing that.

THE COMMISSIONER: It's not on the screen at the moment. You want that back on?

MR NEIL: Yes, please.

THE COMMISSIONER: 397.

MR NEIL: 397.

THE COMMISSIONER: Exhibit 24.

MR NEIL: Does the centre column of the page represent the substance of your submission?---Yes.

10 And were you, amongst other things, keen to point out the commercial realities of redevelopment?---Yes.

And did you argue, amongst other things, for FSR higher than 2.5:1 and close to 3:1?---Yes. Yes.

And for additional areas in point 3?---Yes.

Thank you. Now, if I take you to the previous page, 396, and if we go to about the centre of the page. I'm having a little trouble locating it on the screen, Commissioner. Could I just ask if it be scrolled back to the top? Just there. Thank you. Do we see there - - -

20

THE COMMISSIONER: Sorry, the writing's so small.

MR NEIL: Yes. Could it be expanded?

THE COMMISSIONER: We'll need to have it enlarged.

MR NEIL: Thank you. Do we see there, at least in summary form, Mr di Giacomo's submission points?---Yes.

30 And amongst other points, he argued for appropriate incentives such as an increase in FSR to 3.5:1.---Yes.

Saying to make development viable it should be considered, correct?---Yes.

And could the witness be shown, Commissioner, page 350 of Exhibit 24? Now, these are minutes of the meeting of the Chamber of Commerce of 7 April, 2014. At page 350, we see that you attended.---Yes.

40 And do you recall the meeting?---Yes.

And Mr Sidoti attended. You recall him being there?---Yes.

And other persons mentioned?---Yes.

Now, at page 351, under the heading of Urban Design Study, which seems to be some background material - - -?---Yes.

- - - do we see about the second-last paragraph of item 3, this reference, “One of the Chamber’s recommendations was to rethink the consolidation aspect. Anything over 1,500 square metres to ensure quality development. Floor space ratio should be looked at. If it isn’t increased, development will not occur.” Now, does that paragraph represent the Chamber of Commerce’s views at the time?---Yes.

And if the witness can be shown page 352. This is reference to some statements by Mr Sidoti.---Ah hmm.

10

The fifth dot point on the page is two choices. “Council builds car parks or the owners of the buildings build car parks. Decision needs to be made. Need to create atmosphere.” Did you at the time have any view on that proposition?---Not, not really.

Then two further dot points down, it says, “Unless it is 3:1 and unless the LEP (Local Environmental Plan) marries with the DCP (Development Control Plans) the same problems will continue, where you will not be able to reach your floor space ratio maximums with the height levels set.”---Yes.

20

“It will basically come down to a situation that it will be at the discretion of the council.” Do you recall Mr Sidoti saying that?---I don’t recall it, but it’s recorded in the minutes, so he, he must have said it.

Did you have a view on that point?---Well, that email you showed previously proved that that was a problem, oh, the, the Rothelowman email.

30

And what was the problem?---That the urban plan allowed a higher height, but the DCP reduced the height. So we were getting a plan approved, the higher density, but you wouldn’t necessarily be able to build it without council approval, without, yeah, council varying the DCP. So it seems a bit silly.

Thank you. At page 353, if the witness might be shown 353 of the bundle, Commissioner, there’s reference to some statements by Mr Tsirekas, the mayor. At about six dot point down, he’s saying the report could be finalised at the beginning of May. Was that the anticipation at that time? ---Yes. Very short time.

40

And then eleventh dot point down. “Lots of people have raised the issue of floor space ratio. Five Dock has had a very good floor space ratio, however no stimulation. Large developments required as well as smaller ones to stimulate the area.” Do you remember him saying that?---I, I don’t, but it’s recorded in the minutes, so I assume it was said.

Do you agree with the proposition?---Yes.

THE COMMISSIONER: Was that consistent with the PDA analysis?---I, I think it was raising it to some extent, yes.

MR NEIL: Was it the position that whatever had been the previous Five Dock floor space ratio, even if it had been considered to be very good, it hadn't resulted in stimulation of development.---Correct. There was nothing happening.

10 And you wouldn't get any significant development above – and you'd remain a village unless you had a substantial increase in the FSR, is that true?---Correct.

Was that your view?---Yes.

Thank you. The next dot point he says, "There's been a lot of significant private interest to see what can be done and be part of Five Dock." Did you have a view about that?---Oh, oh, there was a lot of interest to do something, yes. There was a lot of keenness to move things on.

20 And was the keenness in part on the part of business and/or developers?
---Both, probably.

Was the keenness also in part on ordinary residents who wanted to see their suburb develop?---Yes.

And in reality, for commercial development to take place, did there have to be a significant increase in the floor space ratio?---Yes.

30 I think, I don't want to put words in your mouth, but did you say something along the lines that, yesterday, the ultimate result of what happened with this plan was a lost opportunity?---Yes.

In what way?---Well, once it's built, it's very hard to rebuild, because the developments become strataed, and you've have to reassemble them to create a larger development.

40 Thank you. Might the witness be shown, Commissioner, 376. Do you see that this seems to be an email from Mr Megna at 376 to Councillor Cestar, do you see that?---From Helen McCaffrey to - - -

You might have to go down to the centre of the page. It's 19 May, 2014, from Mr Megna to Ms Cestar.---Yes.

And towards the end of that, it starts, "The Chamber of Commerce has given amendments," et cetera. "Glen Haron will speak on its behalf." It mentions "3.5:1 FSR". Did you at some stage further develop your views

such that you considered that 3.5:1 FSR would be required?---I, I believe I did because it matches the maximum in Drummoyne.

Those are my questions, Commissioner. I'm conscious of the time.

THE COMMISSIONER: Thank you, Mr Neil.

MR RANKEN: There are a couple of matters, Commissioner, if I may. Firstly, could we go to page 61 of the bundle. And if we could scroll down till we get to paragraph 9, please. You were asked questions about paragraph 9 on this document, which is the document that has some typewritten words and some words in handwriting.---Ah hmm.

Paragraph 9 is a paragraph that comprises a single sentence concerning invitations for meetings that were sent out by the Chamber's secretary. You see that?---Yes.

Do you agree that paragraph 9 is a statement as to what was the general practice of the Chamber of Commerce as to how invitations were sent out, correct?---I believe so. Yes.

It makes no positive assertion that the Liberal councillors were in fact invited to any particular meeting.---It doesn't mention them, no.

And it doesn't make any positive assertion that the Liberal councillors were invited to the meeting of the Chamber of Commerce in early April 2014, is that right?---No, it doesn't say that.

Thank you. And could we then go to Exhibit 24, page 408. And if we could – it says page 408. Sorry to those – and if we could scroll down till we get to item 3, which was the outcome of the exhibition of Five Dock Town Centre Urban Study, you were asked some questions or your attention was directed to this part of the minutes of the meeting of the council on 20 May, and the fact that it was resolved unanimously, it would appear, that the matter be deferred to consider issues of height, setbacks, overshadowing, mix of developments and the amenity of the surrounding residents. And do you see that that was a resolution that was proposed by Councillor Kenzler and seconded by McCaffrey?---Yes.

So Kenzler was a Labor councillor and McCaffrey was a Liberal councillor.---Yes.

And so it appears to be a bipartisan resolution.---It appears to be.

And in relation to the issue before the council at that time, about which you addressed as a representative of the Five Dock Chamber of Commerce, it was whether to approve the, what was being recommended in the Urban

Design Study, subject to some changes. Do you recall that?---I believe so, yes.

10 Just if we could go to page 385 in Exhibit 24. And if you could scroll down. Do you see under Planning Controls it firstly identified what the existing controls were, “permitting three-storey buildings with potential for an attic within the central part of a site. The study recommends that the centre’s height limit be increased to five storeys”. It identifies “four submissions received suggesting that council should investigate increasing floor space ratio or height standards further than proposed”. And “whilst four submissions, on the other hand, suggested the proposed new planning controls have gone too far and requested that further restrictions on development should be imposed”.---Mmm.

20 “Following a review of the submissions, the recommendations of the Five Dock Town Centre Strategy have been incorporated into the draft DCP for the majority of sites”. The draft “includes provisions to guide development in Five Dock so that new buildings appropriately respond to urban design and public domain objectives”. And then it goes on to say, “In addition to the recommendation of the study, there is considered to be scope to provide flexibility for large sites where a site-specific response is likely to generate a better outcome. A draft clause has been prepared for inclusion in the planning proposal that would permit a floor space ratio of 3:1 and the height of 27 metres or eight storeys on sites with an area over 1,500 metres squared and a frontage of 20 metres.” Do you see that?---Yes.

30 And also that “the clause also requires development to ensure consideration is given to matters such as bulk character and amenity impacts.” Now, do you agree that that is an outcome for which you, at least, you personally had been contending?---That was, yeah, the minimum outcome, yeah.

THE COMMISSIONER: I’m sorry? I couldn’t hear that.---The, yes. The minimum outcome, yes.

MR RANKEN: Well, you were asked questions about another document that I think was part of this agenda. Sorry. Can we just scroll up to the top of page 385 - - -

40 THE WITNESS: Sorry. I think I was proposing 3.5 when I spoke at council and three - - -

MR RANKEN: Well, I just want to show you, you see this is the agenda for 20 May?---Yes.

And are you saying that when you actually addressed council, you were asking for 3.5?---I think that’s confirmed in various other pieces of correspondence.

Well, let's go to, then, shall we, to page 397. Can you see at the top of that page, it's - - -?---Yes.

Sorry. Could we scroll back to the top of that page. The header indicates that this is also part of the council meeting agenda?---Yes.

And your attention was drawn to entry item number 21, which has you as the submitter?---Indeed.

10 And do you see that it records at paragraph 2 - - -?---Yes.

- - - in the detail of your submission - - -?---Yes.

- - - that "the key issues revolve around the commercial realities of redevelopment, timing, yield and tenure"?---Yes.

"The feedback we have received includes FSR higher than 2.5:1 and close to 3:1"?---Yes.

20 "Heights need to be 19 metres to allow six or seven levels on smaller sites and up to 25 metres on larger sites." Do you see that?---Yes.

And when you go over to the third column, there is a response to that submission?---Mmm.

And do you see that it indicates that there was strong community support to retain a sense of scale in the centre?---Yes.

30 That it "relates to the surrounding context and maintains a human scale. An objective of the study was to balance the existing character and amenity of the area with sufficient development potential to allow investment." Now, just pausing there. You agree that that reflects the inevitable need for there to be some compromise between wishing to facilitate development but still retain a community feel that the broader community is content with?---Yes, of course.

So that, inevitably, there needed to be some degree of compromise?
---Always, yes.

40 And that would be a sensible approach, would you not agree?---I, I suppose so, yeah.

"It is recommended that flexibility be permitted for large sites where a site-specific response is likely to generate a better outcome." Now, does that not necessarily mean that there needs to be some retention in the council of a discretion to be able to approve particular developments?---It appears to.

And that is a sensible outcome as far as you're concerned?---Yes.

And then it goes to say, "The draft clause would be included in the Canada Bay Local Environmental Plan and would permit a floor space ratio of 3.1 and a height of 27 metres or eight storeys" - - -?---Mmm.

- - - "on sites with an area over 1,500 square metres." Correct?---Yes.

10 And that not only marries with what you were contending for in point 2 of your submission but actually exceeds it, as far as the height is concerned, by an additional two metres?---Correct.

So it's more than the bare minimum that you were contending for in your submission?---Yes. But - - -

And that accurately records the submission that you had actually put in to the council as part of - - -?---Yes. Yes. And, but when I spoke on the 3.5 and spoke to council, I was speaking on behalf of the business chamber who wanted a higher floor space ratio.

20 I understand that. So - - -?---So, just, there is a difference, I know, but it, it's worthwhile noting, that's all.

Yes. Well, that's an interesting point, though, that you make, though, isn't it, because even within the business community and within the Chamber of Commerce, there was a difference of opinion as to the extent of the increase that there should be for floor space ratio. Correct?---There was diverse interest across (not transcribable) yeah.

30 Diverse interest. There was no single vision of the business community, in terms of what the specifics of floor space ratio should be, or even the specifics of height control.---I, I think we were seeking - - -

More?--- - - - assistance through the study. Yes. It's through the study to prove what was appropriate. So, because we don't have the skills or resources to do it ourselves.

And that's one of the reasons why there were requests that there be specific, some site-specific feasibility studies be conducted.---Yes.

40 Just one moment, I think there might be just one other matter. No, they're my only questions in the examination, thank you.

THE COMMISSIONER: Yes, thank you.

MR NEIL: Commissioner, could I seek an indulgence? My instructing solicitor and client are not in this building. They have been watching remotely. Mr Tyson has just received a text message which my solicitor has asked could I ask for a short adjournment to talk to him. There may be

something I might need to raise with the Commission, I just don't know, but I would ask for five minutes only, Commissioner.

THE COMMISSIONER: Yes, very well. I'll do that.

MR NEIL: Thank you.

THE COMMISSIONER: I'll adjourn for five. Now, is there any – do you want Mr Haron to wait until you - - -

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MR NEIL: Yes, if he might.

THE COMMISSIONER: Yes. Mr Haron, I anticipate you'll be away shortly, but if you wouldn't mind just bearing with us for another five minutes.---Of course. Of course.

I'll adjourn for five minutes.

20 **SHORT ADJOURNMENT**

[4.01pm]

MR NEIL: Thank you, Chief Commissioner, I'm greatly obliged for that indulgence. I do not seek leave to ask any further questions.

THE COMMISSIONER: Thank you, Mr Neil. There's no reason why Mr Haron should not be discharged from his summons. Mr Haron, that completes your evidence, and the Commission would particularly like to thank you for the additional attendance today which wasn't planned as part of the program. These things unfortunately do happen, but thank you for your cooperation. You're excused.---Thank you, Commissioner.

30

Thank you. Now, just step down. Mr Ranken. You're free to go.---Oh, thank you.

Sorry, Mr Haron.

40 **THE WITNESS EXCUSED**

[4.12pm]

MR RANKEN: Oh, there's just one matter, just perhaps - - -

THE COMMISSIONER: Mr Ranken, I just want to ask you about, Ms Andersen has been waiting and she was programmed today.

MR RANKEN: Yes, she has, but just perhaps before Mr Haron leaves - - -

THE COMMISSIONER: Mr Haron, I'm sorry, we'll let you get through.

MR RANKEN: There was just one matter I wanted to raise with Mr Haron.

THE COMMISSIONER: Oh, I'm sorry.

10 MR RANKEN: So just if, I will raise it with him – it's really just about further participation, if he wishes to participate in the hearing by way of MS Teams by following it, I can facilitate arrangements for him to do that. He may or may not have any interest in doing so. I can perhaps speak to Mr Haron outside the hearing room, just shortly I'll be out, and - - -

THE COMMISSIONER: We're about to adjourn, yes.

MR RANKEN: But I just wanted to – so I can do that.

20 THE COMMISSIONER: Now, what about – you'll speak to Ms Andersen, and she'll have to - - -

MR RANKEN: I'll speak to Ms Andersen, and it is - - -

THE COMMISSIONER: Unfortunately it's just not possible to take her evidence this afternoon.

MR RANKEN: No, it's - - -

30 THE COMMISSIONER: So we'll have to program her for tomorrow morning.

MR RANKEN: Yes, and I am expecting to – insofar as Ms Andersen is concerned, I hope to be certainly much briefer than I was with Mr Haron, and I would expect to complete her evidence within the morning tomorrow.

THE COMMISSIONER: Well, then you have - - -

40 MR RANKEN: Can I also indicate that I only have a few matters that I wish to raise in evidence with Mr Sidoti at this stage, in terms of his further evidence. There's only – it is not proposed and nor do I suggest it would be appropriate to go into and revisit matters that have already been traversed at length with Mr Sidoti. This is not an opportunity to revisit all of those things afresh. It is really to focus on matters that are relevant to this further public inquiry or further tranche of the public inquiry. So for that reason, I expect to be relatively brief with him, and I would hope that I could complete his evidence - - -

THE COMMISSIONER: I think those points have been made fairly clearly by you in your opening as to the purpose, the reason for this further public inquiry into the matter.

MR RANKEN: Yes.

THE COMMISSIONER: All right, thank you. Nothing else?

MR RANKEN: No, not from our - - -

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THE COMMISSIONER: Very well. I'll adjourn. 10 o'clock tomorrow.

**AT 4.14PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.14pm]**