

AUBURN PUBLIC INQUIRY

Before the Commissioner: Mr Richard Beasley SC
Counsel Assisting: Mr Paul Bolster
Officer Assisting: Mr Darren Sear

Held at Level 1, 174 Phillip Street, Sydney, NSW

On Tuesday, 18 October 2016 at 4.15pm

1 THE COMMISSIONER: We've got Mr Watson here for Mr Attie,
2 Mr Duggan for Mr Mehajer, Mr Wheelhouse for Mr Oueik and
3 that's it, Mr Bolster.
4

5 I have called the directions hearing because some
6 material became available to Counsel Assisting through the
7 very last witness at the public hearing, and many of those
8 documents only became available after we'd finished the
9 hearing that day. Counsel Assisting has then put together
10 a bundle that he wants to tender, that I understand has
11 been circulated to everyone, but obviously no-one had the
12 opportunity to look at those documents during that part of
13 the public hearing, and whilst I invited objections, we got
14 one written objection, but I then thought it would be
15 better to deal with this by way of a directions hearing, to
16 actually hear what people have to say, rather than
17 exchanging multiple emails. So, at the moment, you want to
18 tender the bundle of documents?
19

20 MR BOLSTER: I do. Perhaps if I can describe what it is
21 for the record.
22

23 THE COMMISSIONER: Go ahead.
24

25 MR BOLSTER: There are two halves to the bundle. The
26 first half is some documents that were obtained by
27 Ms Cologna that fill out the record in relation to Marsden
28 Street, Berala and --
29

30 THE COMMISSIONER: This is material that's from AECOM;
31 correct?
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33 MR BOLSTER: From AECOM and also some further council
34 records that fill out the record.
35

36 THE COMMISSIONER: So that material just completes the
37 record for the Marsden Street planning proposal; right?
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39 MR BOLSTER: I would doubt whether any of that would be
40 objectionable to anyone at all.
41

42 MR WHEELHOUSE: I have an objection to that.
43

44 THE COMMISSIONER: So the first group of material is --
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46 MR WATSON: It is all in one folder.
47

1 THE COMMISSIONER: It is all in something I've marked at
2 the moment MFI FTB1. So the first group of documents
3 relates to the Marsden Street planning proposal, and it is
4 material from AECOM and the council relating to drafts of
5 that planning proposal; correct?
6
7 MR BOLSTER: Yes, it also relates to Berala as well. That
8 goes through from page 1 to 135 - and South Auburn as well.
9
10 THE COMMISSIONER: The Berala planning proposal material -
11 what is that? Are they council documents?
12
13 MR BOLSTER: In the case of Berala, it fills out the
14 record about what happened in 2015 after exhibition and
15 after it came back from gateway, and some analysis.
16
17 THE COMMISSIONER: Yes, but are these council-prepared
18 documents or --
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20 MR BOLSTER: Yes.
21
22 THE COMMISSIONER: Right. What about South Auburn?
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24 MR BOLSTER: The South Auburn material is important. That
25 is only a two-page email at 112 to 113, which --
26
27 THE COMMISSIONER: Can I have a copy of this?
28
29 MR BOLSTER: Yes, I will hand it up, but I only have one
30 paginated copy, I'm afraid. Critically, it dates 4 March
31 2015 as the time at which there was a suggestion that the
32 options, that ultimately became options 2(a) and 2(b) --
33
34 THE COMMISSIONER: Sorry, who is the email between?
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36 MR BOLSTER: It is produced by Ms Cologna. They are
37 emails from Mr Alvarez which show that there was --
38
39 THE COMMISSIONER: Mr Alvarez, from the council's planning
40 staff, to?
41
42 MR BOLSTER: A Mr Noble, who was his manager.
43
44 THE COMMISSIONER: So these are internal emails from the
45 council's planning staff?
46
47 MR BOLSTER: Yes.

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2 THE COMMISSIONER: All right. They concern, generally,
3 the preparation of the planning proposal; correct?
4
5 MR BOLSTER: Correct, and date when options 2(a) and 2(b)
6 were first spoken of.
7
8 THE COMMISSIONER: Right.
9
10 MR BOLSTER: That's the evidentiary purpose of it.
11
12 THE COMMISSIONER: I think we all know what those options
13 are. Is that the material that relates to planning
14 proposals?
15
16 MR BOLSTER: Yes.
17
18 THE COMMISSIONER: That's the extent of it?
19
20 MR BOLSTER: Yes.
21
22 THE COMMISSIONER: Does anyone have an objection to the
23 material that relates to planning proposals?
24
25 MR WHEELHOUSE: I do have a small objection, Commissioner.
26 In the section that goes from page 62 to page 108 there is
27 an AECOM report in relation to Marsden Street dated 1 May
28 2014. It has been heavily annotated in handwriting.
29
30 THE COMMISSIONER: Can I see it, please?
31
32 MR WHEELHOUSE: Examples are, to save some time, 81, 82,
33 91, 92, 98, 103 --
34
35 THE COMMISSIONER: A bit quick. I haven't even got my
36 glasses out yet. What page?
37
38 MR WHEELHOUSE: If you go to 81 and 82.
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40 THE COMMISSIONER: So there is handwriting on them?
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42 MR WHEELHOUSE: Yes, and 91 and 92.
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44 THE COMMISSIONER: Just stopping there, do we know whose
45 handwriting it is?
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47 MR BOLSTER: No, we don't.

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THE COMMISSIONER: Do you rely on any of the handwriting? Presumably you would know by now, if you have drafted your submissions, whether you rely on anything --

MR BOLSTER: No, I don't refer to the handwriting in my submissions, I must say.

THE COMMISSIONER: Unless Counsel Assisting has referred to the handwritten parts in his submissions and asks me to make a finding about it, I would ignore the handwriting as not knowing who has made it or where it has come from.

MR WHEELHOUSE: That's sufficient for my purposes.

THE COMMISSIONER: All right. Anything else regarding the planning proposal material? All right.

The next lot is the material from Mr Attie's phone, is it?

MR BOLSTER: The next lot is the material produced from Mr Attie's phone, with some material already being removed because it had embarrassing things in it that aren't helpful or probative. It was a very difficult task to identify the full extent of that material, but essentially, it is --

THE COMMISSIONER: But in terms of what you want to tender and rely on --

MR BOLSTER: It is a series of exchanges between Mr Attie and other witnesses who gave evidence at the Inquiry.

THE COMMISSIONER: And the material relates to what - the planning proposals?

MR BOLSTER: It relates to the planning proposals and the relationships between councillors and staff and, of course, Mr Attie and Mr Jack.

THE COMMISSIONER: All right. Anything else? That's it?

MR BOLSTER: No.

THE COMMISSIONER: Now, Mr Wheelhouse, I have an objection from you, which you provided in writing.

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MR WHEELHOUSE: I'm interested in pages 267 to 295, if that assists.

THE COMMISSIONER: Just wait a second. We now have Mr Cheshire here. Let me just fill Mr Cheshire in on what has happened so far.

The reason we're here is, obviously, rather than having an email exchange about objections, I thought we would have a directions hearing in case anyone does.

I've dealt with one part, but I will give you an opportunity if you want to say anything. There are two aspects to the bundle of documents that Mr Bolster wants to tender. The first lot relates to additional documents that relate to the Marsden Street planning proposal, the Berala planning proposal and the South Auburn planning proposal, which Mr Bolster simply wants to tender to complete the record. Some of that material, in relation to Marsden Street, is from AECOM, various drafts of their report. The rest is documents prepared by the council planning staff, whether it's drafts of planning proposals or email exchanges between one member of the planning staff and others.

The only objection taken in relation to that material was from Mr Wheelhouse, who objected to pages 62 to 108 of a draft AECOM report relating to Marsden Street, limited to the basis that it had some handwritten annotations on it and no-one knows whose handwriting it is. What has been agreed is that I will pay no attention to any of the handwritten annotations. Do you have any objection to any of that material?

MR CHESHIRE: No, no, I don't.

THE COMMISSIONER: Okay. So what we're now up to is the material in what has been called MFI FTB1, this folder of documents, that was obtained from Mr Attie's phone, unfortunately on the very last day of the public hearing, which relates to largely SMS exchanges between Mr Attie and other then councillors, or Mr Attie and council staff.

What I was coming to was that I have one written objection from the solicitors representing Mr Oueik, Sterling Legal, a letter dated 12 October 2016, that

1 objects to the material on the basis that it "fails to
2 establish any probative facts, has the propensity to give
3 rise to speculation and is otherwise prejudicial to
4 Mr Oueik."
5

6 Now, Mr Wheelhouse, do you want to say anything
7 further in relation to that objection?
8

9 MR WHEELHOUSE: There are two things, Commissioner. I'm
10 interested in the pages from 267 to 295.
11

12 MR BOLSTER: Does that begin with "Selected chats between
13 Mr Attie and Mr Oueik"?

14
15 MR WHEELHOUSE: Yes.
16

17 THE COMMISSIONER: I see, yes. So there is a section in
18 this bundle that has a heading at page 267 "Selected chats
19 between Mr Attie and Mr Oueik and others".
20

21 MR WHEELHOUSE: And there is a second section,
22 Commissioner, at 286, and it's SMSs between Mr Attie and
23 Mr Oueik, 99 per cent of which are just missed calls, over
24 a four-year period.
25

26 So just taking something at random, Commissioner, if
27 I could invite you to go to, for example, page 276, if you
28 go down to the bottom, you will see it all relates to
29 a single day, 4 May 2014.
30

31 THE COMMISSIONER: It is pretty small. Where do I see
32 a date --
33

34 MR WHEELHOUSE: Just above the black dot, 4 May 2014. You
35 will see it says, "Good morning, what time are you coming?
36 Are you alive?" The next entry --
37

38 THE COMMISSIONER: I see that now.
39

40 MR WHEELHOUSE: In Mr Attie's case, that was quite
41 a reasonable question to ask. So you will see if you go to
42 the next 12 entries, this is just a random --
43

44 THE COMMISSIONER: Yes. It doesn't seem particularly -
45 what's the relevance of that material?
46

47 MR BOLSTER: I don't have a paginated copy of that. Can

1 I have a look?

2

3 THE COMMISSIONER: I will give it back to you. It is 267
4 to 295, but it was 276 to 277, which just seems to be an
5 exchange of SMSs regarding people having lunch. Do you
6 rely on that in your written submissions?

7

8 MR BOLSTER: No, I don't.

9

10 THE COMMISSIONER: I'm not going to rely on any SMSs that
11 are contained in this material for any finding, unless
12 there is a submission that I should make a finding by
13 Counsel Assisting.

14

15 MR WHEELHOUSE: I've taken you to the high point of the
16 SMSs. The rest of it is all very strange greetings about
17 Christmas or birthdays from Mr Attie and other things which
18 don't relate, in my respectful submission, to anything. In
19 my respectful submission, none of the material should be
20 brought forward, especially if it goes in and it goes into
21 the public arena.

22

23 Commissioner, the objection that I made was based on
24 what Deane J said in a case called *Minister for Immigration*
25 *and Ethnic Affairs v Pochi*, 31 ALR 666. What I've done is
26 I've photocopied the page and I will hand it to you, rather
27 than trying to read it to you.

28

29 THE COMMISSIONER: Yes.

30

31 MR WHEELHOUSE: If you go to the bit marked in red, you
32 will see, essentially, what Deane J is saying.

33

34 THE COMMISSIONER: Look, I should tell you --

35

36 MR WHEELHOUSE: It is a breach of natural justice to rely
37 on material which is purely speculative. That's
38 essentially it.

39

40 THE COMMISSIONER: -- what I would have in mind, if I let
41 any of this material in - and in relation to the two pages
42 you have just referred me to, if Mr Bolster isn't relying
43 on it I'm not sure why they should actually be part of the
44 tender in any event, but to the extent that I would allow
45 some of this material in - if anyone, any interested
46 person, felt that that created any unfairness to them, what
47 I've been thinking about is allowing a short period of time

1 for any interested person to provide a statement to the
2 Inquiry, restricted to relating to this material, if they
3 want to explain or put on an explanation about its
4 contents. In that way, any interested person can have
5 their say about it.
6

7 I really, really want to try to avoid having to have
8 any further hearing time. The one downside of allowing
9 that procedure I've just mentioned is that if Counsel
10 Assisting then says, "I need leave to recall the witness
11 because I don't accept what's in the statement", we would
12 have to find another day, but that might be unavoidable.
13 But if this material goes in, I'm not going to let it go in
14 on the basis that people are shut out from saying anything
15 about it, not only by way of submission but by way of some
16 form of evidence if they would want to.
17

18 MR WHEELHOUSE: Well, Commissioner, that is a very good
19 direction, but if I may make a subjective submission,
20 I have been through all this material in some detail and
21 I cannot see a single probative line in any of it. I say
22 that so that if my learned friend wants to make some
23 particular submission that I can respond to now, I may make
24 a concession, but at the moment, going through, it would
25 lead to a breach of natural justice because it will lead
26 to, in my respectful submission, a finding of fact based on
27 material which is --
28

29 THE COMMISSIONER: It would only lead to a breach of
30 natural justice if there was nothing more. If I just let
31 it in and said, "Goodbye, write your submissions" that
32 might lead to a breach of natural justice, but if you tell
33 me there is some unfairness to your client beyond the mere
34 tender of documents, I will accommodate it, and, as I've
35 said, the best way I can see of accommodating it is by
36 allowing any interested person who wants to say something
37 about this material to say, "It only means X" - and bear in
38 mind that you are shortly going to receive Counsel
39 Assisting's submissions, either tonight or tomorrow, so you
40 will know what reliance he is going to place on this, and
41 with the benefit of that it will be exposed to you how he's
42 relying on it. If, having seen that, you think it's
43 necessary for your client to put on a statement about it,
44 I will give a direction about how that occurs.
45

46 MR WHEELHOUSE: Commissioner, what we're trying to avoid
47 is some highly speculative submission going on the public

1 record based on material that has no rational probative
2 effect. In other words, it will be a breach of natural
3 justice if you, Commissioner, were to come to a finding of
4 fact on material which has no rational probative effect and
5 lends itself to speculation. So our concern is in having
6 something on the public record that emanates from thought
7 process --

8

9 THE COMMISSIONER: In terms of my role, I'm not going to
10 be speculating about things. I will be listening to
11 submissions, reading submissions and acting on the evidence
12 that is before me, and if no reliance is placed on
13 material, it's very unlikely that I'm going to be making
14 any findings about it.

15

16 MR WATSON: Also, there would be no denial of procedural
17 fairness if you don't make any finding about it. I know
18 the case that is referred to, it is *Obeid v Ipp & Ors*.
19 I won't go into any more detail, but that is one of the
20 essential propositions there.

21

22 THE COMMISSIONER: I think Mr Wheelhouse has a reasonable
23 point, that if Mr Bolster is tendering material and some of
24 it is not going to be relied on at all, then query whether
25 it should be part of the tender.

26

27 Mr Wheelhouse, you have taken me to two pages. There
28 are no doubt others of a similar vein where you say there
29 is nothing of relevance to the terms of reference here.
30 Would you be able to provide a schedule of those pages to
31 Mr Bolster and he could then look at that schedule and say,
32 "Look, in relation to the bundle, I won't press pages A to
33 B"?

34

35 MR WHEELHOUSE: My submission, Commissioner, having done
36 that exercise that you have just mentioned with some degree
37 of care --

38

39 THE COMMISSIONER: You say it is the whole lot?

40

41 MR WHEELHOUSE: I can't find anything. I was going to
42 come along to make concessions, but I found no material
43 from which I could reasonably make a concession. There are
44 some date coincidences, but, again, that's a bit like the
45 Two Ronnies saying "Hello", "Hello", outside the door. It
46 is nothing more than a record of a conversation between two
47 people on a particular day, which, in my respectful

1 submission, is probative of nothing.

2

3 THE COMMISSIONER: I will hear from Mr Bolster in a
4 second. Look, this is an administrative inquiry and the
5 terms of reference are broad, so if any of this material
6 has stuff that even, in a way, vaguely touches on planning
7 proposals or relationships that Counsel Assisting thinks
8 are relevant to the Terms of Reference and warrants some
9 comment in his final submissions, then that's enough for
10 the material to be admitted as part of the evidence for the
11 public hearing. But I don't want to receive material in
12 relation to which no submission is going to be made,
13 firstly.

14

15 Secondly, if there is material that is going to be
16 tendered and people have only just received it recently,
17 then I'm going to make some sort of direction that enables
18 people to not only make a submission about it but put on,
19 if they want to, some form of evidentiary statement about
20 it, and I think that would cover any aspects of unfairness.
21 Did you want to make a submission?

22

23 MR DUGGAN: Just quickly, thank you, Commissioner. We
24 don't oppose the tender of the documents themselves but we
25 have some concerns about confidentiality.

26

27 THE COMMISSIONER: In terms of this going on the website?

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29 MR DUGGAN: Yes. There is a number of personal
30 communications, apart from the fact that mobile phone
31 numbers are included as well.

32

33 THE COMMISSIONER: Yes. Well, mobile phone numbers will
34 have to be redacted before it goes on a public website. Is
35 there other stuff in that category?

36

37 MR DUGGAN: I haven't examined or got instructions upon
38 all of these personal communications, but given the
39 peripheral relevance of them, the submission I would make
40 would be that the documents should be admitted as
41 a confidential exhibit, and there doesn't seem to be any
42 public interest in the public having access to every one of
43 these communications. Now, I haven't seen --

44

45 THE COMMISSIONER: I suppose what I could do is, if it is
46 admitted, make it a confidential exhibit provisionally, and
47 if there is any part of it that Counsel Assisting relies on

1 and that I form the view is clearly relevant to the Terms
2 of Reference, that part of it may become publicly available
3 at some stage, but not until further direction. So will
4 that accommodate your concern there?
5

6 MR DUGGAN: Yes.
7

8 THE COMMISSIONER: Mr Watson, do you have any --
9

10 MR WATSON: Any concerns that I had are covered by the
11 things that you have said, Commissioner, thank you.
12

13 THE COMMISSIONER: Do you want to say anything about the
14 relevance of that?
15

16 MR CHESHIRE: Commissioner, just before Mr Bolster
17 replies, so that he can respond, I don't want to raise any
18 extra issue but we had some issues in that there seemed to
19 be some phone numbers that one couldn't actually trace as
20 to who they were to or from, but bearing in mind the way
21 that you propose to deal with what Mr Wheelhouse has said,
22 I think we are covered by that, because if somebody does
23 speculate, then there may well be a submission that we
24 make, but if Mr Bolster is not going to make something out
25 of something, then we would be jumping at shadows, so
26 I think your direction will cover it.
27

28 THE COMMISSIONER: Before you make your submission, can
29 I just ask, the material from Mr Attie's phone - there is
30 stuff in it that you rely on in your submission, but the
31 approach that you have taken is that you have put in
32 everything that was extracted from the phone?
33

34 MR BOLSTER: Yes, leaving out some material that was
35 obviously embarrassing.
36

37 THE COMMISSIONER: Leaving out one level of irrelevance.
38

39 MR BOLSTER: Yes, and I am happy to deal with
40 Mr Wheelhouse to get to a second level of what can be taken
41 out, but I fundamentally disagree with him about his
42 position.
43

44 THE COMMISSIONER: You give me an example.
45

46 MR BOLSTER: I will give you an example. On 17 August
47 2013 Mr Attie sends an SMS to Mr Yang, Mr Oueik, Mr Zraika

1 and Mr Mehajer. It says:

2

3 *Good morning,*
4 *There will be some light breakfast before*
5 *the meeting, so come earlier.*

6

7 That is at page 294, line 74.

8

9 THE COMMISSIONER: Was that the day of a council meeting?

10

11 MR BOLSTER: I am not sure. The key thing for me, in the
12 submissions that I will make about this material, is that
13 it is very important for establishing the relationships,
14 most particularly with Mr Attie and Mr Francis, and with
15 Mr Attie and Mr Brisby, as my learned friends will see when
16 they get my submissions later this evening.

17

18 Another example: in March 2014 there is a similar
19 arrangement about a lunch, a personal or social occasion at
20 a Lebanese restaurant in Bankstown. It's not just the
21 councillors but it is also Mr Fitzgerald, Mr Francis,
22 Mr McNulty and Mr Brisby, but it also includes Mr Zraika
23 and Mr Oueik as attendees of that lunch. It shows
24 a relationship between those gentlemen.

25

26 Then, for example, on 11 March --

27

28 THE COMMISSIONER: I've seen some SMSs that were clearly
29 sent during council meetings, as well. They have to be
30 relevant. What you make of them is another thing, but they
31 are material that has been provided to the Inquiry; it has
32 to form part of the record.

33

34 MR BOLSTER: I will just give one other example. On
35 page 290:

36

37 *Gentlemen,*
38 *Urgent meeting in the GM's boardroom at*
39 *8.45. Need to discuss the oregano*
40 *effect and its stronghold on Auburn City*
41 *Council staff.*

42

43 That is to Mr Fitzgerald Jr, Mr Oueik, Mr McNulty,
44 Mr Dencker, Mr Francis and Mr Brisby. So I don't need to
45 say any more, I don't think.

46

47 THE COMMISSIONER: Does anyone else want to say anything

1 further?
2
3 MR DUGGAN: Just quickly, there is something that arose
4 out of what my friend said. There doesn't appear to be any
5 evidence of the parameters that were used to search the
6 information on the phone and we would ask that there be
7 some information about that - whether that's a letter from
8 those who assist you, but we would want to know what the
9 parameters were, because I assume this isn't --
10
11 MR BOLSTER: I think I can help my friend. If he looks at
12 the documentation, you will see, for example, page 137,
13 which is the first page in the bundle. That is SMS
14 messages between his client and Mr Attie, nothing more,
15 that were extracted from the phone in detail. If you go
16 over, then, to 144, these were SMS messages in relation to
17 another number, I believe, or that included someone else.
18 Then you go to the chats --
19
20 MR DUGGAN: I understand that. But, for example, was
21 "Batik-Dunbar" used as a search parameter to find messages
22 between Ned Attie and her?
23
24 MR BOLSTER: No.
25
26 MR DUGGAN: Which numbers did you use?
27
28 MR BOLSTER: There is a table in my submissions which
29 lists what we have got here, but it's basically - you've
30 got Mr Attie and Mr Mehajer first, then Mr Attie and
31 Mr Jack. The full range of the texts between Mr Attie and
32 Mr Jack is extremely important, as you will see in the
33 submissions which go to some length to explain the
34 relationship between Mr Attie and Mr Jack.
35
36 MR DUGGAN: But not all the councillors have been used as
37 search parameters?
38
39 MR BOLSTER: No, they haven't. Are you suggesting that
40 that should have been done?
41
42 MR DUGGAN: I'm not suggesting anything at the moment.
43 I'm just trying to work out what the process was to sift
44 the information, and if the answer is in your submissions,
45 I will find out soon.
46
47 THE COMMISSIONER: Can I suggest, if you have a concern

1 after you have read those submissions, you could write to
2 the Inquiry and say, "We would like to know X and Y about
3 this search", and it will either be accommodated or not,
4 but you will get a response.

5
6 MR DUGGAN: Yes, I'm happy to do that.

7
8 MR BOLSTER: The chats pick up different levels of groups.
9 So, for example, for the chats between Mr Attie and
10 Mr Brisby, the first level of which involves participants
11 like Mr Brisby, Mr Zraika and Mr Oueik, and then the next
12 level are chats that involve Mr Brisby and a Mr Tadross,
13 and then the next level involves - each level is separately
14 identified in the print-out. I think that's the only
15 level. I think there are more levels with Mr Attie and
16 Mr Brisby and more levels with Mr Attie and Mr Oueik.

17
18 THE COMMISSIONER: All right. Is there anything else from
19 anyone? Just excuse me for a moment while I draft
20 something up for discussion.

21
22 Your written submissions will be made available to the
23 parties either tonight or tomorrow?

24
25 MR BOLSTER: Tonight or - I will do my very best to have
26 them tonight. There are a couple of things that I want to
27 add to it.

28
29 THE COMMISSIONER: It is a couple of minutes to close of
30 business now, so I will assume it is tomorrow. I suppose,
31 because these are coming in a few days late again, people
32 would want a few extra days' extension for their
33 submissions? I think I gave a three-week period. No-one
34 is saying anything - I will give it to you anyway.

35
36 All right. I will just read out these directions, but
37 feel free to make a submission afterwards, because I'm
38 doing this on the fly.

39
40 First of all, in relation to MFI FTB1, I am generally
41 convinced that the material relating to both the planning
42 proposals and the material from Mr Attie's phone is
43 relevant to the Inquiry's Terms of Reference. I will admit
44 MFI FTB1 as exhibit FTB1. However, excluded from
45 exhibit FTB1 will be any handwritten annotations at
46 pages 62 to 108 of the exhibit, which is a draft AECOM
47 report concerning the Marsden street planning proposal.

1
2 **EXHIBIT #FTB1 BUNDLE FORMERLY MARKED MFI FTB1, EXCLUDING**
3 **ANY HANDWRITTEN ANNOTATIONS AT PAGES 62 TO 108 OF THE**
4 **EXHIBIT, BEING A DRAFT AECOM REPORT CONCERNING THE MARSDEN**
5 **STREET PLANNING PROPOSAL**
6

7 THE COMMISSIONER: Further, by Tuesday, 25 October,
8 Counsel Assisting is to identify those pages or parts of
9 exhibit FTB1 that he does not rely upon for the purposes of
10 his submission, and I will exclude those parts of
11 exhibit FTB1 from the exhibit. Notification in relation to
12 that is to be provided to all interested parties.
13

14 I also direct that until I give a further direction,
15 exhibit FTB1 is to be a confidential exhibit. I will,
16 however, revisit that direction after receiving
17 submissions.
18

19 Further, before any part of exhibit FTB1 were to be
20 made publicly available, mobile phone numbers and addresses
21 are to be redacted.
22

23 In relation to other directions generally, I will make
24 these directions:
25

26 1. Any interested person who wishes to provide the
27 Inquiry with a statement relating to the documents or
28 materials in exhibit FTB1 is to do so by 5pm Tuesday,
29 25 October 2016.
30

31 2. Any application by Counsel Assisting to recall any
32 witness from the public hearing for examination, restricted
33 to the content of any further statement provided in
34 accordance with order 1, is to be made by 5pm Wednesday,
35 2 November 2016.
36

37 3. The time for interested persons to lodge and serve
38 any written submissions is extended to 5pm Wednesday,
39 9 November 2016.
40

41 4. Any submission in reply from Counsel Assisting the
42 Inquiry is to be lodged and served by 5pm, Wednesday,
43 16 November 2016.
44

45 So they are the directions I will make. Directions 3
46 and 4 relating to the submissions hopefully can be
47 maintained, but obviously they might have to be varied if

1 the unfortunate situation arises that we do have to find
2 another day for evidence. That might throw that timetable
3 out. But let's hope not.

4

5 Does anyone have any comment about those directions?

6

7 MR DUGGAN: No.

8

9 MR WATSON: No.

10

11 MR CHESHIRE: The confidential exhibit - that means we
12 have still got it, doesn't it? It just means it doesn't
13 get published?

14

15 THE COMMISSIONER: All I mean by that is that it is not to
16 be made publicly available or to be provided outside, to
17 any party that is not an interested party.

18

19 MR CHESHIRE: So we can show clients?

20

21 THE COMMISSIONER: Show clients who are interested
22 parties. But it is not going to be made available on the
23 website and it's not going to be provided to persons or
24 entities that aren't playing a direct role in the Inquiry.

25

26 Is everyone satisfied with those directions that I've
27 made? No comments?

28

29 MR WATSON: I'm satisfied.

30

31 THE COMMISSIONER: All right. Is there anything further
32 anyone wants to say?

33

34 MR CHESHIRE: No, thank you.

35

36 MR SEAR: Just in regards to making those submissions
37 publicly available?

38

39 THE COMMISSIONER: Oh, yes. I thought in relation to
40 that, it is a public hearing, so the submissions are going
41 to have to be made publicly available, but what I thought
42 I would do is I will direct that they are not to be made
43 publicly available until a week from when they are provided
44 to the parties, not that I'm suggesting that anything will
45 need to happen, I just think that's a prudent course. So
46 I'll direct that the submissions of Counsel Assisting won't
47 be made publicly available until Tuesday, 25 October at

1 5pm. So they won't be made publicly available before then,
2 but they will, obviously, have to be made publicly
3 available because it is a public hearing.

4
5 All right. Thank you all for coming. Please just
6 feel free to go.

7
8 **AT 4.57PM THE INQUIRY WAS ADJOURNED ACCORDINGLY**

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