

AUBURN PUBLIC INQUIRY

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

PRIVATE HEARING: Ned Attie

Held at the Civic Precinct Centre
1 Susan Street, Auburn NSW

On Thursday, 9 June 2016 at 9.30am

1 MR BOLSTER: I call Mr Attie.

2

3 MR WATSON: Mr Commissioner, Mr Attie would like to take
4 an oath on the bible.

5

6 <NED ATTIE, sworn: [9.30am]

7

8 THE COMMISSIONER: Just before we commence, I will just
9 make some formal orders regarding what we are doing this
10 morning. Mr Watson, can you just tell me the name of your
11 instructing solicitor.

12

13 MR WATSON: Toufic, T-O-U-F-I-C - Bazouni - B-A-Z-O-U-N-I.

14

15 THE COMMISSIONER: Thank you.

16

17 MR WATSON: Mr Bazouni is from New South Lawyers.

18

19 THE COMMISSIONER: Thank you. I make these formal orders.
20 I give the following directions in relation to Mr Ned Attie
21 who has been summonsed to appear at the Auburn Public
22 Inquiry:

23

24 (1) Pursuant to section 12B(2) of the
25 *Royal Commissions Act 1923*, I direct that part of the
26 questioning by Counsel Assisting is to now take place in
27 private.

28

29 (2) Pursuant to section 12B(3) of the Act, I direct
30 that only the following persons be present during the
31 private hearing involving Mr Attie:

32

33 (a) Counsel Assisting and inquiry staff;

34

35 (b) the legal representatives of Mr Attie, being
36 Mr G Watson SC and Mr Toufic Bazouni.

37

38 (3) Until such time as I give a different direction,
39 I direct that publication of the transcript of this private
40 hearing involving Mr Attie be restricted to the persons
41 referred to in the previous direction.

42

43 (4) I direct that the completion of this private
44 hearing does not excuse Mr Attie from his summons to appear
45 at the inquiry.

46

47 Mr Bolster?

1 <EXAMINATION BY MR BOLSTER:

2

3 MR BOLSTER: Q. Might the witness be given a copy of
4 Exhibit GS1, the Grey Street bundle, and might that be
5 opened at page 20, please.

6

7 Q. Mr Attie, I am going to ask you some questions about
8 the Grey Street, Silverwater, project which I understand
9 you were a keen proponent of from the time it was lodged
10 with council until the time it was finally dealt with by
11 the administrator?

12 A. That's correct.

13

14 Q. Do I take it that you remain to this day a keen
15 supporter of that project?

16 A. Yes, I am.

17

18 Q. What were your principal reasons, just a summary of
19 your key reasons for why that was such an important
20 proposal for the Auburn local government area?

21 A. It was more as an important proposal for the
22 Silverwater area, as there was no shopping centre in
23 Silverwater and required some retail exposure.

24

25 Q. It was substantially, though, a residential
26 development; correct?

27 A. Correct.

28

29 Q. It was a six or seven storey residential tower?

30 A. I believe so.

31

32 Q. When did that proposal first come across your desk?

33 A. As a proposal it was in council, I believe, at the
34 first council meeting it came to. I can't remember -
35 I can't recall the exact date.

36

37 Q. Can you have a look at page 20 of the bundle in front
38 of you. On the left-hand side --

39 A. Yes.

40

41 Q. -- these are Mr Brisby's minutes of a meeting that he
42 had with the developer, their advisers and yourself. Do
43 you recall that meeting? I want you to assume from me that
44 the date of 28 February 2008 is in error and that it is in
45 fact 28 February 2013.

46 A. Okay.

47

1 Q. Do you recall that meeting?
2 A. I remember having a meeting with some people in my
3 office, yes.
4
5 Q. Do you remember who the people were?
6 A. There was from memory four or five people. I believe
7 there was an architect, or two architects, and two
8 gentlemen or three gentlemen that said they represented the
9 owners.
10
11 Q. Had you met any of those gentlemen who represented the
12 owners before?
13 A. No.
14
15 Q. I think from the minutes it would appear that's
16 Mr George Ghossayn?
17 A. That's what it says there, yes.
18
19 Q. Had you met Mr Ghossayn before?
20 A. No.
21
22 Q. Another George, who doesn't have a surname, I won't
23 ask you about him.
24
25 THE COMMISSIONER: I am sure he does.
26
27 MR BOLSTER: Q. I think Mr Brisby wasn't able to take it
28 down. Mr Fawaz Sankari?
29 A. No.
30
31 Q. Had you met Mr Sankari before?
32 A. I don't believe so, no.
33
34 Q. Have you met him since?
35 A. I have had meetings with him since, yes.
36
37 Q. Have you had meetings with him in connection with this
38 project?
39 A. No.
40
41 Q. No?
42 A. No.
43
44 Q. Have you had meetings with him about other
45 developments?
46 A. No.
47

1 Q. What have you had other meetings with Mr Sankari
2 about?
3 A. I had a meeting with Mr Sankari regarding obtaining
4 finance for a friend of mine who wanted to start up a
5 business.
6
7 Q. When did that happen?
8 A. I'd say two or three months ago.
9
10 Q. So in 2016?
11 A. Yes, this year.
12
13 Q. Between the meeting in February 2013 and the meeting
14 two or three months ago, had you met or discussed the
15 Grey Street proposal with Mr Sankari?
16 A. I did meet with him and his planners in council with
17 council staff I believe twice or three times.
18
19 Q. So they were meetings at Council Chambers?
20 A. Well, in the council.
21
22 Q. With council staff?
23 A. Correct.
24
25 Q. I think there was a site visit as well?
26 A. No.
27
28 Q. Didn't councillors undertake a site visit in 2013 or
29 2014?
30 A. Council resolved to but I did not attend, sorry.
31
32 Q. You did not attend?
33 A. No.
34
35 Q. Right. Okay. So the only contact you had with
36 Mr Sankari from the time of this meeting to a meeting you
37 had with him this year about an unrelated matter were the
38 meetings that you had with him in council?
39 A. With respect of this, yes.
40
41 Q. Yes.
42 A. I did on occasion see Mr Sankari at functions where
43 their bank was a sponsor of the function. I can't recall
44 how many times.
45
46 Q. The first time you met him, though, was at this
47 meeting on 28 February 2013?

1 A. Yes.
2
3 Q. The other functions that you have attended, are they
4 charity events or are they business events or are they
5 conferences?
6 A. Predominantly charity events.
7
8 Q. The charity being?
9 A. I believe they sponsored the IFTA that Auburn City
10 Council did, which I undertook, he was there at that time.
11 I believe he also had sponsorships of organisations.
12 I think one was the Lebanese Chamber of Commerce and just
13 other charitable organisations, I can't recall exactly
14 which ones.
15
16 Q. If you just have a careful look at that minute of that
17 meeting --
18 A. Yes.
19
20 Q. -- Mr Brisby attributes to you three lines of dialogue
21 in a meeting that lasted from 10am to 10.50am, so a fairly
22 lengthy meeting, 50 minutes. Sitting there today, do you
23 have any recollection of what was said at that meeting?
24 A. Not in entirety, but in general it was more about what
25 they wanted to do with the actual parcel of land.
26
27 Q. When they came in, did you know anything about the
28 proposal?
29 A. No.
30
31 Q. Did you know that it was a seven storey residential
32 project?
33 A. No.
34
35 Q. This was a cold call from them, was it?
36 A. This was the initial call from them.
37
38 Q. The first line attributed to you about halfway down
39 the page, do you see that?
40 A. Yes, I do.
41
42 Q.
43 *Mayor - said he believed they did not own*
44 *all the land. 3 blokes still in separate*
45 *ownership.*
46
47 Is that a correct record of what you said as regards that

1 matter?
2 A. I mean generally, yes, but what, what - what I would
3 believe I remember occurred was they started with their
4 proposal saying they want to rezone the entire block and
5 then it came up through the conversation that they actually
6 only owned part of the block.
7
8 Q. Did you know who owned lots in that block at that
9 time?
10 A. No, I didn't, and I still don't.
11
12 Q. Correct me if I am wrong, but the tenor of that note
13 seems to suggest that you knew that the ownership of three
14 blocks in that lot was not with the developer?
15 A. That's not correct.
16
17 Q. Is that an unfair reading?
18 A. That is an unfair reading.
19
20 Q. What do you say you said about that topic?
21 A. What I stated was when - through their conversation,
22 it was ascertained that they don't own the entire block,
23 that they should try and pursue the rest of the block and
24 have the entire block for themselves.
25
26 Q. Is it your evidence to the Commission that you didn't
27 know on 28 February 2013 anyone who owned land in that
28 block?
29 A. I didn't know anyone with the exception of knowing
30 historically that it used to be called the Paley's
31 Dry Cleaners, so I'd assume that Paley's owned the dry
32 cleaner.
33
34 Q. The proposal was lodged in June 2013, if you could go
35 over to page 29 of the bundle.
36
37 MR WATSON: What page?
38
39 THE COMMISSIONER: Page 29.
40
41 MR BOLSTER: Q. I take it you went through the proposal
42 when it came before council, did you?
43 A. I skimmed through the proposal.
44
45 Q. It is quite a lengthy proposal and it runs in the
46 bundle from page 29 right through to page 163, when you add
47 on all of the various reports that were attached to it. Do

1 you see that?
2 A. Yes, I do.
3
4 Q. At 165, you will see there was an assessment carried
5 out by council staff?
6 A. Yes.
7
8 Q. Do you see the date of that is 12 November 2013?
9 A. Yes. 20 November 2013.
10
11 Q. 20?
12
13 THE COMMISSIONER: It says both.
14
15 MR BOLSTER: Oh, it does, you're right. At some stage,
16 around that time, that was when it was done.
17
18 Q. Let me ask you at that point, at that time,
19 November 2013, you were the mayor?
20 A. Yes, I was.
21
22 Q. Did you customarily communicate with the planning
23 staff in relation to planning proposals that were before
24 council?
25 A. Not specifics of the proposal, but I'd always ask
26 where proposals are at.
27
28 Q. All right. The matter was before council
29 in December 2013. I want you to have a look at page 245 of
30 the bundle. You will see there there is a minute?
31 A. Yes.
32
33 Q. That records a motion moved by you and seconded by
34 Councillor Mehajer?
35 A. Yes.
36
37 Q. Do you recall moving that motion?
38 A. I do.
39
40 Q. When you moved that motion, you knew that council
41 staff, in their assessment of the proposal, had recommended
42 it be not supported?
43 A. Correct.
44
45 Q. You took a different view, did you?
46 A. Correct.
47

1 Q. What was the basis for your view?
2 A. As I stated previously, I wanted a shopping centre in
3 the Silverwater area, which it did not have.
4
5 Q. What led you to draft this motion?
6 A. I believe from memory the motion was from a previous
7 motion, if I'm not correct. What date was this? 2013.
8 I can't recall how I came about the motion, but I remember
9 reading through the report and then formalising the motion
10 to put to council.
11
12 Q. You were the mayor?
13 A. Correct.
14
15 Q. You obviously had a close interest in this project?
16 A. Correct.
17
18 Q. You carried out an analysis of it?
19 A. Yes.
20
21 Q. Is it fair to say that you came up with a way that you
22 perceived the development could go forward?
23 A. Correct.
24
25 Q. And that was the basis for you preparing that
26 resolution?
27 A. Correct.
28
29 Q. Is that right?
30 A. Yes.
31
32 Q. It was prepared by you, was it?
33 A. Yes. Yes.
34
35 Q. All right. When you prepared it, did you circulate it
36 to other members of council?
37 A. From memory, no.
38
39 Q. Did you discuss it with, for example - I'll call it
40 the loose group of Mr Oueik, Mr Mehajer, Councillor Lam and
41 Councillor Yang, did you discuss it with them?
42 A. No, I didn't.
43
44 Q. No?
45 A. Not --
46
47 Q. Not at all?

1 A. I did not discuss the motion with anyone.
2
3 Q. When it was submitted to council, was it on the
4 business paper for that meeting?
5 A. To my recollection, no, it wasn't.
6
7 Q. I would like to show you a bundle.
8
9 MR BOLSTER: There are copies for the Commissioner, one
10 for the witness and one for my learned friend.
11
12 Q. Could you go to the the bundle at page 15.
13
14 THE COMMISSIONER: Looking at the bottom right?
15
16 MR BOLSTER: Yes, the bottom right, the handwritten
17 pagination. That is the numbering for this particular
18 bundle.
19
20 Q. You will see there that Grey Street was on the agenda
21 as report 380/13 at page 15 of the working papers?
22 A. Yes.
23
24 Q. You will see there, if you turn over two pages to
25 handwritten 17 and following --
26 A. Yes.
27
28 Q. -- is the report from staff?
29 A. Yes.
30
31 Q. You will see there that the matter was submitted for
32 determination. The resolution before council at that stage
33 was essentially not to support it; correct?
34 A. (Nods).
35
36 Q. At a meeting on 20 November, council had resolved to
37 defer it, "We'll go and have a look", they had a look, you
38 didn't go --
39 A. No.
40
41 Q. -- and it came back on 4 December; correct?
42 A. If that's what the note states, correct.
43
44 Q. If I understand the evidence you have given so far,
45 the minute that you drafted and moved, which was passed on
46 4 December at page 245, was moved on the floor of the
47 meeting on 4 December?

1 A. Correct.
2
3 Q. Without notice to anyone?
4 A. Correct.
5
6 Q. And that it was not discussed at any pre-council
7 meeting with Mr Oueik?
8 A. No.
9
10 Q. Mr Mehajer?
11 A. No.
12
13 Q. Mr Zraika?
14 A. No.
15
16 Q. Ms Lam?
17 A. No.
18
19 Q. And Mr Yang?
20 A. No.
21
22 Q. Thank you. Did they ask you any questions about it
23 when you moved it?
24 A. "They" meaning who?
25
26 Q. Well, Mr Oueik.
27 A. Oh, you mean - the councillors you mean?
28
29 Q. Yes.
30 A. I don't recall exactly what happened at the meeting,
31 but there were questions about was it support from
32 everyone.
33
34 Q. Hadn't you gone to them and sought their support for
35 this motion beforehand?
36 A. No.
37
38 Q. No?
39 A. No.
40
41 Q. All right. Thank you.
42
43 THE COMMISSIONER: Is this bundle going to be used?
44
45 MR BOLSTER: It will be used in relation to other matters
46 as well.
47

1 THE COMMISSIONER: Yes.
2
3 MR BOLSTER: Q. The matter went to gateway; correct?
4 A. Correct.
5
6 Q. Following your resolution?
7 A. Correct.
8
9 Q. Gateway knocked it back?
10 A. The letter was returned back from gateway stating
11 that, from memory, there was insufficient support for it to
12 proceed unless certain things changed.
13
14 Q. Yes. You understood that it failed at gateway because
15 it was inconsistent with council's employment land
16 strategy, didn't you?
17 A. Correct, yes.
18
19 Q. Gateway spelt out the reasons, didn't they?
20 A. Correct.
21
22 Q. Then a period of time passed and the proposal was
23 lodged again?
24 A. Correct.
25
26 Q. Did you discuss the matter with anyone from the
27 developer between the time of gateway's refusal and the
28 re-lodgement of the proposal?
29 A. I believe they contacted me and said they were quite
30 upset it didn't go through, or something to that effect.
31
32 Q. Who was "they"?
33 A. I can't recall correctly. It may have been the
34 planner, the planner they had working for them.
35
36 Q. The planner?
37 A. Yes.
38
39 Q. Ms Crameri, does her name --
40 A. I don't remember her name, but there was a lady that
41 was working for them. I don't recall her name.
42
43 Q. What was the substance of your conversation with the
44 lady who was working for the planners?
45 A. She believed that whatever was required to have it go
46 through to the planning department was done correctly and
47 that the staff gave some representation as to how it should

1 be proceeding and that wasn't followed through.
2
3 Q. Did you have any knowledge that it was going to be
4 re-lodged in June --
5 A. No. I assumed it would be, but no, I didn't have any
6 knowledge.
7
8 Q. Did you follow up the consideration you had with the
9 lady from the planners?
10 A. I did, from memory, speak to the general manager,
11 I believe, at that time and I asked him, "The planners are
12 stating that the staff were recommending or" - how can
13 I put it? They were leaving that the zoning that you're
14 referring to is okay for the area, but then all of a sudden
15 it came back a different zoning from the staff.
16
17 Q. Did you discuss the matter with Mr Francis?
18 A. I don't recall speaking with Mr Francis, unless he was
19 present. I don't recall. Mr Francis was at some of the
20 meetings when the planner was there.
21
22 Q. Did you discuss it with Ms Cologna?
23 A. No.
24
25 Q. You know Ms Cologna?
26 A. Yes, I do.
27
28 Q. The July proposal went to council's planning staff and
29 they prepared another report?
30 A. I believe so.
31
32 Q. Do you recall that?
33 A. I recall receiving a report. I don't know what the
34 process was for it to go to staff backwards and forwards.
35 I don't recall what the process was for it going backwards
36 and forwards through staff.
37
38 Q. If you go to 466 of the bundle, please.
39 A. Yes.
40
41 Q. I presume in view of the close interest you took in
42 relation to the matter that you took a close interest in
43 the assessment of it when it came around a second time?
44 A. I don't call it "close". I do read some of the parts,
45 or skim through the report.
46
47 Q. Did you read this report?

1 A. I would have read parts of it. I don't recall reading
2 it in its entirety.
3
4 Q. What stood out to you about this report?
5 A. I don't recall anything standing out in the report.
6 I don't recall what you're referring to as standing out in
7 the report. To me it's just another planning report.
8
9 Q. If you go over to page 469, do you see that there is
10 an executive summary there?
11 A. Yes.
12
13 Q. About halfway down the page, you can see the
14 recommendation begins:
15
16 *This report recommends that Council amend*
17 *the planning proposal application ...*
18
19 A. Yes, I see that.
20
21 Q.
22 *... for the rezoning of land ...*
23
24 A. Yes.
25
26 Q.
27 *... amend the proposed rezoning to B1*
28 *Neighbourhood Centre.*
29
30 A. Yes.
31
32 Q. The proposal from the applicant had been B2 --
33 A. Correct.
34
35 Q. -- residential?
36 A. Correct. No, B2 mixed.
37
38 Q. Sorry, B2 mixed zone?
39 A. B2 local centre.
40
41 Q. Local centre?
42 A. Yes.
43
44 Q. Thank you. Is it fair to say this: that the
45 recommendation from staff set out there was a way forward
46 for the application so that it would be consistent with
47 council's employment land strategy?

1 A. No, the zoning is irrelevant to the ELS initially.
2 The zoning itself is the terms of the use of the actual
3 land. The ELS then stipulates if it's to be working lands
4 or not.
5
6 Q. Yes.
7 A. So, from memory, the ELS had to also still be amended
8 to include that zoning.
9
10 Q. You understood that the ELS had to be amended?
11 A. Correct.
12
13 Q. This didn't amend the ELS, this amended the --
14 A. The zoning.
15
16 Q. -- proposal that came from APP; correct?
17 A. Correct. Correct.
18
19 Q. Correct, yes. So that went forward to council. Could
20 you go forward, please, in the smaller bundle that I handed
21 to you to page 26. Do you have that?
22 A. Yes.
23
24 Q. They're the minutes of a fairly momentous council
25 meeting on 7 October last year, quite a lot of important
26 matters were discussed, but one of those matters was
27 Grey Street, Silverwater. Would you go over, please, to
28 handwritten page 27, which is in fact page 5 of the minutes
29 themselves.
30 A. Yes.
31
32 Q. You will see there it records what happened at the
33 meeting?
34 A. I see the entire page. Which item - are you referring
35 to 228/15?
36
37 Q. Yes, 228/15.
38 A. Yes.
39
40 Q. I think Mr Mooney addressed the council and then
41 Councillor Simms and Councillor Oldfield moved a motion
42 that the proposal just simply not proceed?
43 A. Yes.
44
45 Q. Correct?
46 A. Yes.
47

1 THE COMMISSIONER: Q. Just stopping there, just so you
2 can help me, underneath 228/15, "PP-3/2015" is a reference
3 to the planning proposal?
4 A. I believe so.
5
6 Q. What's "MC:EG"? Are they people in the planning
7 staff, are they initials?
8
9 MR BOLSTER: I think that that's Ms Cologne and --
10
11 THE COMMISSIONER: Monica Cologne.
12
13 MR BOLSTER: Monica Cologne and --
14
15 THE COMMISSIONER: Someone that worked for her.
16
17 MR BOLSTER: I'm not sure who EG is.
18
19 THE COMMISSIONER: Right. So they're the responsible
20 planning people?
21
22 MR BOLSTER: They're the responsible officers, yes.
23
24 Q. Would you go over the page to page 28. You will see
25 there you moved an amendment which ultimately was carried:
26 six votes to four?
27 A. Yes.
28
29 Q. You had the support of Councillors Oueik, Zraika, Lam,
30 Mehajer and Yang. That was another amendment moved from
31 the floor by you?
32 A. Correct.
33
34 Q. Did anyone have a copy of that motion before the
35 meeting started?
36 A. No.
37
38 Q. Is it fair to say that as with the previous motion
39 that you moved from the floor, it was something that you
40 prepared based on your review of the planning proposal and
41 the council --
42 A. That's correct.
43
44 Q. I think earlier in your evidence you said one of the
45 ways around it was to amend the employment land strategy;
46 correct?
47 A. Correct.

1
2 Q. And that's what you sought to do in this motion?
3 A. Correct.
4
5 Q. No questions to you from any of Councillors Lam,
6 Mehajer, Oueik, Yang and Zraika about what this meant?
7 A. Could you please clarify --
8
9 Q. You were sitting around this table here?
10 A. That's correct.
11
12 Q. The matter is called on, there's debate.
13 Councillor Simms, Councillor Oldfield say, "We don't want
14 this." You, I take it, as some sort of compromise position
15 circulate your motion. Do you hand it around?
16 A. No.
17
18 Q. What happened? What's the mechanics?
19 A. What I normally do is I'd have the motion either
20 printed or written.
21
22 Q. Yes.
23 A. And I would hand it to one of the council officers to
24 put it up on the screen so everyone could read it.
25
26 Q. Right. So it would be up there electronically?
27 A. Yes.
28
29 Q. Would councillors get a hard copy as well?
30 A. Not normally from me, no.
31
32 Q. Not for that one?
33 A. I don't believe - I don't remember, I don't remember
34 giving it out to anyone. I don't recall giving it to
35 anyone. Normally I'd have things on the screen.
36
37 Q. Your recollection is that, for this motion, the only
38 way people could understand the content would be by looking
39 it up on the screen above?
40 A. Yes.
41
42 Q. On presumably the two screens at the back of the room?
43 A. Correct.
44
45 Q. And the two at the front that are above the mayor's
46 bench?
47 A. Correct.

1
2 Q. All right.
3 A. It's not uncommon - if I may, Mr Commissioner. It's
4 not uncommon for any councillor to move a motion from the
5 floor without notice.
6
7 Q. No, I understand, but you don't recall any of the
8 councillors who supported that motion raising any questions
9 with you about it at all?
10 A. I still don't understand. You need to clarify what
11 you're referring to. When a motion is placed or a motion
12 comes up, I also have time to speak to the motion, so
13 I justify my actions.
14
15 Q. Did you speak to the motion?
16 A. Of course I did.
17
18 Q. Did you speak for long?
19 A. I don't recall how long, but I did speak to - I speak
20 to every motion.
21
22 Q. You say you explained the practical effect of that
23 resolution, do you?
24 A. Yes.
25
26 Q. All right. Did any of the councillors ask you any
27 questions about the effect of your resolution?
28 A. I don't recall exactly what questions they asked, but
29 there would have been a debate.
30
31 Q. You would appreciate that an amendment of a council
32 employment land strategy is a fairly important thing;
33 correct?
34 A. I don't know what importance it places but I take it
35 that it is important.
36
37 Q. I think we'll move on to the next planning proposal,
38 thank you, Mr Attie. I tender that bundle.
39
40 THE COMMISSIONER: Do you want to tender it as part of the
41 private hearing?
42
43 MR BOLSTER: Yes.
44
45 THE COMMISSIONER: At the moment, then, this will be
46 Exhibit #PH4. It is bundle of documents relating to the
47 minutes of the meeting of council commencing on April 17,

1 2013, concerning the Grey Street planning proposal. Is
2 that how to describe it?

3

4 MR BOLSTER: No, it is about a number of planning
5 proposals. When it is returned to the witness, he will be
6 asked some further questions about it.

7

8 THE COMMISSIONER: Exhibit #PH4 is a bundle of minutes of
9 meeting for council relating to various planning proposals,
10 commencing on April 17, 2014. That exhibit is, until
11 further order, not for publication.

12

13 **EXHIBIT #PH4 - NOT FOR PUBLICATION UNTIL FURTHER ORDER:**
14 **BUNDLE OF MINUTES OF MEETING FOR COUNCIL RELATING TO**
15 **VARIOUS PLANNING PROPOSALS COMMENCING ON 17/04/2014**

16

17 MR BOLSTER: Q. Could the witness be given the Berala
18 and South Auburn folders, please. I am going to ask you
19 some questions about the Berala planning proposal,
20 Mr Attie. In the folder that you have there, would you go
21 to the last substantial tab, do you have that? The first
22 page should be - do you have that?

23 A. Could you repeat to what I'm referring to?

24

25 Q. It should have "Berala Village Planning Proposal" as
26 the first page behind a divider.

27 A. No.

28

29 Q. Mr Sear will help you.

30 A. That would be the second tab, not the last tab?

31

32 THE COMMISSIONER: Yes, the second tab. Your tabs are all
33 different to everyone else.

34

35 MR BOLSTER: Nothing like being an individual.

36

37 Q. Mr Attie, can I take you directly to the workshop at
38 Bowral in February 2014. I am sure you recall that
39 workshop, do you?

40 A. Yes, I do.

41

42 Q. The staff provided those councillors present with
43 blank maps of the Berala Town Centre?

44 A. Correct.

45

46 Q. And councillors were asked to mark them up in
47 appropriate colours to reflect their zoning preferences?

1 A. The colours for zonings, I don't recall that.
2
3 Q. Did you engage in that process?
4 A. Yes, I did.
5
6 Q. I want to focus on an area just to the south of
7 York Street, Berala. You know what I am talking about,
8 don't you?
9 A. Yes, I do.
10
11 Q. You don't need the map to --
12 A. No.
13
14 Q. We are talking about an area or a number of parcels of
15 land that sit on the south side of York Street immediately
16 to the west of the railway line?
17 A. Yes.
18
19 Q. And Mr Zraika has an interest in one of those parcels
20 of land?
21 A. Where he lives.
22
23 Q. You have known that for many years, I take it?
24 A. Not years, but I've known that since I've been on
25 council.
26
27 Q. How did you mark the map for that particular portion
28 of the Berala Town Centre?
29 A. I marked both sides of York Street as being "mixed
30 use".
31
32 Q. Mixed use, being B2?
33 A. Yes, B2 local centre.
34
35 Q. B2 local centre?
36 A. Correct.
37
38 Q. So you would have marked it blue then, that's the
39 traditional way we mark it?
40 A. I don't - I don't recall marking colours, but I did
41 mark it. Whether it was with a pencil or colours, I did
42 mark it.
43
44 Q. Might the witness be shown Exhibit 01, the opening
45 bundle. Could you turn to page 58 of that bundle, please.
46 A. Sorry, what page?
47

1 Q. 58.
2 A. Yes.
3
4 Q. You will see from page 58 through to page 62 - and it
5 is double-sided --
6 A. Yes.
7
8 Q. -- there are five coloured-in maps?
9 A. Yes.
10
11 Q. Are you able to identify the map that you coloured in?
12 A. No.
13
14 Q. It's not the one at page 59 which has B2 on each side
15 of York Street?
16 A. No, that says Councillor Steve Yang on it.
17
18 THE COMMISSIONER: Yes, that's got "Steve" on it.
19
20 MR BOLSTER: Oh, that's right. Yes. Thank you.
21
22 Q. What about page 60, the colour seems to be faded on
23 page 60?
24 A. No.
25
26 Q. All right. Do I take it, then, that whatever map you
27 filled in had blue for B2 Town Centre?
28 A. I can't tell you it had blue. I don't recall
29 colouring in or using a blue marker, yes.
30
31 Q. You made it clear, on the map that you filled in, that
32 you wanted B2 on each side of York Street?
33 A. Yes.
34
35 Q. Corresponding with Mr Zraika's?
36 A. Correct.
37
38 Q. Why was that?
39 A. Because it was a natural extension of the town centre.
40
41 Q. It was a natural extension of the town centre?
42 A. Yes.
43
44 Q. Did you --
45 A. And there was a defining boundary as well, the park.
46
47 Q. Any one of those maps in front of you, perhaps if you

1 open page 58, just so that we are looking at the same
2 page --
3 A. Yes.
4
5 Q. -- did you mark any B2 extension south of Hyde Park
6 Road? Do you see where that is?
7 A. I don't believe so. I do see where it is, yes, but
8 I don't believe I did.
9
10 Q. Did you not think that that was perhaps a more natural
11 extension of the town centre than York Road?
12 A. There was no clear defining boundary that I could
13 ascertain, if I was to look at that area.
14
15 Q. Had you discussed the issue of the zoning of
16 York Street with any other councillors before you did the
17 colouring-in marking exercise?
18 A. No.
19
20 Q. No?
21 A. No.
22
23 Q. No-one?
24 A. No-one.
25
26 Q. Did you discuss with any councillor in, say, the two
27 or three weeks after the workshop what you'd done and asked
28 what they'd done?
29 A. Not that I recall.
30
31 Q. Didn't that strike you as something out of curiosity
32 that you might be interested in?
33 A. No.
34
35 Q. No? Do you say there was no discussion with any other
36 councillor about what they had filled in on their map?
37 A. After or before or during?
38
39 Q. Before or after.
40 A. No.
41
42 Q. Not at all?
43 A. No.
44
45 Q. There were councillors there, though, who made it
46 clear they weren't interested in any upzoning?
47 A. Correct.

1
2 Q. You knew that; that had been fairly well telegraphed
3 to you by Councillor Oldfield, for example?
4 A. Councillor Oldfield is always against every
5 development.
6
7 Q. Councillor Campbell as well?
8 A. No, Councillor Campbell is ad hoc.
9
10 MR WATSON: I think there was a misunderstanding between
11 you just then.
12
13 MR BOLSTER: Yes. I think he's saying that
14 Councillor Campbell is --
15
16 MR WATSON: He changed from case to case. He didn't
17 answer your question. No disrespect, Mr Attie.
18
19 THE WITNESS: No, that's all right.
20
21 MR BOLSTER: Q. Just to clarify it --
22
23 THE COMMISSIONER: I think this is Mr Watson's point.
24
25 MR BOLSTER: Q. Mr Campbell had previously made it clear
26 that in relation to Berala, publicly he stated in relation
27 to Berala, he didn't want any change?
28 A. I don't believe he said he didn't want any change, but
29 he wasn't supporting any proposals, from memory.
30
31 Q. All right. The next thing that happened was there was
32 a workshop where council staff reported back on the results
33 of the Bowral workshop. Do you remember that?
34 A. Could you clarify where the workshop was?
35
36 Q. Okay. In that smaller bundle in front of you with the
37 coloured maps --
38 A. Yes.
39
40 Q. -- if you go over the page to page 63 --
41 A. Yes.
42
43 Q. -- you will see there the first page of a document
44 which is a councillor briefing from June of 2014.
45 A. Right.
46
47 Q. Do you recall attending that briefing?

1 A. Could you please clarify where the briefing was?
2
3 Q. Sorry, where?
4 A. Where the briefing was.
5
6 Q. Well, evidence that the Commission has heard suggests
7 that it occurred in the Jack Lang Room?
8 A. No, I wasn't there.
9
10 Q. You weren't there?
11 A. No.
12
13 Q. Were you ever provided with a copy of this briefing
14 document? If you would just look through it, it starts at
15 page 63 and it goes through to page 73.
16 A. I don't recall receiving it. It may have been emailed
17 to me, but I don't always read all my emails.
18
19 Q. The matter was next considered by council on 16 July
20 2014.
21 A. Yes.
22
23 Q. Would you go please to --
24
25 THE COMMISSIONER: Are we leaving Exhibit 01?
26
27 MR BOLSTER: We are leaving Exhibit 01, yes. If
28 Exhibit 01 could be returned, please.
29
30 THE COMMISSIONER: I will take that off you so we don't
31 get --
32
33 THE WITNESS: Thank you, Commissioner. So which document
34 are you referring to now?
35
36 MR BOLSTER: Q. I'll just give you a page reference, if
37 you would just bear with me for a moment.
38
39 MR WATSON: The one you've got.
40
41 MR BOLSTER: Q. In the big folders, just keep that.
42 A. Yes.
43
44 Q. The page reference is 83.
45 A. It's still in the Berala bundle of documents?
46
47 THE COMMISSIONER: Yes.

1
2 MR BOLSTER: Q. Yes.
3 A. Yes.
4
5 Q. When that came before council, did you read this
6 report in advance?
7 A. I would have skimmed through the report.
8
9 Q. Skimmed through it. Before you received the report,
10 had there been any discussions with Mr Oueik, for example,
11 about what the final zoning for Berala should be in
12 relation to York Street?
13 A. No.
14
15 Q. Not at all?
16 A. I don't make it a habit to talk to any councillors
17 about things that I'm doing.
18
19 Q. Mr Zraika didn't discuss this issue with you?
20 A. Never.
21
22 Q. Never?
23 A. Never.
24
25 Q. At any stage?
26 A. Every time the matter would come up for anything to do
27 with Berala, no matter where it is in Berala, he'd recuse
28 himself from the meetings.
29
30 Q. What about outside of the meetings?
31 A. No.
32
33 Q. Do I take it - I need to just clarify this - the same
34 was the case with Councillor Yang?
35 A. Yes.
36
37 Q. With Councillor Lam?
38 A. Yes.
39
40 Q. All right. Do you have any recollection, sitting
41 there now, as to how the debate proceeded when this finally
42 came back before council and a final decision was made to
43 proceed with the council recommendation?
44 A. I don't recall what conversations took place. I'm
45 sure they would have been recorded.
46
47 Q. If you go ahead in the bundle a few pages to 91, 92

1 and 93.
2 A. Yes.
3
4 Q. Attachment 1 was the existing zonings at page 91, do
5 you see that?
6 A. Yes, I do.
7
8 Q. There followed the proposed draft zonings --
9 A. Correct.
10
11 Q. -- at 92 and 93?
12 A. Yes.
13
14 Q. Did you have any input into the final zonings that
15 were adopted?
16 A. When you say "input", can you clarify?
17
18 Q. Did you discuss it with staff, or any member of
19 council, at that meeting on 16 July?
20 A. No. Are you referring to in the meeting or are you
21 referring to outside the meeting?
22
23 Q. Let me be very clear. At the meeting, let's deal with
24 that first.
25 A. Yes.
26
27 Q. At the meeting did you express any view about what the
28 zoning should be for York Street?
29 A. I don't recall I did.
30
31 Q. Before the meeting, had you discussed with any other
32 councillor your view as to what the zoning should be for
33 York Street?
34 A. No.
35
36 Q. Do I take it that the reason you voted for the
37 proposal that appears on page 93 was that you regarded the
38 extension of B2 along York Street, particularly on the
39 southern side of York Street, as being a natural extension
40 of the town centre?
41 A. That area, and the area across the other side of the
42 station.
43
44 Q. When you did that, did you have regard to the fact
45 that both the council draft study then on the table and the
46 Hill PDA study that was commissioned by council that
47 followed it, that neither of them recommended upzoning in

1 that particular area?
2 A. Yes.
3
4 Q. They didn't even recommend upzoning in the centre of
5 the Berala Town Centre, did they?
6 A. Correct.
7
8 Q. I take it, therefore, that you discounted the concerns
9 that were expressed in those earlier reports; is that
10 right?
11 A. Which concerns are you referring to?
12
13 Q. Well, the concerns expressed in the draft study that
14 on the basis of the proposed extended development in the
15 short to medium term, the existing controls were sufficient
16 to enable further development to occur?
17 A. I didn't believe that.
18
19 Q. You didn't believe that?
20 A. No.
21
22 Q. And the concerns, for example, in the Hill PDA study
23 that the town centre may have difficulty in dealing with
24 any form of significant upzoning within the town centre?
25 A. Again, I did not believe that.
26
27 Q. You didn't believe that. Okay. Just pausing there,
28 Mr Attie, you are a very experienced member of council?
29 A. Correct.
30
31 Q. You have been on council for --
32 A. If you call me experienced, I have been on council for
33 two terms.
34
35 Q. For two terms?
36 A. Yes.
37
38 Q. Your professional training is in economics or --
39 A. I do have - I was at one stage a licensed builder, but
40 I did not build above ground, I built below ground,
41 swimming pools predominantly. I do have - I did at one
42 stage also undertake a qualification in migration law and
43 I am well versed with dealing with councils, Department of
44 Fair Trading, et cetera.
45
46 Q. Did you grow up in the local government area?
47 A. I've been in Auburn since 1977.

1
2 Q. So you're familiar with the way Auburn works, I take
3 it?
4 A. Correct.
5
6 Q. Not just Auburn, the suburb, but Lidcombe, Berala, the
7 various issues?
8 A. That is one of the reasons why I did not agree with the
9 reports.
10
11 Q. I understand that. Thank you for that. I want to
12 move on now, in the time that we have, to deal with
13 South Auburn. It should be in the same bundle.
14 A. Yes.
15
16 Q. If my memory serves me correctly, it was
17 Councillor Yang who moved the motion back in April 2013
18 when you were mayor, I take it?
19 A. If you say so. I haven't seen the notes.
20
21 Q. You were the mayor in April 2013, weren't you?
22 A. I was mayor in September '12 to September '13.
23
24 Q. Yes.
25 A. Not April '13. Oh, hang on, yes, April '13.
26
27 THE COMMISSIONER: That is in the period.
28
29 THE WITNESS: Yes, that's in the period.
30
31 MR BOLSTER: Q. Do you remember Mr Yang moving a motion
32 about upzoning in this particular block of South Auburn?
33 A. If my memory recalls, if the notes reflect that, the
34 minutes of the meeting, then that's correct.
35
36 Q. It is not really a great matter of dispute here.
37 A. No, no, of course.
38
39 Q. If you go to the bundle to page 5, please.
40 A. Yes.
41
42 THE COMMISSIONER: This is the South Auburn bundle, is it?
43
44 MR BOLSTER: Yes.
45
46 THE COMMISSIONER: I think that is here. You have got
47 that here.

1
2 MR BOLSTER: Q. Do you see page 5?
3 A. Yes, I do.
4
5 Q. Do you see there --
6 A. A chronology.
7
8 Q. -- is a chronology there?
9 A. Yes.
10
11 Q. And that Planning Proposal 3 of 2013, that proposal
12 was initiated on 17 April 2013.
13 A. Could you reclarify which one you are referring to?
14
15 THE COMMISSIONER: The witness didn't hear the date.
16
17 MR BOLSTER: Q. 17 April --
18 A. Yes.
19
20 Q. -- 2013 --
21 A. Yes.
22
23 Q. -- council resolved to prepare a planning proposal?
24 A. Yes.
25
26 Q. Assume from me that that planning proposal was moved
27 by Councillor Yang.
28 A. Yes.
29
30 Q. Do you recall discussing that proposal with him?
31 A. At the meeting or --
32
33 Q. Yes.
34 A. No.
35
36 Q. When he moved it.
37 A. No.
38
39 Q. You supported it?
40 A. Yes.
41
42 Q. And it wouldn't surprise you, the way the numbers
43 fell, it was a 6/4 vote if I recall correctly?
44 A. Could you clarify, please?
45
46 Q. It was a 6/4 vote?
47 A. Yes.

1
2 Q. Did you discuss it with him beforehand? Did he come
3 to you and say, "Look, I've got concerns about this
4 particular block in South Auburn and I want council to look
5 at it for the purposes of rezoning"?
6 A. I don't recall I did.
7
8 Q. All right. You understood that it was a spot rezoning
9 of one block of the streetscape?
10 A. It was for all street frontages.
11
12 Q. Yes, all street frontages. Just so that we're
13 100 per cent clear, if you go to page 283 --
14
15 THE COMMISSIONER: Page 284.
16
17 MR BOLSTER: Page 283.
18
19 THE WITNESS: Yes.
20
21 MR BOLSTER: Q. It is the area set out in that map
22 between Helena, Beatrice, Susan and Auburn Road.
23 A. Correct.
24
25 Q. B4 on the west side facing Auburn Road?
26 A. Yes.
27
28 Q. R4 on the east side facing Susan Street?
29 A. Yes. You're referring to 283?
30
31 Q. Page 283.
32 A. Yes.
33
34 Q. That was a proposal he put forward?
35 A. If you - if that's what it states, yes.
36
37 Q. He didn't discuss it with you beforehand?
38 A. No.
39
40 Q. You supported it on the floor of council?
41 A. Yes.
42
43 Q. Can I ask why?
44 A. Because, again, it made commonsense that that area had
45 already contained a number of commercial retail premises,
46 an extension of the town centre.
47

1 Q. Well, the corresponding block to the west of it, which
2 has Auburn Public School, was zoned R3; correct?
3 A. Yes. That's what it states here, yes.
4
5 Q. The block bounded by Susan, Marion, Beatrice and
6 Helena to the east --
7 A. Yes.
8
9 Q. -- that was R3 as well?
10 A. If you say so.
11
12 Q. And the other surrounding blocks on the south side of
13 Helena Street, they were all R3 as well?
14 A. Again, if you say so.
15
16 Q. So why did it make sense to have a B4 strip down
17 Auburn Road and an R4 strip down Susan Street?
18 A. Because the B4 zoning was a natural extension of the
19 town centre. It already contained a petrol station and
20 approximately seven or eight retail premises there already.
21 It would make sense having a B4 across the road from two
22 education facilities. In addition to the R4, that would
23 also assist in numbers, people rather than getting in their
24 cars and going to the shops, they can then just walk around
25 the corner and attend to their retail needs.
26
27 THE COMMISSIONER: Q. Because R4 is high density?
28 A. R4 is a density - I believe R4 is called
29 "high density" but it depends on which council as to what
30 extent the density is.
31
32 Q. It was R3 before, wasn't it?
33 A. If that's what it was before, yes, R3, which I believe
34 is medium density.
35
36 MR BOLSTER: Q. It got through gateway in the form in
37 which it was proposed by Mr Yang; correct?
38 A. I believe so, it did, but I don't believe it was given
39 the same FSRs and heights that were proposed.
40
41 Q. I think there was some attenuation of height and floor
42 space ratio. That's not an issue for present purposes.
43 The proposal changed in 2014?
44 A. Correct.
45
46 Q. Sorry, 2015. Do you remember how that came about?
47 A. No.

1
2 Q. No idea?
3 A. It just came to council that way.
4
5 Q. Who brought it to council?
6 A. The staff.
7
8 Q. Do I take it from your answer that you didn't know
9 anything about the change until you read the business
10 papers for the April 2015 meeting of council?
11 A. That's correct.
12
13 Q. Would you go backwards in the bundle, please, to
14 page 3, it is right at the front. Perhaps if you go back a
15 page to page 1, you will see this is from the business
16 papers circulated in advance of the April 2015 meeting?
17 A. Yes.
18
19 Q. You will see that there was a retreat from what had
20 been proposed in the recommendation?
21 A. Yes.
22
23 Q. You supported the original proposal on the basis that
24 it was a natural extension of B4?
25 A. Correct.
26
27 Q. Down Auburn Road?
28 A. Correct.
29
30 Q. Council staff came back with this recommendation to
31 limit the extent of the B4, essentially to a third of the
32 Auburn Road frontage. Do you remember that?
33 A. Yes, I do.
34
35 Q. Did you form a view about that?
36 A. I did.
37
38 Q. What was the view you formed?
39 A. I thought that it needed more, because I'm a person
40 who is known to be pro-development, to sustain
41 economically, but then I also looked at the report and it
42 stated that that extension should be sufficient and
43 I think, from memory, there were arguments about the latter
44 half of that area was predominantly a block of units,
45 townhouses, et cetera, that more than likely would not be
46 developed.
47

1 Q. Right. Do I take it, then, that your preference would
2 have been B4 all the way down?
3 A. All the way.
4
5 Q. As originally proposed?
6 A. Correct.
7
8 Q. Did you discuss that with Mr Oueik?
9 A. I don't recall I did.
10
11 Q. Did you discuss that with Mr Zraika?
12 A. I don't recall I did.
13
14 Q. Did you discuss it with Ms Lam?
15 A. I don't recall I did.
16
17 Q. And did you discuss it with Mr Yang?
18 A. I don't recall I did.
19
20 MR WATSON: I don't want to interrupt. Were you
21 suggesting discussion outside the chambers?
22
23 MR BOLSTER: I'll make it clear.
24
25 Q. When you got the report, you saw the attenuation that
26 you didn't agree with. Did you discuss it with them before
27 the matter went to council?
28 A. I don't believe I did.
29
30 Q. Did you discuss it with them, and I'm talking about
31 all of them, individually?
32 A. Yes.
33
34 Q. At council?
35 A. I think there was some discussions but, from memory,
36 I think I cited a possible conflict of interest and I left
37 the chamber.
38
39 Q. Did you? What was your conflict of interest?
40 A. There was one particular property that a friend of
41 mine had come across and asked me questions about, and
42 I assumed that he was the owner of one of the properties.
43
44 Q. Who was the friend?
45 A. His name was Habib Boustany.
46
47 Q. Habib?

1 A. Boustany. B-O-U-S-T-A-N-Y, I think.
2
3 Q. Can you start that again slowly?
4 A. Certainly.
5
6 MR WATSON: B-O-U-S-T-A-N-Y.
7
8 MR BOLSTER: Q. Where was the property that he owned?
9 A. Within the area that was ultimately rezoned. Well,
10 the approval went through for the rezoning.
11
12 Q. Within the B4 or the R4 as it ended up?
13 A. Part of it was B4 and part of it was R4.
14
15 Q. Yes, but his property was in the --
16 A. I didn't say it was his property. I thought it was
17 his property.
18
19 Q. You thought it was his property?
20 A. Yes.
21
22 Q. Did you find out where his property was?
23 A. I found out what property he was referring to.
24
25 Q. Yes.
26 A. I did not - I assumed it was his property as he was
27 asking me questions.
28
29 Q. Yes.
30 A. And if I may refer back to the map, would you please
31 direct me as to --
32
33 THE COMMISSIONER: Page 283, I think it was.
34
35 MR BOLSTER: Q. Page 283.
36 A. 283.
37
38 THE COMMISSIONER: 283-284.
39
40 THE WITNESS: Yes. If you look at 284.
41
42 MR BOLSTER: Q. Yes.
43 A. I believe his property is I think both 74 to 78 and 80
44 and I think, from memory, it was 17 and 19 to 21 or it
45 could have been 19 to 21 and just 80 and 82. It wasn't a
46 regular shaped block.
47

1 Q. So 74 to 78, that's the service station?
2 A. No, no, no, it's actually got two numbers there on
3 74-78. There are two 74 to 78s there and I don't know why
4 they're on two separate properties.
5
6 MR WATSON: Just slow down a little.
7
8 THE WITNESS: Sorry.
9
10 MR BOLSTER: Q. He didn't own the service station?
11 A. No.
12
13 Q. He owned the parcel of land just to the south of it?
14 A. It was either the parcel of land to the south or just
15 two more down.
16
17 Q. Two more down. You can't remember the exact number?
18 A. No, and also a large - one at the back in
19 Susan Street.
20
21 Q. He's a friend of yours, is he?
22 A. The person who asked me the question is a friend of
23 mine, yes.
24
25 Q. How long has he been a friend of yours?
26 A. Three or four years.
27
28 Q. Three or four years. What did he want to know about
29 the proposal?
30 A. He asked me about the zoning of the area saying that
31 you guys are zoning - the council is zoning the area and if
32 it's possible to zone the whole lot as B4 backwards, the
33 back and front.
34
35 Q. So he wanted B4 on Auburn - a whole area?
36 A. Well, his block from - in Auburn and also his block in
37 Susan Street.
38
39 Q. Okay.
40 A. So, in other words, probably take a B4 into the entire
41 corner.
42
43 Q. He made representations to you to that effect, did he?
44 A. He asked me questions.
45
46 Q. You formed the view that that created a non-pecuniary
47 interest --

1 A. Yes, that's correct.
2
3 Q. -- for the purposes of the meeting on the --
4 A. As I was also discussing another property of his in
5 Penrith which he asked me questions to try and assist him
6 at council.
7
8 Q. Was he asking you those questions as a councillor or
9 as an adviser?
10 A. No. The questions for this particular property was as
11 a councillor.
12
13 Q. The questions for the other property were as what?
14 A. That is possibly a consultation for myself to
15 undertake.
16
17 Q. Do you provide consultancy services to people in
18 relation to development generally?
19 A. Not just development. To a myriad of things.
20
21 Q. Did you end up doing any work for him in relation to
22 that Penrith matter?
23 A. No.
24
25 Q. The proposal as recommended by staff failed at the
26 April meeting; correct?
27 A. From memory, I believe it did. I can't recall
28 exactly.
29
30 Q. You were outside?
31 A. Yes, that's correct.
32
33 Q. A recision motion was moved by certain councillors?
34 A. Yes.
35
36 Q. It doesn't matter who. The matter then came back
37 before council?
38 A. Yes.
39
40 Q. In May?
41 A. If that's the date, yes.
42
43 Q. You didn't declare an interest?
44 A. No.
45
46 Q. Why?
47 A. Because I then later found out that he did not own the

1 properties and I did not obtain any consultation work from
2 him, so there was no conflict.
3
4 Q. Were you questioned about that on the floor of council
5 when you didn't declare an interest in May?
6 A. My recollection was Councillor Simms, I believe, asked
7 a question as to why I declared a interest in the first
8 instance and then why not in the second instance.
9
10 Q. Who ended up owning the land?
11 A. It was some developer who - I don't know who it was.
12 The name of the person was not someone from Auburn.
13
14 Q. So Habib Boustany came to you and said, "I own this
15 land in Auburn Road and Susan Street"?
16 A. No. Habib Boustany came to me and asked me questions
17 about a particular parcel of land.
18
19 Q. Did you subsequently find out his relationship with
20 the landowner of those lots?
21 A. No.
22
23 Q. You didn't?
24 A. No.
25
26 Q. What made you come to the view that he had no link
27 with the landowner?
28 A. Could you clarify the term "link"?
29
30 Q. You regarded it as important that he might have been
31 the landowner --
32 A. Correct.
33
34 Q. -- when he first came and saw you?
35 A. And the fact that I may be doing some consulting work
36 with him, yes.
37
38 Q. And you took a cautious approach --
39 A. Correct.
40
41 Q. -- in April?
42 A. Correct.
43
44 Q. Did you subsequently find out definitively that he had
45 no interest in that land?
46 A. I wouldn't call it interest. I found out definitively
47 he doesn't own the land.

1
2 Q. Didn't own it. Did he --
3 A. And I did not take on any work with him for the
4 consulting part.
5
6 Q. Did you ascertain whether he had any relationship with
7 the landowner?
8 A. No.
9
10 Q. The May meeting was a fairly raucous meeting; correct?
11 A. Which year?
12
13 Q. 2015, where this proposal 2A put forward by staff was
14 passed?
15 A. I normally don't look at the gallery. I always have
16 my back to the gallery, I don't believe I should be a
17 show pony, but I don't recall if the gallery was rowdy or
18 not. To me it was a normal council meeting.
19
20 Q. For the benefit of the Commissioner, going around the
21 table from where Mr Watson is ensconced, who in the 2012
22 council sat where?
23
24 MR WATSON: This is Mr Attie, I know that, because we
25 opened the draw and we found some correspondence.
26
27 THE COMMISSIONER: Don't tender it.
28
29 MR BOLSTER: Q. Who sat in Mr Watson's seat?
30 A. Can you please clarify which month and which year
31 again?
32
33 Q. The most recent council.
34 A. I need to know who the mayor was because things do
35 change. So in May 2015?
36
37 Q. In May of 2015 --
38 A. 2015.
39
40 Q. -- you were the mayor?
41 A. No.
42
43 Q. Councillor Oueik was the mayor?
44 A. 2015? '15, '16, I think Councillor Oueik was the
45 mayor.
46
47 Q. He was sitting where the Commissioner is sitting?

1 A. No, hang on a second, no, he wasn't the mayor.
2 I think Councillor Zraika was the mayor.
3
4 THE COMMISSIONER: I think it is Councillor Zraika.
5
6 MR BOLSTER: Well, let me --
7
8 THE WITNESS: Councillor Oueik was not mayor in this term
9 of council. I believe it was Councillor Zraika.
10
11 MR BOLSTER: Q. Exhibit 01 will answer this. Just bear
12 with me, I see how we're going for time.
13 A. I can't recall. You'd have to go through the notes.
14 Actually the meeting itself would show who the mayor is.
15
16 Q. No, no, Mr Oueik was.
17 A. Mr Oueik then.
18
19 Q. He was mayor - he was elected 24 September 2014 and
20 Councillor Lam followed him.
21 A. Then if - yes, yes, that's correct. Yes, that's
22 correct.
23
24 Q. That is page 21, Exhibit 01.
25 A. Okay. So going back to answering your question, if
26 Councillor Oueik was the mayor, then the first seat would
27 have been Councillor Yang, followed by myself, followed by
28 Councillor Lam, Councillor Mehajer, Councillor Zraika,
29 Councillor Campbell, Oldfield, Councillor Batik-Dunbar and
30 then Councillor Simms.
31
32 Q. But it does change, does it?
33 A. It does.
34
35 Q. When you were mayor in --
36 A. It would have changed again.
37
38 Q. Someone would have --
39 A. My first time at council, I was sitting on that side
40 next to Councillor Simms. It depends on what year and who
41 the mayor is.
42
43 Q. Let me ask you this: did anyone ever explain to you
44 why the ultimate reduction in B4 zoning was agreed upon?
45 A. No.
46
47 Q. You didn't discuss that with Mr Oueik at all?

1 A. I don't recall discussing anything with Mr Oueik about
2 that. You see, I spent a lot of time overseas, so I'd be
3 in and out of the country.
4
5 Q. But you went along with the 2A zoning even though
6 you --
7
8 THE COMMISSIONER: It is not a 2A zoning. It is
9 option 2A.
10
11 THE WITNESS: Option 2A.
12
13 MR BOLSTER: Q. The option 2A for the rezoning of
14 South Auburn, even though you personally didn't approve of
15 it?
16 A. That's correct.
17
18 Q. Why was that?
19 A. Because I believed that we get what we can now, and
20 I ultimately wanted to actually put another proposal in to
21 extend it further, amongst other areas in the LGA.
22
23 Q. All right. Did you raise your concerns and say,
24 "Well, why don't we go with option 1? I don't understand
25 that option 2A is" --
26 A. I don't recall that I did.
27
28 Q. You don't think option 2A was unsuitable given how
29 small the B4 area was?
30 A. Option 2A --
31
32 Q. Page 284.
33 A. I wanted the entire area to be B4, to be frank.
34
35 Q. It doesn't make sense to rezone seven or eight parcels
36 of land as B4, does it --
37 A. No.
38
39 Q. -- Mr Attie?
40 A. No.
41
42 Q. Why would anyone do that?
43 A. I can't tell you why. I don't - didn't like the way
44 it was done, but it was a transitional period in my view
45 because we were also undertaking an area-wide LEP as well,
46 soon.
47

1 Q. Why didn't you await the area-wide LEP?
2 A. Why didn't I what, sorry?
3
4 Q. Why didn't you await a review of the LEP on an
5 area-wide basis?
6 A. Because this had already been to the gateway and
7 approved.
8
9 Q. And I think your words were you get what you can?
10 A. No, we get what we go for the moment, yes.
11
12 Q. All right. I want to turn now to the Marsden Street
13 proposal.
14 A. Yes.
15
16 Q. If the witness could be given that bundle, please.
17 Would you go to the bundle with the handwritten numbers on
18 them. I'm sorry, I forget the exhibit number,
19 Commissioner.
20
21 THE COMMISSIONER: Marsden Street will just be MS1,
22 I think.
23
24 MR BOLSTER: No, the bundle I tendered this morning.
25
26 THE COMMISSIONER: That is PH4.
27
28 MR BOLSTER: Q. Bundle PH4, do you have that bundle
29 still with you?
30 A. I have a bundle here but I'm still not sure what
31 you're referring to.
32
33 Q. We'll just look at that first.
34 A. Yes.
35
36 Q. Page 4 of PH4.
37 A. Yes.
38
39 Q. There was a planning committee meeting here on
40 20 November 2013. Do you recall --
41 A. If you say so.
42
43 Q. Do you recall the Marsden Street planning proposal?
44 A. I do.
45
46 Q. Do you remember it emanated from an application by
47 residents who owned some land in James Street and

1 Raphael Street?
2 A. I think from memory it was not residents, it was the
3 owners of a commercial block.
4
5 Q. Yes. They had a commercial - an old factory --
6 A. A small factory.
7
8 Q. -- and they essentially wanted to go from an
9 industrial zoning to R4?
10 A. Correct. I don't recall it being R4, but there was a
11 planning proposal on foot.
12
13 Q. Yes. I take it you read this report that begins at
14 page 5 and goes through to page 9?
15 A. I remember skimming through it but I don't - not in
16 great detail.
17
18 Q. You moved a motion, didn't you, in relation to this
19 report?
20 A. If you state - again, the minutes would reflect that.
21 I can't, for the life of me, remember everything I did at
22 council.
23
24 Q. If you have a look a bit further on in the bundle --
25 A. Yes.
26
27 Q. -- to page 13.
28 A. Yes. Actually, no, I think - I take it that it's 13
29 but I only see the number, "1" on this page.
30
31 Q. All right.
32 A. But I do have in front of me the application for a
33 planning proposal, 21-23 James Street. Is that what you're
34 referring to?
35
36 Q. Yes.
37 A. Okay.
38
39 Q. I withdraw the suggestion that you moved the motion.
40 That was wrong of me and I withdraw that. Do you remember
41 discussing the motion that was moved - I'm sorry, no, I'll
42 withdraw my withdrawal.
43
44 THE COMMISSIONER: Yes, you are looking at the top line
45 instead of the line below.
46
47 MR BOLSTER: Yes.

1
2 Q. Would you look at page 14.
3 A. Yes.
4
5 Q. You will see that there was a motion moved by you.
6 A. Yes.
7
8 Q. What was your reason for moving that motion?
9 A. I wanted to look at the wider area rather than just at
10 one particular block.
11
12 Q. When did you form that view?
13 A. At the meeting.
14
15 Q. At the meeting?
16 A. Yes.
17
18 Q. So you hadn't foreshadowed that motion to anyone --
19 A. No.
20
21 Q. -- on council beforehand?
22 A. No.
23
24 Q. You hadn't sought any advice from staff?
25 A. No.
26
27 Q. You hadn't discussed it with staff?
28 A. No.
29
30 Q. Do I take it from your earlier evidence that it was
31 something that was put up on the screen up here?
32 A. Correct.
33
34 Q. All right. It's not something you discussed with
35 Mr Oueik?
36 A. No.
37
38 Q. At any stage before that meeting?
39 A. No.
40
41 Q. You see, when that meeting was - at the start of that
42 meeting when declarations of interest were called, Mr Oueik
43 declared an interest and absented himself.
44 A. If that's what happened, then, yes.
45
46 Q. Because he said that he owned --
47

1 THE COMMISSIONER: He declared a non-pecuniary interest.
2
3 MR BOLSTER: A non-pecuniary interest.
4
5 Q. Did that stick in your mind at the time you moved this
6 motion?
7 A. No.
8
9 Q. You drafted it yourself?
10 A. Yes.
11
12 Q. Did you have a laptop and you typed it out as you were
13 sitting there?
14 A. I don't - from memory, I think I actually read it - it
15 came off the cuff. I don't recall typing anything up on
16 that day.
17
18 Q. You may have dictated it to --
19 A. Normally I would dictate things from the chair, from
20 my chair, and then the staff would be typing in the
21 background and asking questions.
22
23 Q. And then it pops up?
24 A. Yes.
25
26 Q. Was that the case for the two Grey Street motions?
27 A. No.
28
29 Q. You prepared them beforehand?
30 A. Correct.
31
32 Q. This one you did, you think, on your feet?
33 A. Correct, because I don't recall anyone alerting me to
34 any planning proposal in that area for the area-wide
35 section, so there was no time to prepare anything.
36
37 Q. When the matter came back after experts had done their
38 reports, do you recall reading the report of AECOM?
39 A. I remember skimming through the report. Again,
40 I don't read the reports in great detail.
41
42 Q. You know who AECOM are, don't you?
43 A. They're a planning organisation that council from time
44 to time does use.
45
46 Q. You have the Marsden Street bundle, do you?
47 A. Yes, I do.

1
2 Q. Would you go please to page 181.
3 A. 181?
4
5 Q. Yes, please.
6 A. Yes.
7
8 Q. Do you see there eight scenarios?
9 A. No.
10
11 Q. No?
12 A. No, I have a header titled "DRAINER".
13
14 Q. I think you might have the wrong bundle.
15
16 MR WATSON: Yes, it is the wrong bundle.
17
18 THE WITNESS: It says "Marsden Street" on the front.
19
20 THE COMMISSIONER: No, that is for Water Street. Would
21 you go to the next tab.
22
23 THE WITNESS: Okay, sorry. Yes. Sorry, 181.
24
25 MR BOLSTER: Q. The less you have to do with
26 Water Street the better.
27 A. Yes, I do have that now.
28
29 Q. Did you take a close interest in the AECOM report?
30 A. As I have said previously, I skimmed through the
31 report. I did not read it in detail.
32
33 Q. Did you appreciate that alternative scenario G was a
34 scenario put forward by council staff?
35 A. I remember that council did put scenarios through but
36 I don't know if that was the council staff or the AECOM
37 report.
38
39 Q. Scenario G was the scenario that was adopted?
40 A. Yes.
41
42 Q. And scenario G differed from the AECOM preferred
43 scenario because for the land between James Street,
44 Marsden Street and Mark Street, that large block, it
45 proposed a B4 town centre zoning?
46 A. That's what that is, a B4 town centre zoning.
47

1 Q. The consultant's preferred scenario F for the same
2 portion of land was R4. Do you see that there?
3 A. Yes, I do see that.
4
5 Q. Was the difference between the two discussed amongst
6 councillors, that you recall?
7 A. I remember we had discussions. We have discussions on
8 every motion that is put forward.
9
10 Q. Before the meeting - before the meeting - did you
11 discuss this alternative scenario G with Mr Oueik?
12 A. No.
13
14 Q. With Ms Lam?
15 A. With none of the councillors.
16
17 Q. With no other councillors?
18 A. No.
19
20 Q. Is it your evidence that you came to the council
21 meeting where option D was discussed and voted on --
22 A. Option D?
23
24 THE COMMISSIONER: Option G.
25
26 MR BOLSTER: Q. Option G, sorry, was discussed and voted
27 on, you hadn't discussed it with anyone else?
28 A. No.
29
30 Q. Do I take it, consistent with your pro-development
31 philosophy, that you supported B4 because it was something
32 that was needed in that particular area; is that right?
33 A. Correct. We also discussed the fact that the
34 industrial section should be retained along the cemetery --
35
36 Q. Yes.
37 A. -- because from my understanding and association with
38 Chinese investors and developers, they don't like looking
39 at cemeteries.
40
41 Q. That was a separate discussion and I think the broad
42 consensus there from staff was that there should be a
43 buffer zone?
44 A. A buffer zone.
45
46 Q. A buffer zone between the cemetery and any residential
47 rezoning?

1 A. Correct.
2
3 Q. Correct?
4 A. Plus there was also a heritage item within the centre
5 of that somewhere. I believe from memory a Jewish - a tiny
6 Jewish cemetery or monument where there is a little park in
7 there as well.
8
9 Q. All right.
10 A. It was a remnant from - I don't know - World War I or
11 World War II.
12
13 Q. I just wanted to ask you some questions about the way
14 in which your loose group of councillors dealt with
15 matters.
16 A. Certainly.
17
18 Q. Was there any consistent practice amongst yourself,
19 Mr Oueik, Mr Zraika, Ms Lam, Mr Yang about the way you
20 would deal with matters of council?
21 A. No.
22
23 Q. I am including Councillor Mehajer in this as well,
24 okay? Did you ever meet before council meetings to discuss
25 your individual approach?
26 A. No. On the contrary, the other side did.
27
28 Q. Yes. They have given evidence about that. I don't
29 know whether you saw the evidence of Mr Campbell yesterday
30 about the way --
31 A. No, not yet, because it hadn't been put up, the
32 transcript as of last night.
33
34 Q. To be fair to you the substance of his evidence was
35 that after the 2012 election, there was a loose coalition
36 of five of Simms, Oldfield, Campbell, Batik-Dunbar and
37 Zraika and they caucused and discussed matters outside the
38 mayor's office, downstairs, before every council meeting.
39 A. Correct.
40
41 Q. You saw them do that?
42 A. Every time you walked past, you could see them.
43
44 Q. You say that in relation to - there was no other group
45 that caucused --
46 A. No.
47

1 Q. -- on council --
2 A. That's correct.
3
4 Q. -- that you are aware of or that you were a part of?
5 A. That's correct.
6
7 Q. Do I take it then that in the case, say, for
8 example - for example, when John Street came up from time
9 to time --
10 A. You're referring to the John Street--
11
12 THE COMMISSIONER: The sale of John Street.
13
14 MR BOLSTER: Q. It is the sale of John Street, Lidcombe.
15
16 THE COMMISSIONER: Number 13.
17
18 MR BOLSTER: Q. 13 John Street, Lidcombe, from council
19 to the company associated with Mr Mehajer and the drawn out
20 process of those contracts; you know exactly what I mean?
21 A. Yes.
22
23 Q. You didn't discuss that in advance with
24 Councillor Oueik?
25 A. No.
26
27 Q. Mr Mehajer as well?
28 A. No.
29
30 Q. Did Mr Mehajer ever seek to make representations to
31 you?
32 A. Never.
33
34 Q. At any stage?
35 A. Never. I'm well aware that there were issues with a
36 perceived conflict of interest, so I would make it a habit
37 not to discuss things that may or may not affect me
38 personally with other councillors.
39
40 Q. All right. In the lead-up to the mayoral vote --
41 A. Which year are you referring to?
42
43 Q. September 2015.
44 A. Yes.
45
46 Q. Weren't there discussions amongst your group about who
47 you would support for mayor and deputy mayor?

1 A. That is part of every council lobbying process for the
2 mayor.
3
4 Q. No, I don't mean that as a criticism, Mr Attie.
5 A. No, of course not.
6
7 Q. But were there discussions amongst your group about --
8 A. There were discussions amongst all the groups.
9
10 Q. Well, wasn't there a discussion between five of you:
11 yourself, Mr Oueik, Mr Mehajer, Councillor Lam and
12 Councillor Yang, about who the five of you would support
13 for mayor against the other five?
14 A. I believe it was - there was a discussion, yes, and
15 it's not the other five because there were only four.
16
17 Q. Right.
18 A. Councillor Yang wasn't present at that meeting, from
19 memory.
20
21 Q. Councillor Yang wasn't present?
22 A. No.
23
24 Q. Right.
25 A. He did arrive later on, though.
26
27 Q. Was Mr Zraika present, was he?
28 A. For a short while, yes.
29
30 Q. You were aware, I take it, in the lead up to the 2015
31 mayoral election that Councillor Yang had withdrawn support
32 for Councillor Mehajer being deputy mayor?
33 A. I don't recall having that knowledge.
34
35 Q. You don't recall?
36 A. No.
37
38 Q. Councillor Mehajer had been consistently put up for
39 deputy mayor in each of the previous three years; correct?
40 A. He was not put up. He put himself up.
41
42 Q. He put himself up.
43 A. Yes.
44
45 Q. But he was supported by yourself?
46 A. Correct.
47

1 Q. Councillor Oueik?
2 A. Correct.
3
4 Q. Councillor Yang?
5 A. I believe so, yes, except for maybe the last year.
6
7 Q. The last year. You see, you remember, don't you, that
8 Councillor Yang did not vote in the election for
9 deputy mayor?
10 A. That's correct. He abstained from voting which
11 generally would be a negative.
12
13 Q. Do you recall that Mr Zraika left the chamber during
14 the vote for deputy mayor?
15 A. That's correct, he did.
16
17 Q. Because there was a four/four tie, wasn't there?
18 A. Correct.
19
20 Q. In all previous years there had been a five/five
21 tie that went to the drawing of lots?
22 A. Correct.
23
24 Q. Mr Zraika attended the meetings to discuss who you
25 would support for mayor and deputy mayor in the three
26 previous years?
27 A. We were not discussing deputy mayor. We were
28 discussing the mayor only.
29
30 Q. Only the mayor?
31 A. Yes.
32
33 Q. Did he attend the meetings where you, Mr Oueik,
34 Councillor Lam and Mr Yang discussed who would be put
35 forward - who would be supported as mayor?
36 A. I don't believe we actually had meetings. My
37 recollection was that either we would call each other or
38 visit each other and see what support and which way it was
39 going.
40
41 Q. Did you seek to be a candidate for mayor in 2015?
42 A. Yes.
43
44 Q. What persuaded you not to run?
45 A. I didn't have the support.
46
47 MR BOLSTER: Mr Commissioner, those are the questions

1 I want to ask at this stage.

2

3 THE COMMISSIONER: Thank you. Mr Watson, it is almost
4 certain I will make an order eventually that the transcript
5 be tendered and be part of the public hearing. There might
6 be matters that you want to clarify from your client. Can
7 I suggest we can leave that. You will get that opportunity
8 in the public hearing.

9

10 MR WATSON: Yes, I agree, I respectfully agree.

11

12 THE COMMISSIONER: Thank you for coming. You are excused
13 for the time being, but as I said before --

14

15 THE WITNESS: Prepare to --

16

17 THE COMMISSIONER: Yes. Thank you. We will take a break
18 and for the purposes of whoever the next witness is, 11.10.

19

20 <THE WITNESS WITHDREW

21

22 AT 10.55AM THE PRIVATE HEARING ADJOURNED ACCORDINGLY

23

24

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9 N ATTIE

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