

AUBURN PUBLIC INQUIRY

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

PRIVATE HEARING: Ronney Oueik

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

On Thursday, 9 June 2016 at 11.15am

1 THE COMMISSIONER: Thank you. Have a seat.

2

3 MR BOLSTER: I call Mr Oueik, Mr Commissioner.

4

5 <RONNEY OUEIK, sworn: [11.15am]

6

7 THE COMMISSIONER: Just before we start I will just make
8 some formal orders. Mr Wheelhouse, you are here with
9 Mr Zreika?

10

11 MR WHEELHOUSE: I am, yes.

12

13 THE COMMISSIONER: Thank you.

14

15 MR WHEELHOUSE: And Ms Daher, who is also a solicitor.

16

17 THE COMMISSIONER: I am sorry, who else?

18

19 MS L DAHER: Lamia Daher.

20

21 THE COMMISSIONER: Thank you. I will just make these
22 formal orders.

23

24 I give the following directions in relation to
25 Mr Ronney Oueik who has been summoned to appear at the
26 Auburn Public Inquiry:

27

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

32

33 2. Pursuant to section 12B(3) of the Act, I direct
34 that only the following persons to be present during the
35 private hearing involving Mr Oueik:

36

37 (a) Counsel Assisting and inquiry staff;

38

39 (b) the legal representatives of Mr Oueik being
40 Mr S Wheelhouse SC, Mr Zreika and Ms Daher.

41

42 (3) Until such time as I give a different direction,
43 I direct that publication of the transcript of this private
44 hearing involving Mr Oueik be restricted to the persons
45 referred to in the previous direction.

46

47 (4) I direct that the completion of this private

1 hearing does not excuse Mr Oueik from his summons to appear
2 at the inquiry.

3
4 Mr Oueik, could I just clarify one thing, I have heard
5 your name said different ways. Is Oueik correct?

6 A. "Oueik".

7
8 MR BOLSTER: We will endeavour to stick to that
9 pronunciation.

10
11 <EXAMINATION BY MR BOLSTER:

12
13 MR BOLSTER: Q. Mr Oueik, I want you to look at a bundle
14 of documents that is going to be given to you now. It is
15 the Marsden Street planning proposal. For the record it is
16 Exhibit MS1. Might the witness also be given a copy of
17 Exhibit PH4?

18
19 THE COMMISSIONER: Yes. What happened to it? I have got
20 my copy.

21
22 MR SEAR: I have a copy.

23
24 THE COMMISSIONER: Here it goes. Does Mr Wheelhouse have
25 a copy of PH4?

26
27 MR BOLSTER: He doesn't. We will give him one now.

28
29 THE COMMISSIONER: You will have to be careful of that
30 because I suspect it will disappear with each counsel.

31
32 MR BOLSTER: We will get other copies as it is required
33 later in the day. It is just a collection of some business
34 papers and minutes, Mr Wheelhouse, that I will take the
35 witness to in due course. I won't be taking him to all of
36 it.

37
38 THE COMMISSIONER: Just for your records, Mr Wheelhouse,
39 it is Exhibit PH4 - "PH" for private hearing.

40
41 MR BOLSTER: Q. Mr Oueik, you were aware, can I suggest,
42 in around November 2013 of a particular planning proposal
43 that was being considered by council in relation to a very
44 few number of parcels in James Street and Raphael Street,
45 Lidcombe?

46 A. Yes.

47

1 Q. I take it you were provided with the planning
2 committee meeting report, which you will find at page 14 of
3 that bundle? Mr Sear, could you just assist?
4
5 MR WHEELHOUSE: Mr Oueik has trouble reading.
6
7 MR BOLSTER: Q. Mr Oueik, if you have trouble hearing me
8 just let me know and I'll speak --
9
10 MR WHEELHOUSE: No, no, reading.
11
12 THE COMMISSIONER: No, reading.
13
14 MR BOLSTER: All right.
15
16 MR SEAR: Which bundle was it, sorry?
17
18 MR BOLSTER: The Marsden Street bundle, page 14.
19
20 THE COMMISSIONER: The second tab.
21
22 MR WHEELHOUSE: I only say this to assist, but it would be
23 faster to have someone there to assist with the material
24 rather than --
25
26 MR BOLSTER: Mr Sear, could you sit close by so you can
27 find pages if we need to.
28
29 Q. That was a report in advance of a planning committee
30 meeting on November 20, 2013. Do you recall that?
31 A. I can't remember it but if it's discussed in council,
32 I must have looked at the agenda.
33
34 Q. You weren't there when it was discussed because you
35 declared an interest?
36 A. Yes.
37
38 Q. Do you recall that?
39 A. I --
40
41 Q. I think you owned, through your companies, some land
42 in Mark Street, Lidcombe?
43 A. Yes.
44
45 Q. And this property was in James and Raphael Streets?
46 A. Mark Street.
47

1 Q. No, this particular property that was under
2 consideration.
3 A. Raphael, yes.
4
5 Q. Raphael?
6 A. Mmm.
7
8 Q. And James Street? Yes?
9 A. Yes.
10
11 Q. And they were around the corner from your properties
12 in Mark Street?
13 A. Yes.
14
15 Q. You bought the properties in Mark Street when they had
16 an R4 zoning; correct?
17 A. Yes.
18
19 Q. And you proposed to develop them in due course?
20 A. No.
21
22 Q. No?
23 A. No.
24
25 Q. You bought them for what purpose?
26 A. I'm in the industry for many years and I buy
27 properties and I sit on it for long, long time.
28
29 Q. You still own those properties?
30 A. Yes.
31
32 Q. Have you prepared any plans for the development of
33 those properties?
34 A. No.
35
36 Q. This application for a planning proposal didn't relate
37 to your properties at all, did it?
38 A. No.
39
40 Q. Your properties were zoned R4; correct?
41 A. Yes.
42
43 Q. This proposal was to zone these properties at
44 James Street and Raphael Street to R4; correct? Have a
45 look, please, at page 14.
46 A. Yes.
47

1 Q. Do you see recommendation 1a:
2
3 *Council prepare a Planning Proposal ... to*
4 *amend Auburn [LEP] to:*
5
6 *a. Rezone land at 21 and 23 James Street,*
7 *Lidcombe from IN2 ... to R4 ...*
8
9 Correct?
10 A. Are you talking about the corner one?
11
12 Q. Yes.
13 A. Yes.
14
15 Q. Yes. That was to make it in line with the zoning that
16 applied to your properties in Mark Street, correct?
17 A. Can I just, without rudeness, I had no involvement
18 with this.
19
20 Q. Yes.
21 A. So --
22
23 Q. I know that. You declared an interest.
24 A. Yes.
25
26 Q. I'm just wondering what the interest was because the
27 proposal couldn't have affected your properties, could it?
28 A. No, because I had - sorry. I had options on
29 Raphael Street.
30
31 Q. Oh, did you?
32 A. Yes.
33
34 Q. On which property in Raphael Street?
35 A. I think 15 and - no, 11, 13 and - 9, 11, 13.
36
37 Q. 15?
38 A. 9, 11, 13.
39
40 Q. What about 15?
41 A. 15, that was bought later on.
42
43 Q. You bought 15 later on. When did you buy 15?
44 A. Could be last year or something.
45
46 Q. Last year?
47 A. Last year or the year before, I can't remember.

1
2 Q. All right. Are you able to find out precisely when
3 you contracted to buy 15? Are you able to let the
4 Commission know that in due course?
5 A. How long?
6
7 Q. It doesn't need to be today but --
8 A. Yes, no problem.
9
10 Q. Yes.
11 A. No issues.
12
13 Q. The thing I am wanting to suggest to you is on
14 20 November 2013 when you declared a non-pecuniary
15 interest, you hadn't contracted to buy any land in
16 Raphael Street, had you?
17 A. I can't remember, to be honest.
18
19 Q. You can't remember. Okay.
20 A. But normally, with council, if anything's surrounding
21 the block, we declare.
22
23 Q. But this was a planning proposal that only related to
24 21-23 James Street and 15 Raphael Street.
25 A. Yes, but - can I give explanation, please?
26
27 Q. Yes.
28 A. My understanding - to you, Mr Commissioner, what was
29 explained to us always in council, anything relate within
30 the block that you own you should declare.
31
32 Q. Right.
33 A. And I have done that.
34
35 Q. Had you had a discussion with Mr Attie prior to this
36 meeting on 20 November about council looking at a broader
37 rezoning of that Marsden Street area?
38 A. No.
39
40 Q. Are you aware that he moved a motion at that council
41 meeting calling for precisely that sort of study to be
42 carried out?
43 A. I wasn't in the council meeting and I had no
44 discussion with Mr Attie.
45
46 Q. Right. All right. When you found out that council
47 was carrying out a study of the Marsden Street area that

1 was much broader than these three properties, did you
2 discuss the matter with any other councillors?
3 A. No.
4
5 Q. When the report came back to council from AECOM, did
6 you read it?
7 A. No. Honestly, no.
8
9 Q. Are you sure about that?
10 A. Honestly, no. That's the honest truth. No.
11
12 Q. I just want you to have a look at it. If you could go
13 in the bundle, please, to page 132, you will see there
14 there is the AECOM report dated 29 May 2014?
15 A. Yes.
16
17 MR WHEELHOUSE: What page is that?
18
19 MR BOLSTER: Page 132.
20
21 Q. Do you know anything about that report? Did anyone
22 tell you what was in it?
23 A. No.
24
25 Q. Not at all?
26 A. (Shakes head).
27
28 Q. When did you first see that report?
29 A. I didn't - I didn't see it. Like, what we tabled but
30 I didn't - I had nothing to do with it, sir.
31
32 Q. Did anyone tell you what was in it?
33 A. No. I didn't ask.
34
35 Q. Did you discuss the report with Mr Francis?
36 A. No.
37
38 Q. At all?
39 A. No.
40
41 Q. It's not a case that you can't recall?
42 A. No.
43
44 Q. But you didn't discuss it with anyone?
45 A. No and never.
46
47 Q. Never. Ms Cologna?

1 A. Never.
2
3 Q. Do you know Ms Cologna?
4 A. Yes, but we have no access to her. We don't talk to
5 her.
6
7 Q. You know who she is but you've never spoken to her --
8 A. No.
9
10 Q. -- outside of council meetings when she is here to
11 provide advice; is that right?
12 A. No.
13
14 Q. Did you discuss this report with Mr Brisby?
15 A. No.
16
17 Q. All right. Would you go over to page 160. From 160
18 through to 180, would you just briefly scan those
19 illustrations, those colour representations of the
20 various - well, essentially of that location. Do you see
21 those?
22 A. Yes.
23
24 Q. Is it your evidence that you've never been shown those
25 diagrams and drawings of the various options that were in
26 AECOM's report?
27 A. Yes.
28
29 Q. So the AECOM report, to this day, you don't know
30 what's in it?
31 A. No.
32
33 Q. All right. The AECOM report was circulated to
34 councillors before a council meeting in June 2014. You
35 declared an interest and left the meeting. Did you read
36 that report?
37 A. No.
38
39 Q. Did you ask anyone on your staff to have a look at the
40 report?
41 A. No.
42
43 Q. If I said to you the words "alternative scenario G",
44 what does that mean to you? Anything?
45 A. I wasn't in the meeting.
46
47 Q. Do you know that there was an alternative scenario G

1 put forward by council staff at that meeting?
2 A. No.
3
4 Q. Do you know what scenario was adopted by council?
5 A. Later on, yes, I knew.
6
7 Q. Well, it wasn't later on. They adopted it on 18 June
8 2014.
9 A. Later on when it was sent to the department.
10
11 Q. Yes. So it went forward to the department and got
12 through gateway?
13 A. Yes.
14
15 Q. The instrument has now been made and gazetted and it's
16 law. When do you say you found out about the changes?
17 A. I think I was talking once with Mr Brisby.
18
19 Q. With Mr Brisby?
20 A. Yes.
21
22 Q. When was that?
23 A. I was just passing comment, it's not like formal
24 meeting, just passing comment, "What's happening to that?"
25 He said the council made decision as to make it commercial
26 and it was sent to the department.
27
28 Q. What did you say to him?
29 A. Nothing. I said - but - because normally it's not up
30 to council to do the rezoning. Council can initiate it.
31
32 Q. Yes.
33 A. The staff can look at it in conjunction with the
34 councillors, but at the end of the day it is up to the
35 state government because they have very professional staff
36 to assess it and they either "yes" or "no".
37
38 Q. Hadn't they delegated this matter to Auburn Council?
39 Hadn't planning delegated this particular rezoning to
40 Auburn Council?
41 A. At the end of the day, sir, the state government, they
42 have the last say, not the council.
43
44 Q. Let me make sure I understand this correctly.
45 Mr Brisby said, "Council has made a decision to go with the
46 commercial zoning"?
47 A. Yes.

1
2 Q. Something to that effect? Are you able to give us any
3 indication of when that was?
4 A. No.
5
6 Q. No?
7 A. It was a passing comment.
8
9 Q. A passing comment.
10 A. Yes.
11
12 Q. Have you carried out any feasibilities about
13 development in the light of the rezoning, any feasibility
14 studies?
15 A. What does that mean?
16
17 Q. Have you looked at the options for redevelopment based
18 on that rezoning to B4?
19 A. No. On Raphael Street?
20
21 Q. Yes.
22 A. We - the architect put in council plans as in - as
23 pre-lodgment and we never heard back.
24
25 Q. You never heard back?
26 A. No.
27
28 Q. You now own some of the land in Raphael Street?
29 A. Yes.
30
31 Q. We'll clarify which bits you own.
32 A. Yes.
33
34 Q. Have you put forward a proposal to develop that
35 property?
36 A. It's not a proposal to develop. It's a proposal to
37 see what the council allow to build there. They call it --
38
39 THE COMMISSIONER: Q. You used the term "pre-lodgment"?
40 A. A pre-lodgment.
41
42 MR BOLSTER: Q. You're at the early stages of that
43 process; is that right?
44 A. Yes.
45
46 Q. Okay. I understand. You have done nothing in
47 relation to the Mark Street properties?

1 A. No.
2
3 Q. All right. I want to turn briefly to Water Street.
4 It is in the same bundle, I believe, that's in front of
5 you.
6
7 MR WHEELHOUSE: Commissioner, there is a ruling in
8 relation to Water Street.
9
10 MR BOLSTER: I don't think that this will transgress but
11 please pull me up if it does.
12
13 THE COMMISSIONER: What I said was we are certainly not
14 investigating whether the roof was built in accordance with
15 the Building Code of Australia or not, or what the cause of
16 the roof flying off was, or what insurers should or should
17 not have done, none of that is within the terms of
18 reference.
19
20 MR WHEELHOUSE: Thank you, Commissioner.
21
22 THE COMMISSIONER: That is a more pithy way of my ruling
23 but essentially that covers it.
24
25 MR BOLSTER: I'm not going there.
26
27 MR WHEELHOUSE: Thank you.
28
29 MR BOLSTER: Q. Mr Oueik, the Water Street development
30 is quite a large residential development, I think four or
31 five storeys?
32 A. Four.
33
34 Q. Four storeys?
35 A. Mmm-hmm.
36
37 Q. Was it the case that there were contracts to sell
38 units in that property entered into off the plan?
39 A. No.
40
41 Q. Not at all?
42 A. Not that I recall, no.
43
44 Q. When did you first start selling units in
45 Water Street, Lidcombe?
46 A. From memory, six or seven years after the building was
47 completed.

1
2 Q. After it was built?
3 A. Yes.
4
5 Q. Let's look at it in terms then of the occupation
6 certificate which was issued - let me find that. Would you
7 go to page 283 of the bundle. That's the OC at page 283?
8 A. Yes.
9
10 Q. Issued by Mr O'Neill. Do you recognise the signature
11 underneath Mr O'Neill's signature?
12 A. Francis, I think.
13
14 COURT REPORTER: I'm sorry?
15
16 MR BOLSTER: I think the witness said "Glenn Francis"?
17
18 THE COMMISSIONER: I think he said "Francis", yes.
19
20 MR BOLSTER: Q. That was issued on 19 September 2008.
21 At that time had you entered into any contracts with
22 purchasers for that site?
23 A. No.
24
25 Q. Really? Is that your evidence?
26 A. When we finished the building, I recall that we took
27 it to auction, the building, auction and nothing was sold.
28 The market was pretty bad.
29
30 Q. You sold the building as a whole?
31 A. No.
32
33 Q. No?
34 A. Individually.
35
36 Q. Individually? What, there was an auction where all
37 the lots were on the market on one day, is that what you're
38 saying?
39 A. No.
40
41 Q. What was the auction for?
42 A. To sell individual units.
43
44 Q. The individual units?
45 A. Yes.
46
47 THE COMMISSIONER: Q. More than one auction?

1 A. No, no, it was one auction.
2
3 Q. Just one auction?
4 A. One auction, one-off.
5
6 MR BOLSTER: Q. One auction to sell all the units?
7 A. No, no, no, it was only I think from memory six - six
8 units or something.
9
10 Q. There were no presales before OC?
11 A. No.
12
13 Q. So there was no sunset clause in operation that raised
14 any issue of urgency about the issue of an occupation
15 certificate?
16 A. I can't understand.
17
18 Q. Do you understand what I mean?
19 A. No.
20
21 Q. You know how developers when they're building, say, a
22 50-unit development and they have to borrow money from a
23 bank, ordinarily they will start marketing as soon as they
24 have approval to build.
25 A. Not in my case.
26
27 Q. Not in your house? Not at all?
28 A. Not in my case, no.
29
30 THE COMMISSIONER: Not in his case.
31
32 MR BOLSTER: Q. Not in your case. Okay. I just wanted
33 to make it clear. The method of selling - I just don't
34 understand. You had an auction on a day - on one
35 particular day?
36 A. One particular day at Dooleys.
37
38 Q. At that auction, if I was a potential buyer and
39 I wanted to buy unit 25, I would have to - there would be
40 auctions for units 1, 2, 3, all the way; is that right?
41 A. Not the whole building, sir.
42
43 Q. How many?
44 A. Only a few.
45
46 Q. How many?
47 A. It could be six.

1
2 Q. Six?
3 A. No-one would take the building to auction, no way.
4 This is only a small real estate, small community. We're
5 not, like, big like merchants or others.
6
7 Q. It is not clear to me. Please forgive me if I don't
8 understand.
9
10 THE COMMISSIONER: Ask what the process was.
11
12 MR BOLSTER: Q. The first auction - at the first
13 auction, how many units were up for sale?
14 A. Six, I think.
15
16 Q. Six. What did you do with the rest?
17 A. Nothing sold, sir.
18
19 Q. Nothing sold?
20 A. No.
21
22 Q. When did you first sell any units?
23 A. Six or seven years after the building was issued with
24 OC.
25
26 THE COMMISSIONER: 2014?
27
28 MR BOLSTER: Q. 2014; is that right?
29 A. Yes.
30
31 Q. It was vacant between --
32 A. No, no, no, sorry, tenanted.
33
34 Q. Tenanted?
35 A. Yes, of course, otherwise --
36
37 Q. Thank you. You had tenants in there and were earning
38 rental income --
39 A. Yes.
40
41 Q. -- until you started selling units?
42 A. Yes.
43
44 Q. You didn't sell them until 2014?
45 A. Yes.
46
47 Q. Thank you. Now we know.

1
2 THE COMMISSIONER: Q. Was that because of the GFC, was
3 that a problem in 2008?
4 A. No, it was a good building, it was a very good
5 building, and the only reason I've sold it, because
6 I bought something else.
7
8 THE COMMISSIONER: Do you think he misunderstood what
9 I said, Mr Wheelhouse?
10
11 MR WHEELHOUSE: Yes, I do, Mr Commissioner.
12
13 THE COMMISSIONER: Q. The downturn in the economy in
14 2008, was that preventing you selling them then?
15 A. It was a bad market, yes. It was a really bad
16 market.
17
18 MR BOLSTER: Q. You couldn't get the pre-GFC prices for
19 the units; is that right? If you could have got pre-GFC
20 prices, you would have taken it to market earlier, correct?
21 A. I normally sell when I complete it.
22
23 Q. In the case of Station Road, Auburn, was that the same
24 process?
25 A. I can't recall that, to be honest.
26
27 MR WHEELHOUSE: Again there is a ruling in relation to
28 Station Road. We have now been issued - BBC Developments
29 have now been issued with infringement notices. We have
30 those infringement notices here, so I need to make a
31 submission in relation to the manner in which the
32 Commissioner can exercise your discretion. I can tender
33 that document.
34
35 THE COMMISSIONER: In relation to Station Road, the
36 relevance to the Commission is in relation to how the
37 council handled it.
38
39 MR WHEELHOUSE: I appreciate that, your Honour.
40
41 THE COMMISSIONER: Not whether or not a company is or
42 isn't guilty of any particular offence; that is not for me
43 to rule on and I do not think I can.
44
45 MR BOLSTER: I'm not going there.
46
47 MR WHEELHOUSE: Thank you. I will relax.

1
2 THE COMMISSIONER: Yes.
3
4 MR BOLSTER: Q. I want to ask you now some questions
5 about Berala and South Auburn. Might the witness be given
6 the Berala and South Auburn bundles, please. Could the
7 witness have the Berala bundle first. Mr Oueik, you went
8 to a workshop at Bowral?
9 A. Yes.
10
11 Q. In February 2014, do you remember that?
12 A. Of course.
13
14 Q. Do you remember the colouring-in exercise?
15 A. I can't recall it but I would like to have a look at
16 it.
17
18 Q. During the morning tea break Ms Cologne has provided
19 me with what she tells me are the original plans that were
20 marked on the day. I want to show you what she has given
21 to me. I want you to have a look at it and see if you can
22 identify the plan that you marked at Bowral in February
23 2014.
24
25 THE COMMISSIONER: Is there a set of those for me and for
26 Mr Wheelhouse?
27
28 MR BOLSTER: There is a set. We have one spare copy at
29 this stage.
30
31 THE COMMISSIONER: Give it to Mr Wheelhouse and I will use
32 - well, is this from the opening bundle?
33
34 MR BOLSTER: There are actually more plans than in the
35 opening bundle.
36
37 THE COMMISSIONER: All right.
38
39 MR BOLSTER: I just want Mr Oueik to identify his.
40
41 THE COMMISSIONER: Is that paginated?
42
43 MR BOLSTER: No, it is not. Eventually it will be, but
44 I'm only asking him to identify one document and I'll get
45 him to mark it by signing his one.
46
47 THE COMMISSIONER: All right. Then if you're going to get

1 the witness to mark that bundle, that bundle will have to
2 become the exhibit.
3
4 MR BOLSTER: It will; it will become the exhibit.
5
6 Q. Can you find your map?
7 A. I can't find it, to be honest.
8
9 THE COMMISSIONER: Is that blown up?
10
11 MR BOLSTER: They are the originals, they are the actual
12 marked ones.
13
14 THE COMMISSIONER: They were that size, were they? They
15 were A3?
16
17 MR BOLSTER: Yes.
18
19 THE COMMISSIONER: Yes. They've got the actual crayon
20 markings.
21
22 MR BOLSTER: Yes.
23
24 THE COMMISSIONER: I see.
25
26 MR WHEELHOUSE: There are a couple that you can definitely
27 exclude.
28
29 THE COMMISSIONER: One has "Steve" on it, so that can't be
30 it.
31
32 MR WHEELHOUSE: I won't be maintaining it's this
33 signature. Plainly --
34
35 MR BOLSTER: There are a couple that I'm pretty sure
36 aren't his, Mr Wheelhouse.
37
38 MR WHEELHOUSE: That narrows the field a bit.
39
40 MR BOLSTER: Q. Have you found it?
41 A. I can't find it.
42
43 MR BOLSTER: Might that be marked for identification at
44 this stage?
45
46 THE COMMISSIONER: Yes. Would you give me that bundle,
47 Mr Oueik.

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MR BOLSTER: It doesn't need to have a private hearing marking.

THE COMMISSIONER: It doesn't? You're just going to mark it for identification? Let me find out where we're up to in mfis.

MR BOLSTER: While you're there, Mr Oueik, with that bundle, could you open it up to page 15?

THE COMMISSIONER: Does anyone have a clue where I'm up to on MFIs?

MR WHEELHOUSE: I thought it was four, but I may have missed one.

MR BOLSTER: No, I think we're up to five.

THE COMMISSIONER: I think it's five, yes. They've become exhibits, so I've lost track, but it doesn't really matter. I will mark the bundle of maps from the councillor workshop February 2014 regarding Berala village as MFI 5.

MFI #5 BUNDLE OF MAPS FROM THE COUNCILLOR WORKSHOP HELD FEBRUARY 2014 REGARDING BERALA VILLAGE

MR BOLSTER: Q. Would you open it up to page 50 of the Berala bundle, please. That's the existing zoning?

A. Yes.

Q. You will see that I am talking about the area on the west side of the railway line: there's a large R3 section?

A. Yes.

Q. At the southern end of that R3 section is York Street, Berala. Do you know York Street, Berala?

A. Yes.

Q. You know Mr Zraika has property there?

A. Yes.

Q. You will see that on the south side of York Street, Berala, between York Street and the railway line, it is zoned R2. You couldn't identify the map, but do you recall the way you marked the area south of York Street between York Street and the railway line? Did you mark it R3, R2,

1 B4, B2? How did you mark it?
2 A. We were asked to do a study - I mean, we were to give
3 our opinion at the time and I gave my opinion and then that
4 was my opinion.

5
6 Q. What was your opinion?

7 A. My opinion was very open, is to extend the commercial
8 floor space, which I've said it, I wasn't hiding it. I've
9 said it to council, I've said it at the workshop, openly,
10 because on the other side it's all flood between Woolies
11 and Woodville Road.

12
13 THE COMMISSIONER: Q. All flood zone?

14 A. All flood zone there and this area had no flood zone,
15 so we partially extended it a little bit and then that's
16 what the decision I took because as councillor, I'm not
17 going to promote myself as a politician, but the closest
18 people - the closest politician to the community is
19 councillors; always in Auburn, always in the local area,
20 always; state, you never see them; federal, you never see
21 them; councillors, always around. So if you go to Berala,
22 the people say, "Everything for Auburn, nothing for us.
23 We're suffering, we have no people here, we need work, we
24 need jobs, we need, like, more commercial to come, more
25 people to come so we can support our businesses." Like,
26 you know, that's the impression that I had from the people
27 at the time that I was working for Auburn Council for the
28 benefit of the community of Auburn.

29
30 Q. All right. Do I take it that, although we can't find
31 the map, you think you marked B2 in the area south of
32 York Street?

33 A. As I previously said, I have nothing to hide. I said
34 it very clear and you can get the tape, if you like, the
35 recording tape, and I have said it very clear. My reason
36 I will vote for this is for the commercial open space,
37 commercial for businesses because most of the people they
38 ask me they want more people here to support the
39 businesses, nothing to hide.

40
41 Q. All right. No, I understand that. Did Mr Zraika
42 discuss the zoning for the area south of York Street with
43 you at any time?

44 A. No.

45
46 Q. Not before the workshop?

47 A. No.

1
2 Q. At Bowral?
3 A. No.
4
5 Q. What about at a workshop in the Jack Lang Room in June
6 of the same year?
7 A. No.
8
9 Q. Do you remember that workshop?
10 A. Yes. Not clearly but --
11
12 Q. What happened at that workshop?
13 A. The staff they had the workshop on and they explained
14 to us and everyone have their opinion and that's it.
15
16 Q. What was the staff's position at that workshop?
17 A. I can't recall words but --
18
19 Q. Could the witness be given exhibit 01. It is a
20 separate folder. Could that be opened at page 71. Do you
21 have that?
22 A. Yes.
23
24 Q. That was a suggested zoning scenario that came from
25 staff at that workshop, can I suggest. Do you see it
26 proposed R4 in the York Street zone that we've been
27 discussing, that is, south of York Street?
28
29 THE COMMISSIONER: Is that the bottom left where it has
30 got R3 and then R4?
31
32 MR BOLSTER: Yes.
33
34 THE COMMISSIONER: That's south of York Street.
35
36 MR BOLSTER: Q. York Street is immediately above that R4
37 zone. York Street runs east-west, Mr Oueik, that's
38 correct, isn't it?
39 A. No street name here.
40
41 THE COMMISSIONER: Q. No, you won't be able to read it.
42 A. Oh, okay. Yes. Yes, now I've got it.
43
44 MR BOLSTER: Q. You've got it?
45 A. Yes.
46
47 Q. Do you see that staff recommended R4. Did you

1 appreciate that at the time?
2 A. Is that before Bowral or after Bowral?
3
4 Q. This was after Bowral. This was in the Jack Lang Room
5 in a workshop in June.
6 A. Yes.
7
8 THE COMMISSIONER: 2014.
9
10 MR BOLSTER: Q. 2014, so it was about four or five
11 months after Bowral. Was there any discussion amongst
12 councillors --
13
14 MR WHEELHOUSE: He hasn't answered the question.
15
16 THE COMMISSIONER: I don't think you got an answer to
17 the --
18
19 THE WITNESS: Sorry?
20
21 THE COMMISSIONER: You asked whether Mr Oueik was aware of
22 what council were recommending based on the plan you were
23 directing his attention to.
24 A. I don't recall, sir.
25
26 MR BOLSTER: Q. You don't recall. All right. What
27 happened at the workshop in June in the Jack Lang Room? Do
28 you remember anything of that?
29 A. No.
30
31 Q. Did any councillors express a view that the area south
32 of York Street should be B2 and not R4?
33 A. Not that I'm aware of.
34
35 Q. If you'd been asked that by council staff, you'd have
36 said B2, wouldn't you?
37 A. If I was asked for my opinion?
38
39 Q. Yes.
40 A. Probably, yes.
41
42 Q. Yes. All right. But you don't recall being asked?
43 A. No. I have said it clearly in council before I voted
44 for it and the reason why I voted for it.
45
46 Q. It came back to council in July and the recommendation
47 from staff in July you will see at pages 92 and 93 of - not

1 the smaller bundle, the larger bundle, Mr Oueik. Just
2 close that. No, not that one, the other one.
3 A. This one?
4
5 Q. That one.
6 A. Yes.
7
8 Q. We're back at the Berala bundle, exhibit B1, on
9 pages 92 and 93.
10 A. Yes.
11
12 Q. You will see there on page 93, for example, behind the
13 letter (d) you will see a B2 zoning?
14 A. Yes.
15
16 Q. You can see that York Street is identified on that map
17 as well?
18 A. Yes.
19
20 Q. You say you were perfectly open about your preference
21 for B2 for that zone at the meeting and beforehand and
22 throughout the process; is that right?
23 A. Yes.
24
25 Q. Let me go back a step. At that time you were a member
26 of a loose group of councillors that included Mr Attie.
27
28 MR WHEELHOUSE: I object to that.
29
30 MR BOLSTER: Q. All right. Did you customarily, at
31 about that time, meet with the following people prior to
32 council meetings: Mr Attie, Councillor Lam,
33 Councillor Yang, Councillor Mehajer and Councillor Zraika?
34 A. No.
35
36 Q. No?
37 A. No.
38
39 Q. Was there ever any occasion where you met with those
40 five people together, as a group of six, to discuss
41 business that would be coming up at a council meeting?
42 A. No and never.
43
44 Q. Never? All right. Were there ever occasions when
45 that group of six --
46 A. It's not a group.
47

1 Q. It's a collection of people, let's call it that.
2 A. Sorry, Commissioner.
3 Q. I'm not using that as --
4
5 MR WHEELHOUSE: There is an assumption behind this --
6
7 THE COMMISSIONER: The councillors you've named.
8
9 MR BOLSTER: I'm not using it in any pejorative sense at
10 all. I'm using it as purely a collection of six
11 individuals.
12
13 Q. Did those six individuals ever meet to discuss who
14 they would together support for the positions of mayor and
15 deputy mayor?
16 A. Five, not six.
17
18 Q. Do I take it that your evidence is that five of that
19 group of people met to discuss their approach to the mayor
20 and deputy mayor elections; is that right?
21 A. And that happened every single council throughout the
22 state.
23
24 Q. Yes.
25 A. And that's the beginning - when all the councils win
26 the election, the first thing they do, second, third,
27 fourth, everything, sign, everyone does it.
28
29 Q. I am not being critical of you, Mr Oueik, please
30 understand this. The five that met to discuss who they
31 would support for mayor were yourself, Mr Attie,
32 Councillor Lam, Councillor Mehajer and Councillor Yang?
33 A. We don't meet as a group, even that time.
34
35 MR BOLSTER: Q. You discussed --
36
37 THE COMMISSIONER: This can only be after the 2012
38 election.
39
40 MR BOLSTER: Q. Yes, I am talking about the 2012
41 election. Is it fair to say that the five of you reached
42 an agreement that you would support Mr Mehajer for
43 deputy mayor at each of the subsequent four mayoral
44 elections; correct?
45 A. I can't recall that 100 per cent, but no-one cares
46 about the deputy anyway, honestly. Like, when you're mayor
47 you don't want to go back to deputy.

1
2 Q. Let me put it --
3 A. You're asking me, I'm telling you the truth.
4
5 THE COMMISSIONER: He may have cared, surely.
6
7 THE WITNESS: It's like the Commissioner; he wants to be a
8 judge, good luck.
9
10 MR BOLSTER: Q. The five of you in advance of the 2012
11 election agreed that you would be a candidate and that they
12 would all support you; correct?
13 A. No, I wasn't the first one to go.
14
15 Q. I'm sorry, it was Mr Attie, wasn't it?
16 A. Yes.
17
18 Q. And for the following year, in 2013, it was Mr Zraika?
19 A. No.
20
21 Q. No?
22 A. Not within that group, no.
23
24 Q. Who was your candidate against Mr Zraika in 2013?
25 A. Ned.
26
27 Q. Ned Attie?
28 A. Yes.
29
30 Q. And that group of five that I referred to earlier
31 supported you for mayor in 2014?
32 A. Yes.
33
34 Q. And the same with Councillor Lam in 2015; correct?
35 A. To be honest, I was given the endorsement myself to
36 run for 2015 as well, but for all this nonsense, I refused
37 to run.
38
39 Q. I think Councillor Lam nominated you?
40 A. She did.
41
42 Q. But you didn't accept it?
43 A. I didn't accept it.
44
45 Q. But you supported her. Did you nominate her?
46 A. No.
47

1 Q. All right.
2 A. I've emailed that.
3
4 THE COMMISSIONER: There's a list of mayors on the --
5
6 THE WITNESS: No, no, the last time, he's right.
7
8 MR BOLSTER: Q. No, no, because Mr Campbell gave some
9 evidence yesterday --
10 A. Oh, yes.
11
12 Q. -- about some discussions with you.
13 A. Mmm.
14
15 Q. And I think there was a problem, wasn't there, with
16 Mr Yang not wanting to support Councillor Mehajer in 2015?
17 A. That's - I don't know.
18
19 Q. You knew about that, didn't you?
20 A. No.
21
22 Q. No?
23 A. Well, if that's the case George Campbell would have
24 got up.
25
26 Q. You knew that Mr Yang didn't vote in the deputy
27 mayoral election, didn't you? He abstained from voting?
28 A. No. He voted.
29
30 Q. Mr Yang?
31 A. Yes.
32
33 Q. Are you sure about that? In 2015 didn't Mr Yang
34 either leave the room or not vote? Wasn't it a four-all
35 tie?
36 A. No, he voted.
37
38 Q. Didn't Mr Zraika leave the chamber?
39 A. Mr Zraika did, but I'm not sure about Steve Yang.
40 I can't recall Steve Yang leaving. He wouldn't leave
41 anyway, he just happy to put his hand up.
42
43 Q. The vote for mayor is not putting your hand up, is it?
44 A. It was.
45
46 Q. It was?
47 A. Yes.

1
2 Q. Your memory is that he put his hand up for Mr Mehajer?
3 A. I can't recall, to be honest, but --
4
5 Q. Okay.
6 A. I know that --
7
8 Q. Can we turn to another topic now.
9 A. Mmm.
10
11 Q. In the same bundle in front of you if you go forward,
12 I believe, to another tab, South Auburn.
13
14 THE COMMISSIONER: It is the same bundle.
15
16 MR BOLSTER: Q. Do you have that, Mr Oueik?
17 A. Yes.
18
19 Q. Would you go to page 283, please. You will see there
20 the original zoning proposal?
21 A. Yes.
22
23 Q. Do you remember it divided the block in question into
24 B4 and R4. Do you remember that?
25 A. Yes.
26
27 Q. Do you remember there was a change in April and May
28 2015? Do you see that at page 284?
29 A. Yes.
30
31 Q. You will see that that significantly reduced the B4
32 zoning to about a third of the length of Auburn Road?
33 A. Yes.
34
35 Q. All right. Originally when option 1 went forward and
36 Mr Yang moved that at council, back in 2013, you supported
37 it?
38 A. Supported to do a study.
39
40 Q. Yes.
41 A. My recollection was to do a study.
42
43 Q. All right. You say it was to do a study?
44 A. Yes.
45
46 Q. The study came back supportive of that proposal?
47 A. It didn't just come back. It came and gone and up and

1 down.

2

3 Q. Could I just take you back then to - you will need to
4 go to page 5 of that bundle. Do you see there that there's
5 a chronology of the planning proposal over time?

6 A. Yes.

7

8 Q. Do you see on 17 April 2013, it says:

9

10 *Council resolved to prepare a planning*
11 *proposal to rezone the land from R3 to*
12 *part B4 and part R4.*

13

14 Do you see that?

15 A. Yes.

16

17 Q. It wasn't to do a study, was it?

18 A. Not the study. Like council was --

19

20 Q. A study was subsequently done, but council resolved to
21 actually prepare a planning proposal?

22 A. Was that when it first came to council?

23

24 MR BOLSTER: Yes.

25

26 THE COMMISSIONER: You have got to relate it back to the
27 resolution of 20 October 2010 which I think is for the
28 whole street to be --

29

30 THE WITNESS: No, sorry, counsellor, I thought you were
31 talking about originally.

32

33 MR BOLSTER: Q. Yes. I'm not talking about originally.

34 A. I thought you were talking about originally.

35

36 Q. I'm just talking about Mr Yang's proposal which he
37 moved in April 2013 and he moved option 1 at 283.

38

39 THE COMMISSIONER: I think the witness is getting
40 confused. He says a study, the planning analysis that is
41 referred to at 12 May 2010, he could be.

42

43 Q. Is that what you were referring to? It is at the very
44 top there, "12 May 2010"?

45 A. I think from memory, if I might --

46

47 MR BOLSTER: Q. Yes.

1 A. This item came to council and I think was refused
2 completely, and then after three months council put a
3 rescission motion to bring it back to council. That's my
4 understanding. That's when --

5
6 THE COMMISSIONER: There was a resolution not to proceed
7 on 31 October 2012.

8
9 MR BOLSTER: Q. I am talking about well after that,
10 now, Mr Oueik. I am just focusing on planning proposal 3
11 of 2013, so I'm not worried about anything that's happened
12 before then. In April 2013 council resolved to prepare a
13 planning proposal in accordance with the map at page 283,
14 right?

15 A. Yes.

16
17 Q. Do you accept that?
18 A. Yes.

19
20 Q. And then you'll see from that chronology that it was
21 submitted to planning in March 2014, there was a gateway
22 determination in May 2014, there was consultation in
23 July/August 2014, et cetera. And then in April 2015
24 council staff recommended option 2A as its preferred
25 rezoning of that particular area of South Auburn. Do you
26 recall that?

27 A. Yes.

28
29 Q. When council staff proposed that, did that surprise
30 you?

31 A. No.

32
33 Q. Why didn't it surprise you?

34 A. Because they are the strategic planners, not me.

35
36 THE COMMISSIONER: Just take the witness back to option 2A
37 so he knows what you are talking about, pages 283 and 284.

38
39 MR BOLSTER: Q. Would you go to page 283 and page 284,
40 if you have them both open --

41 A. Yes.

42
43 Q.
44 -- you will see option 1, the original option, had B4
45 all the way down Auburn Road?

46 A. Mmm.

47

1 Q. R4 all the way down Susan Street and option 2A, which
2 council staff proposed in their report in April 2015, had a
3 much smaller area of B4. Do you see that on page 284?
4
5 THE COMMISSIONER: These are alternatives.
6
7 MR BOLSTER: Q. These are alternatives, yes. Those
8 alternatives were put to you. Council staff proposed, they
9 recommended to council, option 2A. Did that surprise you
10 that they were recommending option 2A?
11 A. No.
12
13 Q. Why didn't that surprise you?
14 A. We relied on them. They are the professionals.
15
16 Q. You rely on them?
17 A. Yes.
18
19 Q. Had option 2A in that form been discussed by you with
20 anyone before you received the papers from council staff
21 recommending it?
22 A. No.
23
24 Q. Do you say you didn't discuss a reduction in the B4
25 zoning that was proposed with anyone else?
26 A. Not that I can remember. Can you specify, like, who
27 else, who's - like, who?
28
29 Q. Did you discuss it with Mr Zraika?
30 A. No.
31
32 Q. Did you discuss it with Mr Attie?
33 A. No.
34
35 Q. Did you discuss it with Mr Burgess?
36 A. Burgess?
37
38 Q. I am sorry, with Mr Brisby?
39 A. No.
40
41 Q. With Mr Francis?
42 A. No.
43
44 Q. Ms Cologna?
45 A. I don't talk to Cologna. Sorry.
46
47 Q. You didn't suggest to anyone that option 2A should be

1 the option that should go forward to council?
2 A. No.
3
4 Q. Are you sure about that?
5 A. That's my memory. No.
6
7 Q. You know the Bhanin Association have a building in
8 York Street?
9 A. In Auburn Road.
10
11 Q. I'm sorry, in Auburn Road. Do you know the office
12 holders of that organisation?
13 A. It changes all the time.
14
15 Q. Yes. Do you know a Mr Hamid, Mustafa Hamid?
16 A. Mmm.
17
18 Q. How long have you known Mr Hamid?
19 A. A long time.
20
21 Q. A long time?
22 A. Mmm.
23
24 Q. Did you seek his support when you were thinking of
25 running as the Liberal candidate for the state seat of
26 Auburn?
27 A. No.
28
29 Q. You didn't?
30 A. No.
31
32 Q. Did you seek the support of anyone else from the
33 Bhanin Association --
34 A. No.
35
36 Q. -- for the same purpose; is that right?
37
38 THE COMMISSIONER: He said "No".
39
40 MR BOLSTER: Q. You know that the Bhanin Association did
41 not support you during the state election; correct?
42 A. They did.
43
44 Q. They did?
45 A. Yes.
46
47 Q. How did they do that, Mr Oueik?

1 A. The community does not belong to the Bhanin
2 Association. We're talking about the community. The
3 community did support me, that I'm aware of, for the state
4 election, the last election.
5
6 Q. But the formal position of the association was that it
7 supported Mr Foley?
8 A. Good luck with him, but I'm saying the community did
9 support me.
10
11 Q. No, please answer my question. You understood that
12 the position that was formally adopted by the association
13 was that they would support Mr Foley; correct?
14 A. No.
15
16 Q. You didn't understand that?
17 A. No.
18
19 Q. All right. Do I understand your evidence to be this:
20 you had no say and no input into the development of
21 option 2A on page 284 of the bundle?
22 A. Not at all.
23
24 Q. Before it came to council in April?
25 A. No. Mr Counsel, the decision makes here, not there.
26 We make decision in council here. Individual people can't
27 have a say outside.
28
29 Q. Mr Oueik, you're a very experienced property
30 developer; correct?
31 A. Builder, yes.
32
33 Q. Builder.
34 A. Property developer. Not as - I don't have any
35 qualification but in the building industry I do.
36
37 Q. It is your business to buy land, build apartments on
38 it and sell them; correct?
39 A. From time to time. Not full-time.
40
41 Q. Have you done commercial development?
42 A. Like --
43
44 Q. Commercial buildings.
45 A. Can you explain, please?
46
47 Q. Well, have you built any zones in B4 town centre

1 zones?
2
3 THE COMMISSIONER: You mean have you built any buildings?
4
5 MR BOLSTER: Q. Built any buildings --
6 A. Yes.
7
8 Q. -- in a B4 zoning?
9 A. Yes.
10
11 Q. Where there's a height limit of roughly 21 to
12 30 metres?
13 A. Yes.
14
15 Q. It may vary. Yes?
16 A. Yes.
17
18 Q. You've done that on more than one occasion; correct?
19 A. One.
20
21 Q. On one occasion?
22 A. Mmm.
23
24 Q. It's fair to say most of your building work is in
25 large-scale residential?
26 A. Small.
27
28 Q. Small scale. So five storey --
29 A. Four.
30
31 Q. Four.
32 A. Four.
33
34 Q. So like Water Street, for example?
35 A. Yes.
36
37 Q. Like Station Road?
38 A. 16 years ago.
39
40 Q. And Park Road, that's a larger one, isn't it?
41 A. This is covered in that.
42
43 Q. Right. The B4 zone in Auburn Road in option 2A didn't
44 really make any sense, did it, from a builder's
45 perspective? Wasn't it too small to do anything as a --
46 A. No, I don't - I don't know where you're coming from,
47 sir.

1
2 Q. Did you look at it from that perspective?
3 A. No.
4
5 Q. Did it cross your mind that a B4 zoning for that very
6 small parcel of land --
7 A. No.
8
9 Q. -- made no sense?
10 A. No.
11
12 Q. Do you think you could achieve a good outcome for an
13 owner if you were asked to do a development on that size
14 land?
15 A. No.
16
17 Q. No. It's too small, isn't it?
18 A. I don't know how many metres.
19
20 Q. You know the area, Mr Oueik, you know the area, it's a
21 block down from council?
22 A. Yes, but I don't know - I have no business with their
23 business. I'm not --
24
25 Q. You know how large that area is, don't you?
26 A. No.
27
28 Q. You've walked down there, I'm sure.
29 A. Yes, but I didn't measure it.
30
31 Q. Sorry?
32 A. I didn't measure it.
33
34 Q. You didn't measure it?
35 A. No. Mr Commissioner, I don't understand the question,
36 to be honest.
37
38 THE COMMISSIONER: Q. I think what Counsel Assisting is
39 trying to ask you is whether you thought a B4 zoning,
40 looking at page 284, whether you think zoning only a third
41 of Auburn Road as B4 from R3 made any sense from either a
42 builder's point of view or from a planning point of view.
43 Do you have a view about that?
44 A. No.
45
46 Q. You don't have any opinion about it?
47 A. No.

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MR BOLSTER: Q. You didn't think about that when you came to consider the staff recommendation of option 2A? Is that "No"?

A. No.

Q. All right. I just have one last question on this topic. Did you ever discuss option 2A with Mr Francis at any stage?

A. Not that I can remember, no.

Q. All right.

A. In council, Mr Commissioner, we face a lot of community, honestly, a lot of community in my face all the time, all the time. Some people want rezone, some people want high, some people want low, some people want nothing done. Like, even on Susan Street, I had a lot of people - honestly, someone said to me, I don't know if he was joking or not, "I put a gun to your head if you build it".

THE COMMISSIONER: Right. Okay.

THE WITNESS: Like, you know --

THE COMMISSIONER: I hope they were joking.

THE WITNESS: I'm not sure as - yes, it's probably a joke, but maybe that pass comment went to Mr Francis, but I have never had influence with anybody. Never.

MR BOLSTER: Q. Today I am not going to ask you any questions about your relationship with Mr Francis, that's not the purpose of today. We will deal with that later when you give evidence in --

A. No, I'm just - sorry, I'm answering your question, sir, have I spoken to Mr Francis about this?

Q. Yes. About that, just about that.

A. Yes. That's why I'm giving an explanation to the Commissioner that, you know, we face a lot of people. Maybe in past comment I said to Mr Francis something, but I don't want to be held liable, responsible, because I don't know what the comment was.

THE COMMISSIONER: I see.

MR BOLSTER: Q. Finally, Mr Oueik, I wanted to ask you

1 some questions about Grey Street, Silverwater. I don't
2 think you need the bundle for present purposes, we'll just
3 see how we go. You're broadly familiar with that
4 development proposal?
5 A. It has been a long time in the making.
6
7 Q. You know the land in question is on Silverwater Road,
8 on the western side of Silverwater Road near the old Paley
9 dry cleaning site?
10 A. Yes.
11
12 Q. Did Mr Attie discuss that development with you at all?
13 A. No.
14
15 Q. Did he seek your support in relation to that
16 particular development?
17 A. No.
18
19 Q. I'm wondering whether it came to your attention that
20 Mr Attie moved a number of resolutions about Grey Street?
21 A. In council.
22
23 Q. In council?
24 A. Yes.
25
26 Q. Do you remember when he did that?
27 A. Not - no.
28
29 Q. Do you recall having any concerns or raising any
30 issues with him about the various resolutions that he
31 moved?
32 A. No.
33
34 Q. If you could just assist us with the procedure at
35 council. If a matter is being considered and a councillor
36 wants to propose a resolution of their own, which they are
37 entitled to do and do, I expect, quite commonly, would
38 ordinarily they produce a piece of paper with the motion
39 either handwritten or typed?
40 A. Yes. They read it out and then they - normally they
41 have prepared or they write it and they give it to the
42 writer here, and the writer put it on the screen.
43
44 Q. The staff type it in and it pops up here?
45 A. Yes.
46
47 Q. So everyone can read it?

1 A. For the benefit of the gallery so they can see it.
2
3 Q. You don't have any particular recollection of any of
4 the motions that Mr Attie moved in relation to Grey Street?
5 A. No.
6
7 Q. No. You ultimately voted in support of that planning
8 proposal?
9 A. I think from memory most of the council did, the first
10 time.
11
12 Q. Yes.
13 A. That's my recollection.
14
15 Q. The record will speak for itself. I'm more interested
16 in what your reason was for --
17 A. I was convinced that would be a supermarket in there.
18
19 Q. A supermarket?
20 A. Yes.
21
22 Q. All right. Did it occur to you when you voted on it
23 on the last occasion in October last year; that is, to send
24 it back to gateway, that the effect of Mr Attie's
25 resolution was to amend council's employment land strategy?
26 A. Can you explain --
27
28 Q. I think you will need the bundle now. I just want to
29 make --
30
31 THE COMMISSIONER: Put that one away.
32
33 MR WHEELHOUSE: I object to this, Mr Commissioner.
34
35 THE COMMISSIONER: Let's go back a minute.
36
37 MR WHEELHOUSE: The proposition is not correct.
38
39 THE COMMISSIONER: I think Counsel Assisting is going to
40 take him to it more specifically.
41
42 MR BOLSTER: All right. We'll do it the long way.
43
44 Q. For this purpose perhaps the best way is if the
45 witness could be given Exhibit PH4.
46
47 THE COMMISSIONER: He's got that one. That one there, see

1 underneath that folder, that one.
2
3 MR BOLSTER: Q. Could you go back to the last three
4 pages, Mr Oueik.
5 A. The last?
6
7 Q. It starts at page 27 and then 28 and then 29. Do you
8 see at the foot of page 27 it is item 228/15, assessment of
9 planning proposal application for Grey Street and
10 Silverwater Road. Do you have that?
11 A. Yes.
12
13 Q. All right. Councillor Simms and Councillor Oldfield
14 moved that council not support the proposal. Do you see
15 that at the foot of 27?
16 A. Yes.
17
18 Q. And then over the page --
19
20 THE COMMISSIONER: Did he acknowledge this?
21
22 MR BOLSTER: He said "Yes".
23
24 Q. Over the page at 28, you will see there was an
25 amendment moved by Councillor Attie. You will see that
26 amendment was that the proposal be approved. Do you see
27 clause 1(d) provided that the Auburn employment land
28 strategy be amended so that the site could be rezoned as B2
29 local centre. Do you remember that?
30 A. I don't recall it, but now I've seen it.
31
32 Q. Did the significance of that amendment stand out to
33 you when you came to consider this resolution on 7 October?
34 Yes or no? Did you notice that fact on 7 October? When
35 Mr Attie moved the motion, presumably it came up on the
36 screen and you saw that there would be an amendment to the
37 employment land strategy to go to B2; right? Did that
38 interest you? Did you take notice of it?
39 A. I thought it would be good for the community, for
40 Auburn.
41
42 Q. You thought that would be good for the community?
43 A. Yes, in my opinion, and I'll tell you why.
44
45 Q. Why?
46 A. If I may, Mr Commissioner?
47

1 THE COMMISSIONER: Q. Go ahead.
2 A. The dry cleaner there, the one that you're talking
3 about, has been empty for years and many houses around it
4 was told that it's been owned by one person or a company
5 and a big chunk of land, a big parcel of land. And as you
6 know, I come from a business background, I will never say
7 no to any development as long as it complies and, like,
8 you know, it's a benefit for the community, that is my
9 opinion, and the reason that I voted for it is there's not
10 lots of employment there, it's still empty there, and the
11 houses are run-down and if something can be built there
12 it's benefiting the country, the state, like, everyone can
13 benefit from it. But there's some group there, they always
14 say "no", always. It doesn't matter what you do, always
15 say "no", and we are - like, if you're going to say "no",
16 Strathfield would say "no", Burwood would say "no",
17 Parramatta would say "no", what would happen to the
18 economy?

19
20 MR BOLSTER: Q. All right.
21 A. And I've said it many times, I always support
22 businesses, always, because I have a problem with dole
23 people.

24
25 THE COMMISSIONER: Q. You have a problem with who?
26 A. The dole people.

27
28 Q. Dole people.
29 A. Honestly, that's my biggest problem. I can't see
30 people on the dole.

31
32 MR BOLSTER: Q. Why did you agree to a reduction in the
33 B4 zoning at South Auburn? Why?

34 A. There?

35
36 Q. No, in South Auburn.

37 A. There's two different things, sir.

38
39 Q. Yes, I know.

40 A. You can't compare here to there.

41
42 Q. Based on what you just said, surely you would have
43 supported the original zoning of B4 all the way down
44 Auburn Road for the South Auburn planning proposal?

45 A. This is a completely different scenario.

46
47 THE COMMISSIONER: Q. I think what you are being asked,

1 Mr Oueik, you just said in relation to Grey Street that you
2 were always pro business.

3 A. Yes.

4

5 Q. What Counsel Assisting is putting to you is that
6 having B4 all the way up and down Auburn Street would be
7 more consistent with that approach that you have just
8 articulated for Grey Street than only having one third of
9 Auburn Street as B4?

10 A. The way it was put forward, and the motion was put
11 forward, I was convinced to support it for Silverwater.

12

13 MR BOLSTER: Q. For Silverwater?

14 A. Silverwater.

15

16 Q. And you were convinced to support a smaller B4 zone at
17 South Auburn?

18 A. If you look at the council map --

19

20 Q. Yes.

21 A. -- the R2, R3, R4 and B4 and the B4 has to be a
22 certain distance from the station and the R3 the same, R4
23 the same and R2 the same, like, different distances and at
24 the time I didn't question it because it was too far from
25 the station.

26

27 Q. Too far from the station at South Auburn; is that what
28 you say?

29 A. Yes, too far, but I didn't question it and I relied on
30 the expert.

31

32 Q. You relied on the expert. Okay. That's all for now.
33 Thank you, Commissioner.

34

35 THE COMMISSIONER: Just to give you some comfort,
36 Mr Wheelhouse, there may have been some answers from
37 Mr Oueik that you would like to seek some clarification
38 from him. I am going to in due course make the transcript
39 of this private hearing part of the public hearing and
40 I will give you the opportunity to do that, if you want to.
41 You may not, but if you do, you can take it up then.

42

43 MR WHEELHOUSE: Thank you, Commissioner.

44

45 THE COMMISSIONER: You will not be deprived of an
46 opportunity. If you heard an answer that you thought
47 needed some clarification, I will give you the opportunity

1 to a public hearing.
2
3 MR WHEELHOUSE: I will take that opportunity. Thank you.
4
5 MR BOLSTER: Commissioner, Mr Oueik has produced the
6 original of what is currently MFI-4, I believe. I will
7 tender that when we go back to open as MFI-3.
8
9 THE WITNESS: Can I have - no rudeness, Mr Commissioner --
10
11 THE COMMISSIONER: Q. Go ahead.
12 A. Can we talk about the school zones, please?
13
14 MR BOLSTER: Q. We will be dealing with that next week.
15 A. Not today?
16
17 Q. Not today.
18
19 THE COMMISSIONER: No. I will just clarify again that
20 what we have just had is a private hearing. We will
21 ultimately make the transcript public, but you are not
22 excused from your summons to appear and you will be
23 recalled at the public hearing. I think Counsel Assisting
24 and maybe someone else will ask you some questions about a
25 school zone that you just mentioned.
26
27 MR BOLSTER: You will get a chance to say everything you
28 want to say about that.
29
30 THE COMMISSIONER: You certainly will be given the
31 opportunity.
32
33 THE WITNESS: What was reported on Channel 9 was untrue
34 and I was hurt by it. Really, really hurt.
35
36 THE COMMISSIONER: I am sure Mr Wheelhouse will make sure
37 you get your opportunity to respond to anything you want to
38 about that.
39
40 THE WITNESS: Thank you very much.
41
42 MR WHEELHOUSE: I'll explain that to him.
43
44 THE COMMISSIONER: We will adjourn until 1.15. You are
45 excused for the time being, Mr Oueik.
46
47 MR WHEELHOUSE: Is that excused to a nominated time next

1 week?

2

3 THE COMMISSIONER: You will be here tomorrow.

4

5 MR WHEELHOUSE: Yes, I will.

6

7 THE COMMISSIONER: We'll tell you tomorrow. We just want
8 to make sure we get through this process and see what we
9 have got left.

10

11 MR WHEELHOUSE: Thank you, Mr Commissioner.

12

13 <THE WITNESS WITHDREW

14

15 AT 12.23PM THE PRIVATE HEARING ADJOURNED ACCORDINGLY

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