



Transcript of Proceedings

CRIME AND MISCONDUCT COMMISSION

MR R NEEDHAM, Chairman

No 5 of 2005

PUBLIC HEARING INTO GOLD COAST CITY COUNCIL

BRISBANE

..DATE 16/11/2005

..DAY 18

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THE HEARING RESUMED AT 9.50 A.M.

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PETER JOHN YOUNG, CONTINUING EXAMINATION:

MR RADCLIFF: Commissioner, I did ask Mr Young yesterday to produce two e-mails, so I might tidy that up, and there is one or two other areas that I just want to touch on, five minutes.

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CHAIRMAN: Certainly, Mr Radcliff.

MR RADCLIFF: Thank you. Councillor Young, I spoke to you yesterday about some e-mails. Were you able to locate them overnight?-- Yes, Mr Radcliff, I have.

Do you produce them? Could I see them please?-- I can. There are three.

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All right.

CHAIRMAN: Do you want to just remind us what these are about?-- Yes. These e-mails are correspondence from myself to Councillor Shepherd regarding my submission and in particular concerns he may have about statements I'd made-----

Yes?-- -----about a fundraiser he'd had.

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Yes, I remember that now. Thank you?-- That's for Mr Radcliff.

MR RADCLIFF: Could I look at them please, Mr-----?-- This is the copy for the chairman.

While they're being - we're considering them, Mr Young - sorry, Councillor Young, why did you publish an abridged version of your document?-- I'll just pass these, more copies along. I'll try to be brief with the answer. It probably demands a lengthy answer, but there was a lot of public concern about matters related to the lead up to the election and events thereafter. The - each month I'd publish a newsletter in the council's - in the publication that's made available to councillors and I also, by e-mail, distribute to interested people, people who have registered their interest generally, as being recipients of that - of a document. I provide to them a second newsletter, if you like, an unedited or an uncensored newsletter, and this month, instead of sending those people a newsletter as such I sent them a copy of the abridged version of my submission to the Minister.

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I ask the question again. Why did you censor it?-- Why did I censor it?

Yes?-- I beg your pardon. Well, I was very concerned about matters of defamation principally. I was concerned that it

may be - it had sensitive information in it and I was concerned that people might get wound up in those - in those sorts of issues rather than concentrating on the public interest issues. But I didn't - honestly, I didn't understand your first question as being what your second question-----

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The question is, why did you censor the document?-- Right.

Why did you not publish what we now-----

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CHAIRMAN: Is that really relevant to this inquiry?

MR RADCLIFF: I'm not going to take it any further than this one question.

WITNESS: Well, I think I've answered that now, Mr Radcliff.

MR RADCLIFF: You distributed it to a data base of 550 people, didn't you?-- It would be in that order of number, yes.

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In that order, yes. And you e-mailed it to 20 or more people who requested a copy?

CHAIRMAN: Mr Radcliff, you've asked a lot of questions about this before. I gave you leeway yesterday as perhaps in some very minor way going to the credit of this witness. I really think you've exhausted this topic.

MR RADCLIFF: I have now.

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CHAIRMAN: Thank you. Well, those three e-mails will be Exhibit 240.

ADMITTED AND MARKED "EXHIBIT 240"

MR RADCLIFF: Thank you. Thank you.

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WITNESS: And Mr Chairman, they constitute all of the correspondence I had with Councillor Shepherd.

CHAIRMAN: Thank you.

MR RADCLIFF: There is a document which Councillor Shepherd has created. Copies are being made available now. Could the witness please see this document? It's - it is a time line of the events relating to - sorry, could I substitute that with this document please. I'd just ask you to consider its content. And this is my last question, Mr Chairman?-- I've scanned this, Mr Radcliff.

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Well, you agree that that document reflects the record of events relating to your document which you published to the

Minister, Desley Boyle?-- I wouldn't want to be giving that kind of response, affirmative or negative, without giving it more study, but I do notice, for example.

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Yes?-- That you would need to distinguish between the original document that I submitted to the Minister and which she subsequently of her own volition forwarded to the CMC, and an edited version of the - or abridged version of that document. You've referred to them both in this or whoever's prepared this document has referred to both versions of my submission, if you like, as the dossier, and so there's some confusion as to which dossier or which document has been talked about, so that would really need to be clarified.

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Right. Mr Chairman, I propose to tender the document, even though the witness hasn't adopted it. It will be-----

CHAIRMAN: I'll take it as an exhibit.

MR RADCLIFF: Good.

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CHAIRMAN: Exhibit 241.

ADMITTED AND MARKED "EXHIBIT 241"

CHAIRMAN: Yes, Mr Pforr?

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MR PFORR: Good morning, I seek leave, Mr Chair?

CHAIRMAN: Certainly. Up to the microphone, thanks.

MR PFORR: Good morning, Councillor Young?-- Good morning.

Just a quick - a quick question in relation to the press conference that was held. I believe you've seen that photo before?-- Yes. You're referring to the article headed Fighting for Freedom.

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That's correct. Was held on the 25th of May - 25th of March just prior to the - two days before the elections. Just going through - I've spoken to Councillor Sarroff and also Councillor Crichlow on the stand and asked them these questions in relation to who invited who, and Councillor Sarroff gave us - led to believe that he invited some and Councillor Crichlow invited some and you did as well?-- Mmm-hmm.

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Councillor Crichlow has stated in the stand that the only person she invited was Peter Keech?-- Mmm-hmm.

I'm just wondering who did you invite?-- I don't recall. I actually had thought that I'd invited Mr Wayne but in

conversation with him, checking on this a couple of days ago, he - his opinion quite strongly was that it wasn't me, and beyond that I don't have any recollection.

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So, say, for example, Anne Bennett, do you know - do you know Anne?-- I think I met her once or twice during that election period but I don't think I even had her telephone number or anything like that.

You didn't work with her at any stage during her entire employment at the council?-- I wasn't aware that she been an employee until that election period.

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Okay. So you didn't help Anne Bennett with her campaign in any shape or form?-- We - if we talked it would have been, you know, for very brief periods, perhaps on site at the Jabiru - one of those Jabiru Island meetings that you recall. I didn't help her, no.

So you weren't her mentor or anything like that?-- No.

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Other examples, Jill Pead, did you invite her?-- No. Look, as I say, I don't recall inviting anyone. I thought that I had invited Mr Wayne but - so I - with regard-----

I'll just go through the list and you may-----?-- Yep.

-----refresh your memory at some stage whether you did or didn't?-- Sure.

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I understand that you believe you may have contacted Mr Wayne?-- Yes.

But you definitely didn't invite Anne Bennett and you may or may not have invited Wayne, John Wayne?-- No, I don't recall inviting anyone. I don't recall inviting Anne Bennett, I don't recall inviting Jill Pead, I don't recall - I mean, I don't think I-----

Guy Jones?-- I don't recall inviting Guy Jones.

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Susie Douglas?-- I don't recall inviting her.

Karen Coates?-- I don't recall inviting her.

Don Magin and Linda Brown?-- I don't recall inviting either of them.

Okay. So it sounds like, to me, that Councillor Sarroff must have invited all these people?-- I don't know. I just-----

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You're aware-----?-- What I do recall is an early morning conversation with Eddie. He was pretty fired up. He'd seen an article in the newspaper. I hadn't at that point in time. He said, "We're going to have a media conference, get down there, 9 o'clock," whatever it was.

I understand you're trying to elaborate but if we can just confine ourselves to yes or no or - I'll try and speed it up a little bit. Are you familiar with the article in the Gold Coast Bulletin on Boxing Day version only?-- Only as a result of these proceedings.

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And you're aware of some of those candidates actually turned up to that meeting on the 25th of March?-- I'd have to take your word for it because I don't have that article in front of me and I don't-----

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Well, I'll just read some of them that were there?-- If you want to.

Karen - Karen Coates, Don Magin, Linda Brown, and Di Jones, there was two others out of the six that weren't and there was two others who are missing out of the eight?-- Right.

And they had publicly stated that they were running a like minded or common sense campaign. You're aware of that, in the article?-- Did they say that?

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Yes, they did?-- I'm not aware of that.

I have - I have tendered that before?-- I'd have to take your word for it, Mr Pforr.

CHAIRMAN: Well, that's - that's a very loose paraphrase of what's said in the article, Mr Pforr. They say they wanted to take a common sense approach to council.

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MR PFORR: I take that point, Mr Chairman. I won't elaborate any further on it. I can take your point. So just getting back to that meeting?-- Sorry, which meeting?

The 25th of March, that particular one, with the press conference?-- The press conference, yes.

The press conference. Did any of the candidates arrive earlier and sit around and have a bit of a discussion?-- I don't recall.

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Just that I make a quick observation that there seems to be five glasses of water in front of Anne Bennett, Susie Douglas, yourself, Councillor Sarroff and Councillor Crichlow. There's no water in front of everybody else so I was just suggesting that - just an observation that maybe you'd been there for some time and you had sat around and talked for some time?-- I don't recall. If you want me to elaborate I will but you just told me you just want yes or no but-----

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That's fine. I just asked was there a meeting prior to the press conference?-- I can try to tell you what I do recall. I don't recall that.

Thank you. The e-mails from Conrad and Martin to the CMC, and I don't have a - I do have a copy - I think it's already been submitted, Mr Chairman. I think the - I don't know the

exhibit number but I know the reference on the top is 58290, this one, this particular document.

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MS HAMILTON: Exhibit 235, I believe.

MR PFORR: Exhibit?

MS HAMILTON: 235.

MR PFORR: 235. Could I just have a copy of that to be-----

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ORDERLY: 235.

MR PFORR: Please, and Councillor Young.

CHAIRMAN: Ms Hamilton, is there a copy of Exhibit 235? I don't have a copy.

MR PFORR: Just if you can go to paragraph 7 up the top of the page. This is page 2.

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CHAIRMAN: Page 2?

MR PFORR: Yes.

CHAIRMAN: Beginning with, "In addition?"

MR PFORR: "The matter of investigation according to the journalist", blah, blah, blah. Go to the last line.

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CHAIRMAN: Sorry?

MR PFORR: "Developers and Retirement Centre in July to August." In other words-----

CHAIRMAN: Sorry. I think both the witness and myself are having trouble finding that. In the matter of an investigation?

MR PFORR: 1, 2, 3, 4, 5, 6, 7. Above - above in addition, Mr Chairman.

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CHAIRMAN: The second half of the paragraph? Yes. Thank you.

MR PFORR: Just the last couple of lines in referring to the advertisements that were supposedly put in the paper between July and August 2004. I'll just refer you to those.

CHAIRMAN: Yes.

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MR PFORR: Where in actual fact, when you go down to the next paragraph, they were actually from 22nd May 04, not July to August. Would you agree with that?-- I'm just going to check because I have the actual dates and they were appended to a memo I sent to the Chief Executive Officer and it's not part of that Exhibit.

I think it may have even been April, but it was invoiced in May?-- In actual fact the payment was made on the 17th of June 2004 and the second payment was made 24th of September 2004.

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Yeah. I'm just referring to the actual advertisements that were held between July and August, according to paragraph 7, when in actual fact they were from May through to August?-- Right.

That I believe it may have been April when they were first done up. Do you concur with that?-- What - what I wrote to the CEO at the time was that the subject matter was really the fact that I had been approached by a journalist. Someone had - who presumably whoever had made the complaint to the CEO about my register of interest, had also advised a journalist. I thought there was some impropriety in that. So my chief - the chief objective of my memo to the - or email to the CEO at that point in time was, what's going on here, why are people divulging this sort of information? I gave him a broad range. I wasn't specific so I wouldn't, you know-----

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I think it's clarified later on in the next paragraph, the actual dates. That's fine. So, it took you nine months to bring this to the attention of the CEO, or it was brought to the attention of the CEO, nearly 12 months from the time they started, the declaration of the \$1,770?-- The first payment was apparently made on the 17th of June 2004. The Local Government Act doesn't require a gift of less than-----

-----three months, or something, isn't it?-- -----the Local Government Act doesn't require a gift of less than \$500 to be declared and so that first one there, I think, perhaps falls outside of that.

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So, you broke them down individually rather than the total-----?-- The subsequent-----

CHAIRMAN: Just let him finish answering the question before you come in with the next question.

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MR PFORR: Certainly, Mr Chairman?-- Subsequent payments were made September 2004 and as I said yesterday, my advice to the CEO was certainly late, yeah.

That's fine.

CHAIRMAN: So, you're saying you should have advised within a certain period of September, is that what you're saying?-- Well, no. By the time the September payments were made, sir, I should have also included - incorporated, or the payment for the June-----

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Yes, because by then it-----?-- It had triggered-----

-----went over the 500 limit?-- That's correct.

And how long do you have to put in the gifts?-- Three months.

Three months? So, it should have been in by December?-- That is correct.

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MR PFORR: That's all I was trying to make a point with, Mr Chairman.

CHAIRMAN: Yes.

MR PFORR: Thank you. I'll just refer you to page 1 now, if I could of that same document?-- Yes.

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In the last paragraph where it states, "July 2004."?-- Yes.

And it says, it starts off, "Last month regrettably I could not afford to publish this second non censored page", blah, blah, blah. Do you remember back with the Council remuneration package and the discussions at Council, that you and Councillor Crichlow stated that you were going to vote against the remuneration package and the pay rise, but you were going to use the money if the resolution got up, to fund your message out into the community?-- Yes, I do.

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So, have you done that?-- I'm not going to get into the matter of my personal finances with you, Counsellor Pforr unless the Chairman directs me to do that, but I had reasons not to be able to do so and what I've sought to do as an alternative is to provide the information via email to-----

So, at a full-----?-- people who have-----

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-----at a full Council meeting-----?-- registered interest. Pardon me?

-----at a full Council meeting, you and Councillor Crichlow stated that you would use the pay rise to get your message out into the community. Do you believe that is not misleading the public?-- Councillor Pforr, can you tell me when that statement was made by me?

MS HAMILTON: Mr Chairman, I object to this. It seems to have no relevance at all to the matters within the terms of reference.

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CHAIRMAN: Yes, I certainly can't see any relevance. Mr Pforr?

MR PFORR: I'll move on, Mr Chairman. On the same email, going back on page 2, down the last three paragraphs. You stated on May the 20th, 2004 that you amended your return from 3,000 to 5,000, but the date remained unchanged. Am I correct?-- No. I haven't stated this. This is the email from the Fraud Prevention Officer. That's what he's stating and that appears to be correct.

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I may refer through to my notes, but I thought there was a memo through to the CEO and there was an actual amendment. Just bear with me for a minute, Mr Chairman.

I have a copy of a memo here and I'll pass - pass it you and you can have a look at it. It's dated the 20th of May and it's an actual memorandum to Dale Dickson from yourself?-- 20th of May 2005?

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Four?-- 2004.

Yes?-- How did you get that - show me, please, because I don't have one here.

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I will - I will in a minute. I just want to refer to it. It's just stating that you've included your entry donation to Cater Corp for \$3,000 and the figure was incorrect and should be 5,000 and then attached to it you actually enclosed a single page of your whole gift returns and you've actually circled it, I believe this is your writing and you can clarify that for me as well?-- Sure.

Corrected to the 20th of May '04 and you've crossed out the 3,000 and put 5,000. So, the flag is on - on the actual gift where you've circled it?-- Okay.

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And two pages before is your actual memorandum?-- This must be on the - on the register, I suspect.

That's correct?-- Thank you. This is - the memo is an - to the CEO from myself, 20th of May 2004 in which I'm seeking to amend my interim return in keeping with Section 432 of the Local Government Act and what I provided to the chief executive officer was a copy of the interim return with a correction on the - in Section B where I've changed the value of gifts received from \$11,880 to \$13,880. I've indicated that was corrected on the 20th of May and on the following page, which is the list of the relevant details of gifts, I have against that entry for Cater Corporation, struck out the original figure of 3,000 and written in 5,000.

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That's fine, that's what I tried - so that is your writing?-- Yes.

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Right. Now, that was probably a couple of weeks after the final return was due in?-- No, this was-----

Just before?-- -----probably a couple of months before the final result-----

A couple of months before the final return?-- -----was due. So, the interim had to be done before we took the oath.

That's correct?-- And I can't recall the precise date that that had to-----

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I understand that, I just-----?-- -----be submitted.

-----wanted to clarify whether it was before you had your final return or after?-- Definitely before. This sought to amend my interim return and the subsequent final return contained all of the correct details.

Thank you?-- Or, I beg your pardon, with exception to the date of that particular cheque.

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Thank you very much. So, in your 2004 actual return, your final return, the one that you've amended or - no, actually you didn't amend your return, you amended prior to the return - final return, this is the only funding-----?-- Sorry, which document are you talking about?

10

Your final return?-- Final return.

Yes?-- Okay.

This is the only funding you've received?-- Yes.

Before the 2004 election?-- Yes.

Okay. So, you've not received any further funding before or after the 2004 election which you have not declared?-- Not relevant to the election, no. Only the gifts which are recorded in my gift register.

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So, you've declared all funding from all your elections?-- Yes, I have.

What would you say, Councillor Young - hang on, I'm just picking up on my notes, if I was to show you a copy of a letter that I submitted to the CMC as part of my discovery documents - I'll just give you a copy of that?-- Thank you.

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It's a letter to Desley Boyle?-- Thank you.

And you don't need - you can just have a quick browse over it. What I'm referring to is, what would you say if I was to say you had - I had a confidential information given to me in relation to funding that you received prior to the 2004 election that you haven't declared?-- Well, I'd be happy to answer that question but I'm just going to let myself look at this letter for a moment.

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That's fine?-- Thank you. So, this letter from yourself to the Minister for Planning says you've been targeted by a few mischievous Gold Coast City Councillors in that you've been told by developers that one of them - one of the developers contributed to Council Peter Young's election campaign some \$5,000 as a cash cheque handed to Councillor Young on or about Friday prior to the 27th of March election.

That's what I'm referring to Councillor Young-----?-- The developer donated this money as he has done before to other levels of government expecting his donation to be declared and so forth.

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That's fine. You don't need to read on?-- Oh, well, I think-----

That's what I'm referring to?-- -----I will, at least for - to myself, Mr Chairman. 1

Well, it's got nothing - I've referred no further to the-----

CHAIRMAN: You hand the document to him, he's entitled to read it.

WITNESS: This - okay. 10

MR PFORR: There was nothing further on the rest of that in relation to that but that's fine?-- Oh, well, you say this hearsay has been spoken about several times since and da da da.

Well, I've spoken - I've had several phone calls in relation to that and I'm not - am not prepared to-----

MR BODDICE: Well----- 20

MR PFORR: -----give the person's name in relation to this and I think the Chairman's ruled on that.

MR BODDICE: Well, Commissioner, there's either - Commissioner, I object. There's either a question or there's not in respect of this and there hasn't been one so far.

CHAIRMAN: No. I'm waiting for the question that you're putting to the witness. 30

MR PFORR: My question probably is, Mr Chairman, to Councillor Young, given the confusion in relation to the 3,000 and the costing out to the five, the confusion of the dates and the amendments as of latest, I think it's June 2005, when you amended the date from - from May to February on Cater Corp?-- May 2005-----

Potentially you could have other had other donations, whether it be 3,000, 5,000, you have not declared?-- That's a suggestion that I would have to reject absolutely. The - I did address the history about putting the wrong figure against that donation from Cater Corporation yesterday and there was no confusion about any other gifts or anything like that. 40

So, where did you get the 3,000 from?-- I can't - I don't know, I just wrote that down-----

So, could you have received a \$3,000 donation?-- No. No, all----- 50

There's confusion of the dates, there was confusion of the amounts?-- No, everything's been declared, Councillor Pforr.

I think you've stated yesterday on the stand that there was a fair bit of hostility towards John Fish?-- No, I didn't state that. I said perhaps there was animosity between us, not hostility from me.

And you told him to move on or something?-- Pardon me?

1

You told him to move on or something like that?-- No, I didn't say that. I said that perhaps a - a viable solution to the ongoing problems he and I were having in a personal sense, might be resolved somehow but that wasn't for him to move on.

Okay. Look, I've made a note here that you said, so much so I told him to get away from me. I haven't got the transcript from yesterday so I can't clarify-----

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MS HAMILTON: That's not my memory, Mr Chairman-----

CHAIRMAN: That's a very poor note of the - of the evidence yesterday.

MR PFORR: It wasn't.

CHAIRMAN: That's a very poor note with respect of the evidence that was given yesterday.

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MR PFORR: Okay, Mr Chairman, that's fine. So, this, well not animosity, you do not get on with Mr Fish, given that he had donated \$10,000 to my campaign outside the trust fund, independent and that which I declared, do you think that animosity might have - not animosity, dislike may have moved onto myself?-- Not at all.

So, in the council chambers when we took oath on, I think, it was Thursday before Easter-----?-- I just need to clarify, I've had nothing to do with Mr Fish for years. I can't recall the last time we've had a conversation, honestly, and any dealings I've had to do with him or any of his companies, have been entirely professional and I've sought legal advice about dealing with applications put in by one of - a company he was associated with a number of years ago. That information is on my register, it's there for the public to look at. There's no - whatever problems John Fish and I have ever had, doesn't boil over into any other aspect of my life, professional or otherwise.

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So, it hasn't boiled over to your opinion of myself?-- Of course not.

That's fine. So getting back to what I'd started to suggest to you back in - Thursday, I think it was, before Easter when we were taking our oath the first time - first meeting in council chambers?-- So are you asking me to recall this now?

Yes?-- We had a-----

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Can you remember back to that day how we were actually called into the room one by one in each division?-- Oh, at council chambers?

Yes?-- The swearing in?

Yes?-- I recall that meeting, yes.

Okay. So-----?-- I recall that occasion.

-----we came in from division 1 firstly, which was Councillor Hackwood?-- Yes.

And division 2, Councillor Power, then myself?-- Yes.

Councillor Molhoek and then you were next to be called in. Do you recall as you walked across the floor in front of the chamber of 14 councillors, a comment that you threw at me, "Fish Bob"?-- No, I do not.

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Well, I know Councillor Power-----?-- I don't see the relevance of it and I didn't say it.

-----and Councillor Molhoek heard it?-- I said "fish bowl".

MR BODDICE: Well, Commissioner, I object to that.

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MR PFORR: It is a statement. It is not a question.

CHAIRMAN: The part about Councillor Power, et cetera, yes, that's correct. You can't really put to this witness something that he doesn't know. It's fine to put to him that he said something, but that someone else - and then if he denies it-----

MR PFORR: Point taken, Mr Chairman.

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CHAIRMAN: -----to put that someone else heard him say that is not a comment that he can answer to.

MR PFORR: I understand. I apologise. So you did not make that comment?-- I deny saying it, absolutely.

Did you call any of the developers that are out in Hope Island in relation to potentially that I was aware of any funding that you had not declared?-- No, I did not.

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So if I was to say to you, Councillor Young, that John Fish had actually contacted me and said he was aware also-----

CHAIRMAN: Excuse me. What's the point of putting to this witness a conversation that you had out of his presence? He won't be able to comment on it.

MR PFORR: Well, I'll leave that line of questioning, Mr Chairman, and I'll move on. To another matter, if I may. Do you have any proof of any accusations against me other than that was reported in the Gold Coast Bulletin?-- Not aware of what accusations you're talking about in the Gold Coast Bulletin.

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I'm just asking you, are you aware of any accusations against me other than reported in the Gold Coast Bulletin?-- I don't - I'm not aware.

MR BODDICE: I object to the question. Unless there's some specifics to it, it's an unfair question.

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CHAIRMAN: That's - I find it difficult to understand the question. I don't want to hear about any accusations that you might have kicked your dog, or whatever. I only want to hear about matters that are relevant to our terms of reference. So it's not really pertinent to asking such a general question.

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MR PFORR: Did I contact you during the campaign over any issues?-- My recollection is you sent me one or maybe two emails.

And can you remember what they were in relation to?-- They were in relation to Jabiru Island and the development application that sought to establish a terminal there.

So there was just - that's the only recollection? Do you remember a letter that I sent to you in relation to the Hanford application that was before Council prior to the election, a subdivision to four lots?-- I don't recall.

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I think I may have submitted a letter to the Commission on that?-- Right.

There's my letter to you as a candidate-----?-- Good.

-----asking for you to fight that application, and I think it was eventually dismissed at Council prior to the election?-- Right.

30

What if I also said to you that I contacted your office in relation to some electoral boundary problems in relation to Champagne Drive-----?-- I recall that.

So I did contact you?-- Yeah. I recall that dealt with residents of Oyster Cove and I think it - I was copied into some correspondence that you had with someone else.

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So, in other words, as a candidate in that area I knew that there was going to be a complication in that area with that one particular street; people going to the electoral boundary - to the wrong electoral voting booths and things like that?-- That seemed to be a concern, yes.

And given that potentially the last election in division 3, for example, it was something like 12 votes that won or lost the campaign with the candidate and the current sitting member, it was important that this didn't cloud the issue in relation to the final outcome 'cause there - I think there was something like 47 houses in the street, so 12 votes at the last election could have meant either way?-- I'm not sure what your motivation was or your - what was going on in your mind, Councillor, but I recall receiving some correspondence from you about some residents in a street who had some confusion.

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So obviously I opened up, you know, trying to work with anybody at the time, previous councillors and all councillors?-- I - well, you certainly approached me. I can't answer for anyone.

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I actually made a statement, I think, in the submissions to the CMC where - when I was actually questioned at polling booths by residents who to vote for, I actually recommended you. Were you aware of that?-- No, I wasn't.

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Okay. You also mentioned, and I think in your statement, I think on page 3, that I had close links with Councillor Rickard. What close links for your information do you think I have with Councillor Rickard?-- I just-----

CHAIRMAN: Where you say in his statement, you mean in his interview the Commission?

MR PFORR: I think it may have been in his interview. I'll just have a-----?-- I'm going to first refer to my submission to the Minister and see if it's in there and perhaps-----

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If you would?-- -----you can look at something else.

CHAIRMAN: Well, is there a point that you're wanting to get to?

MR PFORR: I'm just asking him, apparently and according to his interview, that I had an association with Councillor Rickard or a close association with Councillor Power and Councillor Rickard and I'm just asking him what because-----

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CHAIRMAN: Well, do you-----

MR PFORR: -----it's news to me.

CHAIRMAN: Do you suggest you didn't?

MR PFORR: Yes, I do.

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CHAIRMAN: You know, is there some relevance that it's important?

MR PFORR: I do suggest that I didn't.

CHAIRMAN: You didn't, I see.

WITNESS: Mr Chairman, page 3 of my submission to the Minister, there is a reference that says - I've stated here, some of the new candidates e.g. Rowe, Pforr, had close links to existing councillors-----

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CHAIRMAN: All right. Well, you-----?-- -----Brackets, Power, Rickard. I haven't defined-----

Okay. Well, you're being asked did you have - above that-----?-- I didn't define who had a relationship with who necessarily.

All right?-- I don't think I've made an allegation there that you had a close relationship with Councillor Rickard.

MR PFORR: Well, the one I'm looking at, it says here, some of the new candidates, Rowe and Pforr had close links to existing Councillors Power and Rickard. Some had chosen links to individuals in the development industry?-- Yes, that's the section I just read and as I said, it doesn't necessarily translate that Rowe and Pforr had close links with Power and Rickard, it's - they're both examples of the two sub-sets, if you like, there.

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So, you're suggesting that possibly Brian Rowe had close links with Rickard?-- That maybe a suggestion I'm making. But what you need to be concerned with, I suppose, is that the association there that I'm probably referring to about yourself, is with Councillor Power.

So, you are believing that I have a close association with Councillor Power, prior to the election?-- That was my impression, yes.

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And you would have made that from my - my association through the water sports facility that was being set up in his division?-- Not that alone.

Could you elaborate on - how you came to that conclusion other than that?-- I would think it would be principally through the water sports. I was just aware of a certain relationship between yourself and Councillor Power in the lead up to the election. It seemed apparent from statements in the public arena.

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So, if I was to say to you, and I think I've done it in my statement in relation to Councillor Power, that my only association with him was prior to the election was to do with the water sports facility and I probably met with Councillor Power once when I went to meet with John Fish and - and at the first meeting at the quadrant?-- So-----

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So, I probably only had, on one hand, two or three brief conversations with him in relation to-----

CHAIRMAN: Mr Pforr, that's something that you could make submissions about to the Commission at the end of the day on the evidence. You don't need to - whether you-----

MR PFORR: I'll move on from that.

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CHAIRMAN: -----convince this witness of the correctness of it or otherwise is - doesn't really matter.

MR PFORR: I'll move on, Mr Chairman. I know you - you've ruled on this, Mr Chairman, in relation to the emails of the edited version of your website that was put onto Friends of Burleigh, actually one of the exhibits, I think it's Exhibit 238, the three emails, I actually supplied one of those and it

was to George Payne who's the secretary of Gold Coast North Chamber of Commerce and it was cc to Tony White, the president. So, obviously that - that email went further than the 550, I think, email addresses you suggested, so, what I'm suggesting is that it went further than the 500 emails. Would you agree on that?

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MR BODDICE: Commissioner, I object to this, we have reached the point where there has been latitude but this is really completely outside the terms of reference.

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MR PFORR: That was my only comment, Mr Chairman, I can move on from that.

CHAIRMAN: All right. Well, you're standing at the moment to ask relevant questions of this witness not to make comments.

MR PFORR: Sorry?

CHAIRMAN: You are standing there are the moment to ask relevant questions of this witness not to make comments.

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MR PFORR: Okay. You're - you mentioned in relation to the Hope Island LAP and the paragraphs, I think you quote - it's actually from the interview - interviewer, tape 1, tape 1 of 3 on the 6th of September, I believe and I think I'll just read the interviewer's question to you: "So, if I could ask you to summarise what your action - what action do you think that Councillor Pforr, just Councillor Pforr has undertaken to advance these development applications, bearing in mind what you've told me - just told me?" Can you list it, what - how did I advance and what was your comment? Could you just enlighten us a bit more extensively?-- Do you page number, please?

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I think it's page 19 of 19, second paragraph?-- 6th of September, Mr Chairman.

6th of September, tape 1 of 3?-- I think the answer to your question is actually within the statement. It's in the following paragraph and basically where I'm saying you've played an active part in supporting the review of the local area plan, you've also played an active part in supporting development applications on the Island, some of which have been - have involved considerable relaxations in the sense of yield.

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Can we just go through some of those? If I can rattle off a couple that have gone through the committee from day one?-- You would need to provide me some documents perhaps.

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Well, there's not a great deal-----?-- It depends on specificity of your questions, I suppose.

I think the debate in particular was great robust and I think we actually did a site inspection on one or two of them, so, I think they'd be quite fresh in your memory?-- When was that?

Well, I'll give you one example - before I go onto that, do you think a divisional council should be involved in an LAP review?-- I think it's highly desirable.

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You think it would be of benefit that the council is involved?-- If the public interest is being - is prevailing, yes.

Okay. So, I think the first application that I can remember came to council committee was the one at Sickle Avenue, Craig Gore's preliminary lodgement?-- Sorry, when was that?

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I haven't got a date with me here at the present time, but, it was a preliminary lodgement, first application. I was up late last night so I haven't got - I haven't got reference to the application. I thought it would be quite clear. It was a preliminary lodgement for Craig Gore, the densities were down, we actually went onto condition the application quite heavily on the corner of Sickle Avenue for pedestrian lights, movement under the bridge and then it further came back to committee over bonding; the Q100 access condition that was part of it, we actually bonded Mr Gore about a million dollars that came back to committee again. Do you believe that that was a dense - I mean, I went out in the public arena and stated the densities were down and we conditioned this and it was a good outcome and we said we needed Q100 access and then it - he challenged that, it came back to committee-----

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CHAIRMAN: Is there a question in this?

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MR PFORR: The point I'm trying to make, does he believe that application was dense and I'm saying it wasn't, so-----

CHAIRMAN: All right. Well, ask the question.

MR PFORR: -----I'm relative - relative to his reference to the LAP review that I was increasing densities and I'm trying to get an application that-----

CHAIRMAN: Mr Pforr-----

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MR PFORR: -----I actually increased density.

CHAIRMAN: Mr Pforr, Mr Pforr, please don't make speeches, ask questions of the witness.

MR PFORR: I'm sorry, Mr Chairman, Councillor Young made several speeches yesterday including a CV, I thought he was doing a political speech.

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CHAIRMAN: He's giving evidence, you're not. You're questioning him on his evidence. Now, I'm not wanting to stop you, if you want to ask him a question about that, do so, but, so far I'm finding it-----

MR PFORR: So, you have no - sorry.

CHAIRMAN: -----difficult to work out what the question is.

MR PFORR: So, you have no recollection of that occurring? You just have to take my word that the densities were down. Are you happy to do that?-- I'm sorry, I'd be happy to - Mr Chairman, I'd like to help, but-----

CHAIRMAN: What's happening is you're asking him about 15 questions in one and I don't know how he's going to answer them. Can you answer any of that?-- Mr Chairman, it seems to deal with a development proposal. All of the issues aren't before me and I don't recall it specifically. I'd like to help but without a document, an agenda to which I could alert myself about what the issues were with regard to density, I'm not going to make an admission to anything or deny anything, but-----

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MR PFORR: So, to the best of your knowledge you're not aware that the densities were down?-- I don't recall what application you're talking about, Mr Pforr, I'm sorry.

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I'll move on to another one. The Aurora site-----

CHAIRMAN: Excuse me. Can I just - excuse me, Mr Webb, I'm sorry, I realise it's often necessary to talk at the Bar Table but I'm finding it very difficult to follow the evidence.

MR WEBB: I apologise, Mr Chair, I wasn't aware of it. I suppose I should really - microphone-----

MR PFORR: Just the Aurora site, if we may, that was a previous Council approval up to six storeys over the Craig Gore site that was on sold to Australand, are you familiar with that?-- Vaguely.

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Okay. So, you are aware that there was approval above the LAP of three storeys to six storeys?-- I don't recall the details. I don't recall when that was approved or the details.

Are you aware in May 2004, I think the 11th of May 2004, that Australand put in application for a 10 storey building over that site?-- I'm not aware if that's the date they made their application, no.

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Okay, it's presently being played out in the media, in the arena of Hope Island as one of the key issues in relation to Hope Island, and a lot of the media attention has been focused around that 10 storey - and council's approving 10 storeys?-- There's a lot of public comment about things around Hope Island and I'm not going to distinguish between - between one and the other unless I've got the document. I'm sorry, I don't recall all of the specifics of various development applications that have been made, decisions made, and those that are pending without - yeah, I just don't have all of that full memory, Mr Chairman.

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Sorry, I'll just let - tell you that there is a 10 storey application and the council officers don't appear to support it, neither does the divisional councillor, and I've told that

to the public. I've actually written to the public. I'm quite happy to show you copies of these letters that come from the officer to myself and to the residents.

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MR BODDICE: Commissioner, again, this is a statement. No doubt the opportunity will arise later. There is no question and I object.

CHAIRMAN: Yes. Look, Mr Pforr, I'm wanting to give you some leeway on this.

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MR PFORR: I appreciate that, Mr Chairman.

CHAIRMAN: Can you - can you put to this witness what your assertion is? If you're wanting to suggest that what he has said in that particular paragraph from his interview it's wrong, then can you put to him the reasons why you say it's wrong to allow him then to comment on it perhaps that way. At the moment I'm finding it very difficult to work out what it is you're trying to say and-----

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MR PFORR: Well, maybe I can try and shortcircuit it. How many applications do you think have come across council in Hope Island that I have advanced over and above the LAP, that I have supposedly advanced? Because I've only got Sickle - the corner of Sickle Avenue and Grant, and Oyster Cove which was reduced in density-----

CHAIRMAN: When you say advanced, do you mean advanced - relaxations, do you mean?

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MR PFORR: Yes.

CHAIRMAN: For density, height, et cetera?

MR PFORR: Yes, yes.

CHAIRMAN: Okay, all right. How many applications do you understand have come forward?-- Mr Chairman, I don't think I've ever used the term advanced. I think the terms that I've used that you've played an active part in supporting the review of the local area plan and active part in supporting development applications on the island, some of which have involved relaxations.

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Well, do you know how many?-- No, I don't, sir.

This councillor has played an active part in supporting relaxations?-- It would - it would be in the order of four to six but that's-----

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MR PFORR: All right, sorry, Councillor Young, I beg to differ on that because really there's only been-----

CHAIRMAN: Well, can you put to this witness what you say the true position is.

MR PFORR: Yes.

CHAIRMAN: And allow him to comment on that.

MR PFORR: I put to you through the Chair if I may that Craig Gore's application on Sickle Avenue, the Grant Avenue and Sickle Avenue unit development was the only one, was the only one that had densities increased, and the Oyster Cove one is the only other application apart from the Australand reconfiguration of 42 lots which council knocked back, and where it actually went to a without prejudice meeting about one month ago. So really there is only one of those applications that are in my division that increased in densities and heights? And if I may add-----

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CHAIRMAN: Well, just one at a time. Can you comment on that?-- I would only comment to say that I'd be prepared to research the matter myself and provide a summary relevant to my statement. But I'm not going to - I can't attest that what you've just said is correct.

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MR PFORR: Well, as divisional councillor I should know what applications come for-----

CHAIRMAN: Well, again that's a matter of comment. Now, have you got another question?

MR PFORR: So LAPs are reviewed legally, what, every six years?-- Not necessarily.

You've made mention that it was outside the list of reviews and why was it brought forward I think, is that what you were hinting at?-- I advised the Commission that there was a schedule of work for the strategic planning section that had been adopted by council in 2003 and that the Hope Island LAP was not one of those tasks scheduled within that five year time frame and at two subsequent points in time, when the schedule was amended by council, neither of those amendments made reference to the Hope Island LAP, and I said that subsequent to the council election in 2004 all of a sudden we were dealing with advancing the review of the Hope Island LAP.

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So if I was to say to you that the gated community of Hope Island is trying to advance their own scheme of development and were out there trying to stop council from reviewing theirs, what would you say to that?-- I know nothing of it.

If I was to show you some documents in relation to the Hope Island scheme of development one is in reference to a figure map, scheme of development of Hope Island, it has two areas, one of 6,000 - about 6,600 square metres of shopping centre, and on the corner is a residential scheme or residential area, and I show you another document from their consultant showing they - and this was lodged to council on the 25th of January 2005 and I'm happy to show you the copies, where they are actually increasing the shopping centre into the residential area and they're actually increasing heights in that area-----

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MS HAMILTON: Mr Chairman, unless this is directed towards the issue of whether the LAP was advanced more quickly than it had planned to be, the review of it, I don't see the relevance. It seems to be going off into another area.

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CHAIRMAN: What is the relevance of this, Mr Pforr? I must say-----

MR PFORR: Well, the relevance is, Mr Chairman, that I believe I had a campaign waged against me out there on Hope Island and I have a letter here that was sent through to me that was letterboxed dropped around the gated community of Hope Island.

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CHAIRMAN: Yes, but be that as it may, what is the relevance of that to this hearing? What is the relevance of that to the implication, if I can use that term that was put forward by this witness, about the LAP not being on the schedule and then suddenly after the election it's coming forward. Is there some relevance in this issue to that assertion or is this something different in time?

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MR PFORR: If you can give me a little bit of latitude in relation to - if you're aware of the area out at Hope Island this canal has been in the - I suppose in the oven for about 15 years and nobody can guess in forward planning any relation to LAP reviews in this particular case. Now there's a lot of pressure being put to bear on this area of around the canal. There's applicants - the officers have led me to believe there's applicants coming into council requesting to go outside the LAP to raise heights to densities and we have no master plan. So it's quite-----

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CHAIRMAN: Sure. Look, I can understand-----

MR PFORR: So it's quite-----

CHAIRMAN: I can understand all that. Well, isn't that the point then you want to put to this witness? That there - whatever it is, the pressure that was brought to bear or whatever, as to the reason why the Council changed its mind and has brought forward this consideration of an LAP for Hope Island?

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MR PFORR: And I - and I believe-----

CHAIRMAN: That's more the matter that you need to put to this witness if that's what you assert the situation is and ask if he can comment on that.

MR PFORR: I believe I am, Mr Chairman and I believe also-----

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CHAIRMAN: Well, I don't think it's necessary for us to go into all of this detail at this stage. If you can put that to him, he might be able to answer it, the witness might be able to answer it or he might know nothing about it. If he knows nothing about it, it will affect the credit of the inference that he - or the implication that he has raised in his earlier evidence.

MR PFORR: Well, can I ask him this and you can correct me if I'm wrong, Mr Chairman, if an area like Hope Island is evolving at such a great rate, over and above Council's expectations, do you believe that a responsible method in which to - to bring forward a review of an LAP when an area is getting so much growth in such a short period of time. This area is evolving and don't you think it would be good to master plan that area?-- I think it is a good idea to master plan that area. Council, as you know, is under a considerable strain across the entire city with the rate of growth has not - has been sustained at a very high level for a long time and so we have very significant growth issues in Surfers Paradise, significant growth issues at Coolangatta and at Beenleigh and at Coomera and at Gaven and at Pacific Pines and anywhere else you might want to nominate and that's why Council determined a schedule to try to rationalise its efforts over a five year period. It tried to prioritise those efforts over that period knowing what resources it had available to it in terms of people and money and the local area plan for Hope Island, regardless of all of those pressures, did not appear on the list-----

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It may not have-----?-- -----and did not appear on the subsequent amended list.

It may not have appeared on the list but it certainly was there in relation to the infrastructure charges that were being placed on the land owners around the canal. So, Council would have been aware that this was coming up and has planned for it in such a way to the best of their knowledge. I mean, sometimes it takes 12 months to get a footpath in. This is something that's just - I've inherited, it's a growth spurt and I believe a lot of this was being dealt with prior to me coming into election. I think there was already officers-----

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CHAIRMAN: A lot of what was being dealt with?

MR PFORR: The review of the LAP. I believe there had been - officers had put in motion-----

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CHAIRMAN: All right. Well, put it to the witness.

MR PFORR: Councillor Young, I suggest that officers had put in motion already, prior to the election, a possible review of the LAP, given the potential of the canal coming through, the infrastructure charges that were going to be put on the canal landowners and I believe it was definitely started well before, so, I mean, I don't influence the officers in any shape or form.

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CHAIRMAN: All right. Well, ask a question again. Can you answer that?-- I'll try to, Mr Chairman. I don't think I've ever suggested you've influenced the officers. I need to make that straight. I'm not aware of officers seeking to review the LAP or preparing to review the LAP prior to the election. You've - you're telling me that that's the case now. I've not

been aware of that until this moment, and I have no evidence to confirm that that's the case. I think-----

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MR PFORR: Can I - the LAP process, it's a relatively lengthy process, isn't it?-- Yes, they are.

They basically go to a committee as a draft, they go up to the State Government, they come back for public consultation, they go back up for the second review, they come back down again, before it's adopted by Council and this can take 12 to 18 months, am I correct?-- Yes, it's a lengthy process.

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So, it's quite clear and transparent, isn't it?-- Yes, it is a clear and transparent process.

And I think the resolution reflected that, the final resolution of the adoption and I have a copy of it here but I think - I don't have the changes that Councillor Power included which was basically just topping it up and saying that we-----

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CHAIRMAN: Sorry, just get to the question, what - the final conclusion reflected the fact that it is a clear and transparent process, is that what you're putting?

MR PFORR: And that - and that a lot of public consultation will be done.

CHAIRMAN: All right. Well, I think-----

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MR PFORR: Am I correct-----

CHAIRMAN: -----the witness has agreed that it is a clear and transparent process.

MR PFORR: And were you aware also in a city planning committee meeting on the 5th of July, the urban design advisory body - board had actually felt it had a good traditional neighbourhood design, it was within the southeast regional plan-----

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CHAIRMAN: Well, we don't need to now debate whether the final LAP that was reached, if it has got to that stage, was a good one or not because that's going beyond the matter that's been raised.

MR PFORR: So, trying to summarise, apart from the LAP advancement and one development that was dense, I believe, and you're going to research it, I understand, what other areas have I advanced in Hope Island?-- Well, without undertaking that research or having that information before me, that's not a question I'm going to answer.

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Well, I can suggest to you that I haven't?-- It might - it might be pertinent to illuminate on the real issue of what I believe to be of relevance, Councillor Pforr, in that in my submission to the Minister I've stated that Mr Fish, through any of his company entities, has provided certain moneys to

yourself, to the commonsense trust and to candidate Mr Rowe; that Mr Fish owns significant parcels of land on Hope Island; he's the likely beneficiary of any changes to the Hope Island local area plan and without implying any wrongdoing on the part of Mr Fish, there is a grave public concern regarding the continued involvement of Councillor Pforr in matters related to the review of the Hope Island LAP and so forth.

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I can respect that, Councillor Young, but-----?-- And so what I've reflected there, if I might, is that public perception, that public concern which has been very obvious.

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And what I'm suggesting to - through the Chair, if I may, is that there have been outside influences getting that message out there, misinformation getting out there?-- Well-----

And can I go on to say that I have publicly stated that any application, particularly of John Fisher's, that I will stand away from on voting on and that the November forum that was held at the Hope Island Chancellor Resort, there was a map produced of all the landowners, colour coded and Mr Fish is one of 15 landowners of the whole canal area. I know he has substantial holdings and he probably sell some and buys some.

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CHAIRMAN: Well, Councillor Pforr, where's that taking us? This witness has never suggested that Mr Fish's companies owned all of the land in the Hope Island LAP area, so - but where is that getting us-----

MR PFORR: The-----

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CHAIRMAN: -----if there are in fact 15 landowners instead of one?

MR PFORR: Well, the media and - and the perception is that John Fish owns the whole Hope Island canal area-----

CHAIRMAN: Well, that might be so, but we're not here to correct media misapprehensions.

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MR PFORR: Fair enough, Mr Chairman.

CHAIRMAN: That's not my role. Write a letter to the editor if you want to correct it.

MR PFORR: They don't get printed, Mr Chairman.

CHAIRMAN: Well, I know how you feel.

MR PFORR: Mr Chairman, I think I've finished with that witness.

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MR FISH: Mr Chairman, I think, following on from Mr Pforr's and Councillor Miller's cross-examination, I think it might be best to get there over and done with-----

CHAIRMAN: Yes. I'm happy.

MR FISH:-----as quickly as possible.

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CHAIRMAN: Mr Fish, is it F-I-S-H or F-Y-S-H? I've seen it both ways.

MR FISH: I, Sir.

CHAIRMAN: I. Thank you.

MR FISH: Good morning, Councillor Young?-- Good morning.

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First of all, I'd like to ask you what is your relationship with Mr Cater?-- I don't have a relationship with him apart from the fact that he is the owner of a retirement village in Helensvale, which is within Division 5 and-----

That's your Division?-- -----that is correct, and I've obviously been the recipient of funds from him for my election campaign and subsequently in the sense of the funding of the - sorry, subsequently in the terms of funding those advertisements, if you like, or the second page in the newsletter which has been referred to.

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All right. So, Mr Cater has a development in your area, so that's correct?-- That's correct.

And a \$3,000 or \$5,000 donation that you received from Mr Cater, did you solicit that?-- I wouldn't - I don't recall I did, no.

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So, Mr Cater came and just said, "Councillor Young, here's \$5,000." Is that how it occurred?-- I don't recall.

Well, for somebody who has got such a great memory and has put together the so-called dossier, \$5,000, was that the largest amount that you were given as part of your campaign fund?-- Yes, it was.

Right. So, you don't actually remember how it occurred?-- There's probably a record of this, Mr Fish. Possibly, an email from his secretary or, but I don't recall. I don't recall approaching Mr Cater and asking him. It seems very inconsistent with the way I do things. I suspect that he would have been alerted to the fact that I was running for Council and he would have made an approach. Whether he called me up or his PA emailed me, I don't recall.

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So, out of the blue a cheque arrives for \$5,000?-- I didn't say that.

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Okay. Could you tell me how it did arrive?-- No. I don't recall if I was handed it or I received it by mail, or by some other means.

So-----?-- But it was a cheque.

Mr Cater has a development in your electorate-----?-- Yes.

-----And he is a developer?-- No. I don't - you weren't here yesterday, Mr Fish, but there's a distinction that I've drawn in my mind and I've explained that and am quite happy to do that again for your effectuation if necessary. I don't consider - I don't regard him as a developer. He has a single development interest and he's been on that project for years. He goes there every day. That's his - as far as I'm aware, and I've asked him, that's his only development interest in the city.

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So, I wonder whether I would - having only land at Hope Island at the time of the Gold Coast City election of 2004 and I go there every day and my offices are on-site and every day that I'm available for work on the Gold Coast I'm at my office, does that - is there a distinguishment there?-- Mr Fish, I've drawn a distinction between you and Mr Cater on a number of grounds. One of those being the size of the developments that you undertake. Another being the way you undertake it and the way he undertakes it and I believe Mr Cater has a very genuine interest in that very small community that he's been developing. He works very actively on a day to day basis with that community, that small community there and for various reasons, including those, I've satisfied myself that I can - I was relatively happy to accept his gift.

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So, are you suggesting that I fall on the other side of the ledger with regard to community responsibility, or caring for my neck of the woods?-- I don't know if that's a matter that's really of relevance here. I've formed a decision in my mind.

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I'll move on. Now, yesterday and I only have the transcripts that were reported in the Bulletin, but I believe them to be reasonably accurate. Have you read this to date?-- No, I haven't, Mr Fish.

Maybe if I've - Mr Chairman, please excuse me. But there was some questioning there regarding some information you received from Mr Cater and it says - this is you speaking as reported in the Bulletin. "I think this is important because of the timing, the relationship to the election, the tone, if you like." It goes on, "I think it became a hot topic in the development industry." I think you were referring to the infrastructure charges?-- Yes.

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That's correct. And it was promoted if the right people were elected into Council we might see a relaxation of the charges. Is that what you said, that Mr Cater told you?-- Yes. That's what I said.

All right. And then Mr Cater, this man that's got his small community minded development in the middle of your electorate, has then gone on to report to you, as you stated at the inquiry yesterday, and I saw it on TV this morning, "There had been an occasion when he was approached. You support the right people and blah, blah, blah. Now, seeing that you're the great defender of public perception, do you think that you may have drilled deeper in that instance, Mr Young? I mean, sorry, Councillor Young?-- I don't position myself, or

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represent myself as the great defender of the public perception, Mr Fish, so we'll get over that.

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It's one of your favourite lines, is public perception has been reported several times in this article in the Bulletin this morning?-- Well, I certainly think the public interest and the public perception are very, very important things.

Are they not one and the same?-- But they are not the one and the same and there are certainly other interests.

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So, what I'm suggesting to you-----?-- But I'm not the defender of-----

CHAIRMAN: Just hang on. You'd asked a question before-----

MR FISH: Sorry, Chairman.

CHAIRMAN: -----Which-----

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MR FISH: I just get excited some times.

CHAIRMAN: -----He was querying a premise involved in that question, but Mr Young has yet to answer the question, so perhaps we'll let - give him the opportunity.

MR FISH: Sorry, Councillor. Please answer the question?-- Thank you, Chairman. I think the question was, would - shouldn't I have drilled down into his statement. He said that it also told the person that had asked him that he felt that his community was being well looked after and that's why he was quite happy to support me. I don't believe we had much more of a conversation about that.

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The question was more along the lines, Councillor Young, was Mr Cater allegedly - you allege that he said to you that if you support the right people, blah, blah, blah. Now, I would have thought with your diligence in the way that you act with regard the Inquiry and putting a dossier together for the Minister, that you actually may have - I said drill deeper, you may not have understood that, that meant to actually inquire more or ask a further line of questions to inquire as to who said that they would be able to deliver these allegations?-- I addressed this briefly yesterday, Mr Fish.

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So-----?-- I felt that I didn't want to compromise him. I didn't want to put him in a position where he had to explain who had approached him, in what context that was. I had faith in what he said to me as to be the honest truth.

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Do you think it would be fair if the Inquiry was to ask Mr Cater himself as to his allegations-----?-- I couldn't answer for the - I couldn't answer for the CMC, Mr Fish.

-----and would that be outside the terms of reference?-- I couldn't answer for the CMC or the Chairman.

Okay, thank you. I'll move on, Mr Young. Now, in evidence yesterday you were talking about the LAP on Hope Island and it reports you in the Bulletin as saying, "The council had determined in 2003 a schedule, if you like, for reviewing local area plans over a five year period." It says, "He indicated that the review of the Hope Island was not in the schedule." That's correct?-- That's correct.

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And lo and behold, "all of a sudden immediately after the" - it didn't say lo and behold - "immediately after the 2004 election all of a sudden we were receiving agenda items about the review of the Hope Island plan." That's correct?-- That's what I said.

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Right. And then you were there to say that Councillor Pforr actively supported the request for a new local area plan at Hope Island and that he promoted the idea and you also went on to suggest an association between myself and other developers that were to become huge beneficiaries?-- I think you better give me the detail, Mr Fish. I recall this but not word for word and presumably you're going to ask a question that's very pertinent.

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I'm just - if somebody would - just to refresh your mind, Councillor, circled down there. I'll just continue on while you're reading it. Counsel assisting the Inquiry says, "You mean, Fish Developments?" and you indicated that that was who you were having the reference to, and you go on to further say, "Those developer interests also contributed to the Lionel Barden Trust Fund and also to Mr Brian Rowe, the candidate against myself." So it was a situation where a lot of money had gone into certain campaigns and that the local area plan was being reviewed quickly with potential benefits to those beneficiaries?-- That's in brackets, Mr Fish, and I don't know if that's what I said, that last bit.

30

Was that - it may have been the inference that came from your comments?-- I can't-----

And you then went on to say-----?-- I can't comment on that statement, Mr Fish. All I'm saying to you-----

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Can you speak up please?-- I can't comment on your comment because I don't know how they've created this.

This is like a case of Dumb and Dumber playing tiggy, you're it, I'm it, or-----?-- Mr Fish.

MS HAMILTON: I object to the sarcastic and badgering comments being made.

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CHAIRMAN: I didn't understand that one.

MR FISH: Well, I'll continue on, Mr Chairman. There is a perception that those who provided money to the campaigns did so that they might get a benefit is what you said?-- Yes.

Now what I would like to do is to - these documents here, minutes, they were done by the Gold Coast City Council, I'd like Councillor Young to inspect them please. I have two copies of - they're in chronological order?-- Is there two copies here, sir.

1

Beg your pardon?-- Two copies here, did you say?

No, I think there's only one copy. Now, if you go to the top sheet, Councillor Young?-- Yes.

10

And can you read it to me please?-- "Minutes of Hope Island Structured Masterplan Steering Committee."

Can you tell me the date on that article, Mr Young?-- 23 June 2003.

Can you repeat that please?-- 23 June 2003, Mr Fish.

Thank you. Can you give me the location?-- Gold Coast City Council Chambers, Nerang.

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Can you also read to me who was present there please?-- Councillor Rickard, the Chairman; Greg Young who was then the Director of - a council employee; Rob Alcock, a council employee; Kyman Hooper, a Gold Coast Council employee; Steve Harrison, likewise; Chris Netherway, likewise; Chris Stevens, likewise; David Montgomery, the city solicitor; Craig Gore from Aurora Developments; Michael Adamson, legal counsel for Aurora Developments; John Fish; Edwin Yu, spelt Y-U; and Gerard Casab.

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All right. Now-----

CHAIRMAN: Can you repeat the name of the committee, thanks?-- A minute - Hope Island Structure Masterplan Steering Committee.

Thank you.

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MR FISH: I'll go further into this, Mr Chairman. The reason being is Mr Young has made-----

CHAIRMAN: Well, just ask the questions. It's all right.

MR FISH: All right. Now, could you read from the agenda items? Can you read agenda item 2 for me, Councillor Young? On the top page please, to help you?-- Page 2? Sorry, or agenda item 2?

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Yes?-- It starts on the first page.

Yes?-- "Formation and Purpose of the Committee"?

Yes. Can you read it to me please?-- "Greg Young informed the committee that council was about to embark upon a process to develop a structure plan for the Hope Island region this week. For this reason the committee meeting has been brought forward

to today. Planning, Environment and Transport," which is a directorate of the council, "is responsible for conducting the process. Greg Young explained that the purpose of this committee was to ensure that a structure master plan was developed for the Hope Island region which complemented the standard of development being pursued by developers in the region," and so forth.

1

Now, that's just to bring you up to speed on that. That meeting was on the 23rd of June 2003, some nine months before the council election, and if you see that it was kicked off by the previous alderman who was involved.

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CHAIRMAN: Is this a question?

MR FISH: Yes, I'm-----

CHAIRMAN: Okay, sorry, I wasn't-----

MR FISH: Mr Young has sometimes been a little vague and I was just trying to help him, sir.

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CHAIRMAN: Thank you.

MR FISH: With-----?-- It's an assertion I reject, Mr Fish. Go on.

Well-----

CHAIRMAN: Mr Fish, look, it is better if you just ask questions of the witness.

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MR FISH: Okay. Well, does this come as a surprise to see that there was a Hope Island Structure Master Plan Steering Committee that was started at the Gold Coast City Council and of the people that were on the committee and the recipients of council, the participants from council?-- It does. I certainly don't recall any agenda item for any committee of the council or any information provided to me as a councillor which would inform me of the establishment of this steering committee or any of its deliberations or any of the outcomes of its deliberations, and it was in that context with that awareness or lack of awareness of this steering committee that I made comments in my submission.

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CHAIRMAN: Weren't you at that meeting?-- No, sir.

MR FISH: It's the other - it's Greg Young, another director, your Honour?-- Yeah, Mr Greg Young who was a director and-----

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CHAIRMAN: Greg Young is-----?-- He was a director of the economic development major projects director, a city council-----

He's a council officer, is he?-- He was.

I see, okay?-- Yes, sir.

Sorry, I-----?-- The only councillor present was the then local councillor, Ellen Rickard. I don't-----

1

And can you - sorry?-- Sorry, Mr Chairman. There - if this committee was established as a result of a council decision I'm unaware of that. It's not unusual for councillors to establish steering groups or committees or advisory committees, call them what they will, and for them to pursue particular outcomes with residents or other interests from within the area that they are representing. So-----

10

The - can you explain to me - I understand fully what a local area plan is but what's the structure plan that's referred to in there and is there any difference between that and a local area plan?-- I can only presume from just glancing at this, Mr Chairman, that the structure plan is very very similar to-----

A local area?-- -----a local area plan. And possibly - I know what has arisen through being aware of council decisions since the election that, yes, there has been a - a process of developing a structure plan which then will inform the local area plan.

20

Okay, thank you. Yes, Mr Fish?

MR FISH: So, Councillor Young, if you could go to page 2 of the first document and we'll go through them?-- Yeah, I notice, Mr Fish, these are documents from Mr Gore's office, it seems, at the bottom right of the document has the nomenclature, "MHA/Gore/Minutes GCC.Hope Island 23 June 2003." I'm not-----

30

Very good work councillor but-----?-- Are these-----

-----I was referring you to one-third page on page 2 please?-- Thank you.

CHAIRMAN: These are minutes-----

MR FISH: Minutes of-----

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CHAIRMAN: -----kept by Mr Gore's secretary or something are they - your understanding.

MR FISH: The understanding it says that this is the first meeting, one of nine.

CHAIRMAN: No, no, the minutes.

MR FISH: The minutes were prepared by a Michael Adamson at the first meeting. What we were doing was forming a committee, a steering committee.

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CHAIRMAN: That's okay, I'm not asking-----

MR WEBB: He's a solicitor, Mr Chairman.

CHAIRMAN: I'm only asking are these minutes - is Mr Adamson with Mr Gore?

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MR FISH: Mr Adamson works for Mr Gore as a in house attorney, sir.

CHAIRMAN: That's all right.

MR FISH: Okay. Page 2, councillor?-- Yes.

10

One-third down?-- Yes.

Reads, "Further it was resolved that, (a) major projects" - now major projects are who?-- That's a - a subset of the major projects and economic development directorate.

Right. So, they have standing in council?-- They are a group within council; council officers, yes.

Right. So, it reads, "Further it was resolved that, (a) major projects are to be involved in all facets of the committee's activities to the extent that the council is involved in the process. RA, which stands for Robbie Alcock, is to be the single point of accountability on behalf of major projects." And it goes on what was gleaned from the first meeting was a set of rules and for further invitees and attendees and who's - who would play what role in this structure, the start of the structure plan. If I could then refer you to-----

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CHAIRMAN: Well, is that a question? Are you able to - do you want to comment on that?-- No, sir.

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MR FISH: So, you were unaware of this completely, councillor?-- As I said to you the first moment I saw these, never been aware of the existence of this steering committee through council reports in the sense of its establishment or any of its dealings or any of the outcomes of it. That's my best recollection and certainly that's my - the basis of my truth when I prepared my submission and made comments about the Hope Island local area plan.

40

CHAIRMAN: Well, having seen that do you change your view in any way?-- Having seen this?

Yes?-- I can see that council officers were involved in that process, Mr Chairman.

MR FISH: And you also see the local area Alderman's name appear there and if you read on you see his willingness to chair every one of the meetings. Would you expect that to be normal?-- Well, I certainly have myself established groups - steering committees, call them what you like, and chaired many of them, with different purposes for different outcomes. I wouldn't expect every councillor to be aware of all of the dealings and as I'm trying to point out to you-----

50

That's exactly my point, Mr Young?-- What is?

You may not be aware of every dealings that happen within council 'cause sometimes there needs to be confidentiality in one part. Another time you're in Division 5, is it?-- Yes, we've established that.

1

So, you may not be aware of everything that goes on in Division 3?-- That's right.

I think we're seeing a little bit of that. Now, I'd like you to go on and find - just through to the next section.

10

MR RADCLIFF: If I can assist Mr Fish, should he perhaps tender these as individual exhibits or as one?

CHAIRMAN: Oh, well we can keep going and see whether we need them as individual or one.

MR FISH: In the efforts of trying to cooperate with being - bringing the time frame I'll just step you through, there's a meeting number 2, a meeting 3, 4, 5-----

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CHAIRMAN: If you-----

MR FISH: -----six, seven, eight and nine.

CHAIRMAN: -----step the witness through any parts you want to, Mr Fish.

MR FISH: What we might do is go right to the very back, councillor, please. Some, probably five pages in on the - on the - at the very back of your pile?-- The very last page, sorry.

30

Last page and then count back five pages if you could - four, sorry?-- Minutes of Hope Island's-----

Yes, that's-----?-- -----master plan - master planning committee, 18th of August 2003; is that correct?

Yes?-- Yes.

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Now, 18th of August 2003, again Room 5, level 1, Gold Coast City Council. Present, Councillor Rickard, Paul Herd, Steven Harrison, Rob Alcock, Noel Pearson, Chris Stevens, Michael Adamson, Ross Heatley, Adam Sliterate, Ian Janetsky, Matt Heldon, Boyd Sergeant and Edwin Yu. Now, just in the - to help you through this, Councillor, I'd say that this is resultant of weekly meetings that had started on June 23, 2003 and I know you haven't read everything but when you go through it chronologically you will see that it was resolved that there be certain people appointed and certain consulting bodies be employed to come back for a report for the council, which is all an orderly process. You would agree with that? That's what happens when you have structure plans and committees and external consultants are employed by the council?-- Yep, that would appear to be an orderly process, Mr Fish.

50

Thank you, Councillor. Now if you just turn to-----?-- But not one that council was aware of.

1

Oh, so council was not aware of this?-- To the best of my knowledge council was never aware of this. As I've said on a few occasions.

CHAIRMAN: Well, presumably the one councillor who was at the meetings was, but no one else?-- Yes, I meant - I meant the body corporate.

10

Yes.

MR FISH: Sorry, the-----?-- I meant all of the councillors, the council as a body corporate, a decision-making board.

I'd like you to just turn to page 2 please, Councillor, of the last Structure minutes?-- Those minutes?

Yes?-- Yes.

20

It starts, "Alan Rickard queried the outcome of the meeting between Boyd Sergeant," he's the consultant, a lead consultant employed by the council during this process, "and Parsons Brinkerhoff" who were employed by the council for transport, planning and infrastructure reports, and it goes on to say, Mr Chairman and Councillor, "Boyd Sergeant advised the committee that they've had some maps presented by Aurora, that they expect to have more around for comments from council officers, information is going to be presented to a committee at the council for scrutiny, and recommendations will be presented to full council for decision. Boyd Sergeant's preliminary report in relation to the following matters: Densities. Overall densities 40 dwellings per hectare; RD3 blanket across area; opportunity for RD1 to RD5." Can you tell me what "RD1 to RD5" means, Councillor?-- These are residential densities of different gradations, if you like, but I don't know specifically right now what the densities pertinent to all of RD1 through to RD5 are.

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Now they also refer to height, Councillor?-- Well, I don't believe so.

40

CHAIRMAN: Well, it logically follows, doesn't it?

WITNESS: It's - it's-----

CHAIRMAN: Once you get above a certain density you have to have height to accommodate it?-- There is - there is a certain - there is a-----

50

MR FISH: So I'll just quickly work through this, Councillor, for your information?-- There is a separate overlay map which dictates heights.

Great, thank you for your knowledge there?-- It's not necessarily integrated.

Transport is the next column and there's a list of particular infrastructure issues that need to be addressed, and finally down the bottom, Building Heights. There's a recommendation there from - this is the Parsons Brinkerhoff and Boyd Sergeant who was Planet Consulting. You'd know Boyd from the days in the council?-- Yes.

1

Do you respect him as a planner?-- I knew him when I was a private citizen. I think he may have been a councillor for a short time. I did have respect for him.

10

Thank you?-- At that point in time, yeah.

So from that inference you still have respect for Boyd Sergeant?-- You were just asking me about his employment as a council officer.

I move on. Building Heights. Can you read them out to me down the bottom there please, Councillor?-- There's a series of dot points, "maximum seven storey either side of Sickle Avenue, maximum seven storey around Transit Centre area, maximum seven storey east of Sheehan, maximum 10 storey on land holdings owned by Fish, Scheider, Newman's. In Crescent Avenue, Sickle Avenue alignments may require change to accommodate such height."

20

So where I'm coming from, Councillor, is this, is that-----?-- Yeah.

-----public perception is that out in the community due to misinformation that seems to be regurgitated time and time again, the public is seeing that you have linked a donation by myself to Councillor Pforr and then yesterday you indicated that immediately upon election that he proceeded down the line pushing a structure plan which was going to be delivering financial benefit to people that donated money to his trust fund or his election campaign?-- Is that a question?

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Yes. Did you get the question?-- I thought it was a statement. What I have said is that-----

40

Be careful?-- Pardon me?

I said be careful. You thought it was a statement, it was a question?-- Okay. What I have said is that the council immediately after the election started to receive agendas and separate from that I've said that Mr Pforr has always been supportive of the progression of those changes.

All right. On seeing what I have tabled to you this morning?-- Yes.

50

Do you wish to withdraw those allegations or to correct your perception now that you've seen that this process may have started well before Councillor Pforr's election?-- I'm certainly aware now that there was a process involving the local councillors and council officers and certainly some selected development interests of Hope Island in a formalised

process that, to the best of my awareness, had no imprimatur from the elected body of council. That work has been used as the basis for some work that at a later point in time was presented to council and at that point in time I've certainly become aware of a formal or legitimised process. I'm certainly still of the opinion that despite this the LAP schedule, the review of work to be undertaken by strategic planning branch officers, does not contain now or then any reference to Hope Island LAP review. That's the basis upon which I've made my various statements, assertions, whatever, and that hasn't changed. Nor has, as far as I'm aware - well, I can't really say what the public perception will be from this point in time, but in my opinion, I don't think the public perception will change if they're aware now more intrinsically that development interests were involved in this process, selected development interests more or less closed off from the public view, and the outcomes of those meetings-----

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Just stop you there?-- -----was a significant - I'm just talking about public perception. You asked me about that and I'm just offering an opinion. Sorry, Mr Chairman.

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CHAIRMAN: No?-- I don't think that public perception would have changed. If anything I think that public perception may be intensified that those - some of those development interests on Hope Island were actively involved in this sense and then the campaign funding sense, trying to achieve outcomes which might bring them some benefit.

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MR FISH: Councillor, I'll like to give to this to the Chairman so that he may bring himself up to speed. You'll see that the people on the committee were representing the other landowners and it was quite an in depth study so probably it might be best to read something there, Mr Young - Councillor Young.

CHAIRMAN: We'll take those.

MS HAMILTON: Well, Mr Chairman, could I just indicate. This witness knows nothing about these meetings or indeed the provenance of these documents.

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CHAIRMAN: You leave those there for the moment.

MS HAMILTON: Mr Fish is to be a witness within the next day or two. He may be a more appropriate witness to produce these documents.

CHAIRMAN: Well, we'll take them at the moment because they'll need to be in the record as the ones that this witness was questioned about, but Mr Fish will certainly have the opportunity to address them when he gives evidence and to be questioned about them.

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Just - those documents will become Exhibit - the whole bundle will become Exhibit 241, but just-----

MR FISH: 242, I think, Mr Chairman.

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CHAIRMAN: Thank you, yes. I'm looking at the document 241 and saying it. If I can perhaps, on what you say because it fits in with this witnesses evidence, that perhaps he should have the opportunity to comment on it. I'm just looking at the very first one, I don't know if it changed later, tell me if it did. Present were Councillor Allan Rickard who was the - obviously the local councillor on what you've said at the time. Greg Young, council employee; Rob Alcock, council employee?-- Kynwyn.

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Kynwyn?-- Yes.

Thank you, Kynwyn Hooper, council employee, well, I'll go through - there's four more council employees down to Mr Montgomery, there's Craig Gore from Aurora Developments, Michael Adamson for Aurora developments, yourself, Mr Fish, Edwin Yu, who is he? Do you know who he is, Mr Young?-- I believe at the time - at that time and I don't know until when but he owned property on Hope Island.

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You agree-----

MR FISH: That is correct, Mr Chairman.

CHAIRMAN: Is he a developer or a-----

MR FISH: Yes.

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WITNESS: And he was also a contributor to campaign funds.

CHAIRMAN: Yes, and Gerard Cassar, C-A-S-S-A-R, are you familiar with him, Mr Young?-- No, I'm not.

Mr Fish?

MR FISH: He's a real estate agent, sir, that helps Mr Yu's-----

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CHAIRMAN: Well, just while we're on the point because this witness made a comment which you seem to disagree with. You said there were community representatives, I'm-----

MR FISH: No, I said that there were representatives of - that I was acting for other landowners in the area, meaning that-----

CHAIRMAN: I see.

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MR FISH: I didn't say that we had community groups or that there was a subsequent-----

CHAIRMAN: Sorry, I thought you disagreed with this witnesses evidence that there were selected developer interest, was the term that he used. You don't disagree with that?

MR FISH: Well, that would be fair to say, sir, that there was selected development interest and in the context of it, possibly may have been well over 65 per cent of the available land in the area, so - and I had, under the Charter, responsibility to report back to the Hope Island Canal Association who was there representing as well as Bruce Newman who was a significant landowner.

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CHAIRMAN: Okay. But there were no-----

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MR FISH: The point I was trying to make-----

CHAIRMAN: -----other representatives apart from developer and representatives - landowner representatives?

MR FISH: It was a structured plan looking at infrastructure need requirements that would be able to bring-----

CHAIRMAN: All right. We'll address that perhaps in your evidence.

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MR FISH: Yes, fine.

CHAIRMAN: Yes.

MR FISH: Happy to do so, sir.

CHAIRMAN: So, that's Exhibit 242, thank you.

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ADMITTED AND MARKED "EXHIBIT 242"

MR NYST: Could we get copies of those? I know I've raised this point a number of times-----

CHAIRMAN: Do you need to ask me, you know-----

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MR NYST: Well, yes, because we're not getting them and it makes it very then to follow the evidence and then to be ready to cross-examine. Now, for example, Mr Fish is going to come along and we've never seen these documents, then it's not helpful for the free flow of the - of the proceedings.

CHAIRMAN: Well, you know-----

MR NYST: We're getting some but there's a - there's a bit of log jam it seems, so I'm just raising the issue-----

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CHAIRMAN: You might understand, Mr Nyst, that the people assisting this Commission have a lot of work to do. I'm sure they'll do their best to help you, if at any stage you're not ready to proceed, well, we'll address that problem at the time.

MR NYST: I've been trying to resist the need to do that and I understand that people are busy but, you've got to understand, we're busy as well and, for example, we're getting records of interview at 2 o'clock ready to cross-examine somebody at 2.30 or the proposition of going back in there to-----

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CHAIRMAN: All right.

MR NYST: Now, that-----

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CHAIRMAN: I'm confident in your ability, Mr Nyst.

MR NYST: But all I'm - and I'm not trying to lay blame here or have a slinging match with anybody, I understand people have got pressures, I'm just saying that we need to get these documents and I'd like it brought to the top of mind that they should keep flowing through so that we can get them quickly - and this is a good example of it because it's a-----

CHAIRMAN: Well, can I make the point openly that anyone who is going to produce a document to a witness here that might become an exhibit, it would be appreciated if that person could come along with the required number of copies. Now, I don't address that to you, Mr Fish, this is your first day here and you wouldn't be aware-----

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MR FISH: Hopefully my second last, sir.

CHAIRMAN: -----that we've - we've had it with other people, it would assist if people - the Commission I note is doing it every time. If other people, whenever they produce a document, can produce the required numbers of copies. Yes.

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MR NYST: I'll arrange for a copy, sir?

CHAIRMAN: Thank you. That's Exhibit 242, was it, I said?

MS HAMILTON: Yes, Mr Chairman.

MR NYST: Yes.

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CHAIRMAN: Yes, thank you, Mr Fish, you may proceed.

MR FISH: Moving on, Councillor Young, have you discussed the Hope Island local area plan with any member of Lang Walker's Walker Corporation?-- Not to my knowledge, no.

Have you ever-----?-- Meaning, I don't know any people from there.

50

Thank you, thank you?--If they've been in any discussions with me, it wasn't with my knowledge.

Right. Have you discussed the Hope Island local area plan with Tracey Hawkins?-- I don't believe so.

Thank you. Councillor Young, in your role as private citizen prior to your being elected as a councillor to the Gold Coast

City Council, how many objections to development applications would you have lodged in your time? Roughly, it - I'm looking for numbers, one, five, 10, ballpark figure?-- Between the period November 1994 to my election in March 2000, this is a real guess, Mr Chairman, 30.

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Could you repeat that?-- 30.

Thirty?-- Yes. Submissions to the Council above developments.

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How many of these actually went to trial?

CHAIRMAN: Hang on. You're saying submissions, was your question-----

MR FISH: Oh, well, I'm-----

CHAIRMAN: -----submissions or - or-----

MR FISH: My - no, objections to development applications, sir?-- I'm reading that as-----

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CHAIRMAN: Well, they're now called submissions?-- That's correct.

Yes. All right?-- There would have been 30-----

MR FISH: Approximately 30, sir?-- -----submissions maybe and how many of those ended up in Court, how many of those were appealed?

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How many did - how many of those objections did you participate in the legal outcome, councillor?-- In the sense of electing to become a respondent or becoming an appellant, six to eight, that's a real guess, Mr Chairman.

So, continuing on from that six to eight appeals that actually went to Court-----?-- No, that's not what I said, I said I elected to become an appellant or respondent by election to six or eight matters. They may have been resolved by consent without a prosecution, if you like, of all of the various matters before a Judge.

40

How many did you actually go to Court on, as in a trial, yes, as a respondent for Cassar?-- I think possibly three.

Were you legally represented at any of those trials?-- I think at one I was sort of represented.

Sort of represented? Can you explain what-----?-- I had assistance from a lawyer. I didn't engage him in the sense of paying. He was paid some money, but not the full commercial fees.

50

So, more of a friend helping you out to prepare your objection against the development as opposed he may have been a solicitor but he wasn't a solicitor as far as-----?-- He was - I think more or less helping me with the process, yes.

All right. So, you then went to the Court yourself?-- I'm really struggling with my memory here, Mr Fish, and I'm certainly not aware of what - how relevant this is to the terms of reference before the Commission, but the three-----

Did you represent yourself?-- -----the three cases that I - in my mind, I tried to pursue those at, you know, the bar myself, yes, and in some cases with the expert witnesses as required by whatever the parameters of the matters were.

10

Yesterday, it came out in your evidence that - and I'm reading from extracts from the Bulletin, so I hope that they were reported correctly, Mr Chairman. It says that, "Mr Pforr, in his evidence, spoke of"-----?-- Sorry, whereabouts are you?

-----Absolutely in the middle of the-----?-- Fourth column?

No, the third column, half way down. "Counsel assisting", it starts?-- There has been?

20

"There has been." Can you read that out, please?-- "Counsel assisting says", according to this report, "There has been some evidence given by Mr Pforr. Mr Pforr spoke of Mr Fish's dealings with you (over an environmental appeal and) he said (you) essentially offered you would withdraw the appeal if Mr Fish bought your house."

All right. And then you go on to say?-- "PY", is according to this report says, "This is an allegation I reject absolutely. I certainly had a conversation with Mr-----"

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Could you just stop there?-- Yes.

You've said, "This is an allegation I reject absolutely."?-- Yes.

All right. And then you go on. Please continue?-- "I certainly had a conversation with Mr Fish in November 1998." See I - I don't know if this is a very correct transcript, or record of what I did say, Mr Chairman, because I remember referring-----

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CHAIRMAN: Well, just read it out.

MR FISH: Just read it out because, look, this is what the public perception read this morning?-- Well, I certainly had-----

CHAIRMAN: I don't care if - about the public perception if the transcript is wrong.

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MR FISH: Sorry, Mr Chairman.

CHAIRMAN: Read it out in full and then make a comment as to whether or not you believe you said that?-- It says, "I certainly had a conversation with Mr Fish in November 1998. He and I were foes. By this point in time his company had

instigated a defamation case (against me). There was some
aggravation with us. The planning and environment matter was
with relation to a property remote to where I live.
Ultimately the decision was"-----

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MR FISH: Excuse me. Just-----

CHAIRMAN: Just, hang on. Please, let - let the witness read
it all. Thanks?-- "Ultimately the decision was made to reduce
yield on it and achieve a greater degree of open space. We
had a meeting or two meetings.

10

Sorry? So the decision was made to reduce what?-- Yield on
it.

Yield?-- That would be the planning and environment matter,
sir. "And achieve a greater degree of open space. We had a
meeting or two meetings." I think it's certainly an
abbreviated and editorialised version of what I really did
say, Mr Fish.

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MR BODDICE: Commissioner, it appears at pages 1566.

CHAIRMAN: I don't have the transcript, but is it - is it
basically accurate, Mr Boddice?

MR BODDICE: Well, it's - it certainly is a precis of it.
There's other bits in between.

CHAIRMAN: A precis? It sounded like a precis to me, in my
memory. Mmm. I must say I haven't looked at any of these
transcripts in the Gold Coast Bulletin to see how accurate
they are?-- Nor have I.

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MR FISH: Unfortunately I was watching the TV show this
morning and it stopped before any of this though. This was my
first chance to read it this morning, Mr Chairman, and so,
what we've got is that you've - Councillor Pforr has made an -
in his evidence, has said that you essentially offered to
withdraw your appeal in a planning and environment matter, and
I might say, when Councillor Young was a private citizen, sir,
so he certainly had the right to be there. In an area that
was remote, can you tell me what that was remote to your place
of residence? What the meaning was there?-- Geographically
remote. It wasn't connected physically in any way with my
property. I think it was 15 kilometres away.

40

Right. I'll be short, sir. What was your reason for
objecting in this case?-- The same as making submissions to
the Council about any other matter, the public interest.
Trying to achieve better outcomes, trying to achieve better
social outcomes, better environmental outcomes. I made
submissions to the Council about matters all across the city,
not just right next door to me, or in my neighbourhood.

50

So, I just happened to be in this instance somebody that was
just by random chance, a case you stumbled onto and took an
interest? That would be your-----?-- Not random chance, Mr

Fish. I would study applications to the Council, look at them, the merit of them and make a determination as to whether or not I'd make a submission as a private citizen.

1

Okay. So, in this planning issue, the application was for 185 units at Sickle Avenue, Hope Island?-- It was at Sickle Avenue. I don't remember the number of units that were the subject of the original application, or indeed how many were approved by Council at this point in time.

10

And subsequent to the application was made for 185 units and the Judge ruled on how many-----

CHAIRMAN: Mr - Mr Fish. I'm not wanting to go-----

MR FISH: There's a very, very-----

CHAIRMAN: Excuse me. I'm not wanting to go into the rights or wrongs of the development application or any of those sorts of issues. I think the only issue here is that it was brought up as a matter going to the credit of this witness as to whether he did make what could be termed to be an improper suggestion to you.

20

MR FISH: Or - yes, and-----

CHAIRMAN: And that matter, I'm perfectly prepared to allow you to ask questions on that issue.

MR FISH: -----that's just - we're going to go there very quickly, sir, but I put it to you, Councillor, that the application was for 185 units and the Judge put down in his judgment that it was approved for 185 units?

30

CHAIRMAN: Well, don't - don't bother answering that because really that's not relevant to this issue as to how many units there were, or whether it was approved or not.

MR FISH: It was approved and it was approved for the exact density. Now, going on. You said you absolutely rejected the allegation that was put forward by Councillor Pforr? Now, can you explain to me how you - you've said here in the - in your evidence, I'll read you the exact, your Honour, if you haven't seen this, but - just go to the paper there, down in the third line it says-----?-- Sorry. Third line where?

40

In the middle column. Oh, well, the third column down towards - it says - where it starts, "I do recall"?-- Yes. "I do recall we discussed the appeal. I said there was no way I wasn't going to pursue it." Shall I continue?

50

Right. So that's what your statement was yesterday. And then you go on to say-----?-- Yes.

-----quite interestingly, "The only way we can work this out is to get away from one another", and the paper reports that you had an interest in an adjacent property to one that I won next door to you at Cox Road, and it quotes - it says - this

is you speaking, "I'll buy your property and all I've got is \$600,000"?-- Mmm-hmm.

1

"Or you buy mine for \$1,000,000?-- Yeah.

Right. Now, remembering you are under oath, Councillor, I put it to you-----?-- And I was yesterday as well.

I put it to you - think very carefully about this conversation?-- Yes.

10

That three days prior to the trial that was held in the Planning and Environment Court at Southport?-- Yes.

-----before Judge Hanger, you rang me-----?-- Which matter was that before Judge Hanger?

This was the Sickie Avenue objection?-- I think that was before Judge Brabazon.

20

Was it Judge-----?-- I believe so.

CHAIRMAN: It doesn't matter much.

MR FISH: Okay.

CHAIRMAN: Move on.

MR FISH: Sorry. Did you have reason to phone me at my office at Jefferson Properties on the Gold Coast?-- Three days beforehand. To the best of my recollection, that would put it at about the 6th of November 1998, I think.

30

Three days, four days. Did you phone me at my office-----?-- I don't-----

-----Councillor?-- I don't have any record of that and I don't have any recollection of phoning you.

So you have no recollection of a conversation that you had with me suggesting that if I purchased your home for \$1,000,000, that you would withdraw your appeal?-- No, none whatsoever. No recollection whatsoever.

40

Can you state that again for me?-- I have no recollection whatsoever of offering to withdraw from the appeal if you purchase my property for \$1,000,000 or any words to that effect, Mr Fish.

I've no further questions. Thank you very much, Councillor.

50

CHAIRMAN: Thank you. Yes, Mr Nyst?

MR NYST: Mr Young, can I take you right back to the start of your evidence? You mentioned you were raising this matter of

the comment made in the lunch room. Can you remember what I'm talking about?-- Yes, I do.

1

And you said that you heard Power say words to the effect of, "And there should be some left for us." Do you remember that?-- "Some left over for us", or something.

"Some left over for us." Okay. Now - and you heard Shepherd say something to the effect of, "Sounds good to me"?-- That is correct.

10

Now, at that time, is it correct that you had no idea what they were talking about?-- I presumed-----

No, no, no-----?-- -----to know-----

-----I don't want you to tell me what you presumed. I'm just asking you did you have any idea? Did you know?-- I did not know.

20

Did not know. Okay. Well, let's go to the presumption now. What did you then presume?-- I presumed that they may be talking about the election.

You presumed that they may be talking about the election. And why did you presume that?-- At that point in time, there were - there was a lot of debate, discussion, in - between individuals and in the public arena about a deliberate exercise to organise a group of candidates to provide logistical and financial support to them-----

30

Okay. All right?-- -----that Councillor Power might be involved-----

I don't-----?-- -----and that Councillor Shepherd might be involved-----

CHAIRMAN: Well, Mr Nyst, you asked him-----

MR NYST: Hang on. Is that - well, this is going to flow a lot smoother - more smoothly-----

40

CHAIRMAN: Well, it will be if you allow him to answer the questions you ask, Mr Nyst.

MR NYST: Yes. Could I just say this, and I would like to-----

CHAIRMAN: Just excuse me before you do that. Can you please try to remember where you are at because there is a real danger that you should forget where you were at in answering your question?-- Thank you, sir.

50

MR NYST: Well, let him finish that and then we'll come back to discuss-----?-- There was certainly - amongst all that debate, Councillor Power was mentioned as being one of those players - principal players. Councillor Shepherd was recognised as a close ally, if you like, of Councillor

Power's. There was discussion about certain sums of money. There was discussion about the involvement of various individuals, Chambers of Commerce approaches to development interests. There was a great deal of information in the public arena and a great deal of information available to me from individuals, whether it be other councillors or members of the community who had approached me, which was beginning to formulate into a fairly - into a recognisable canvas, if you like - picture of what may be going on.

1

Finished?-- Thank you.

10

Sir, what I'm raising at this point is this. The answer, as I understood the question, was why did he think that that related to the election, and the answer started was, "Because there was a lot of debate about the election and the exercise." Now, we didn't really need to hear all of that regurgitated, and we've heard evidence ad nauseam about what the debate was, et cetera. All I needed to know was, is that the reason why he connected it with the election because there'd been this debate? Was he connecting it to the debate? Now, really, if we go on - every time I ask a question of Mr Young, if we go on with this sort of regurgitation of all of these sort of things, I can guarantee we will not finish next week. The responsive answer was-----

20

CHAIRMAN: Mr Nyst, look, I appreciate the need for expedition, but if it was as obvious as that, I wondered why you needed to ask the question.

30

MR NYST: Well, because-----

CHAIRMAN: But once you asked the question, the witness is entitled, not for your benefit, but for his benefit - he is entitled to give a full explanation. Now, I'm happy - if you don't want to ask the question, great. If you do want to ask the question, the witness has got to be allowed to give what he considers is a full answer to it of his explanation.

MR NYST: All right. Well, now that, Mr Young, was why you connected it with the election. Yes?-- Those various reasons and others, yes.

40

Sorry, is there more?-- For example, the way they curtailed-----

CHAIRMAN: Mr Young, you're not being challenged on the appropriateness of that-----?-- No, sir.

-----opinion that you formulated at that time. So unless Mr Nyst wishes to challenge you on that, I don't think we need to go through every last little one?-- No, just this one comment, sir. That the conversation was curtailed very quickly, and that gave me some cause.

50

MR NYST: But the debate was curtailed quickly. Yes?-- In a nutshell.

Anything else?-- In a nutshell, Mr Nyst.

1

Anything else?-- I'm sure there is but I'm not going to-----

Well, we've got the time, this is your chance?-- Well.

CHAIRMAN: Do you need the answer?

MR NYST: Yes, I do, sir. I want to find out.

10

CHAIRMAN: All right, okay.

WITNESS: Would you repeat the question to me please.

MR NYST: Well, is there anything else?-- No, sorry, the original question.

You connected this with the election, this comment about "And there should be some left over for us," and the response, "Sounds good to me," you connected it with the election. I asked you why you connected it to the election, you said, "Well, there was debate about the election," and we've dealt with that, and you said the conversation was ended quickly. Is there any other reason?-- I'm just reviewing my memory, Mr Nyst-----

20

Do that, yes?-- -----to ensure that there aren't other relevant or pertinent things I need to bring to your attention. I would say it was - that that generally sums it up.

30

That's it. Now was this an assumption that you made at that time? You immediately assumed it was to do with the election?-- I don't believe I made that immediate assumption.

When did you make that assumption?-- I can't recall. It may have been that day, it may have been the next day.

But that day or the next day?-- In that near time frame, I believe so.

40

And did you write it down? Did you write down what had happened?-- No, I did not.

Did you speak to anybody about it?-- Yes, I did.

Who did you speak to?-- I believe I spoke in that near time frame with Councillor Sarroff.

Yes?-- Possibly Councillor Crichlow.

50

And you told them this had been said and what you - what you suspected?-- Yes. It may have been within that couple of days' time frame, it may have been some time later, Mr Nyst. We often would hear separately individual things and try to bring them together and see if there was any substance, any relevance-----

I don't want to hear all this?-- Sorry.

1

I just want to know who you - who you said it to?-- Beg your pardon.

Yes. Who did you say it to? Crichlow, Sarroff, you think. Anybody else?-- At that point in time, no.

All right?-- At a later point in time certainly.

10

And who was - who did you speak to at a later point in time?-- At a later point in time I would have spoken with a journalist about this and numerous other things.

Sorry, you passed this on to a journalist, did you?-- I think I would have.

Who was that?-- It would have been possibly Murray Hubbard and Alice Jones as she was then.

20

And when was that?-- That would have been, I think, early March.

Early March when?-- I can't say.

Sorry, this happened in '04, didn't it?-- That's correct.

So you're talking about early March '04?-- That's to the best of my recollection, Mr Nyst, yes. I met with those two people because - not alone-----

30

This is Jones and Hubbard?-- That's correct. Because the - Councillor Crichlow and Sarroff and I in particular had a very significant concern, a very significant concern about the public interest.

Yes, all right, and so in March '04 you - through this concern you meet with them and you tell them about this comment?-- And many others, many others, and I think-----

40

This is the one I'm worried about at the moment, do you understand?-- I think that may have been mentioned at that time.

You're not sure whether it was mentioned?-- I've already said I wasn't sure.

You're not sure, okay. Anybody else that you spoke to about it?-- I can't recall, Mr Nyst.

50

Well, you didn't write it down at the time. Did you ever record it in writing?-- Prior to preparing my submission to the Minister I don't believe I did.

So the first time you committed this to writing anywhere was in your letter of the 8th of July 2005 to the Minister?-- I think that's correct.

You didn't make a note of it anywhere at all?-- I think that's correct.

1

Okay. Now, it is right, is it, that-----?-- It's a vivid recollection though, Mr Nyst.

It's a vivid recollection?-- Yes.

Yes. And has always been a vivid recollection, I take it?-- Some things like that are.

10

Pardon?-- Some things like that are.

Yes, I'm not worried about some things, I'm worried about this thing. This thing has always been a vivid recollection of yours?-- Vivid in that I can picture entering a room, seeing the two in conversation, hearing two lines like that.

Yes. You've told the Commission staff you vividly recall it. You used that word, haven't you, in records of interview?-- I would have to check the record of interview, Mr Nyst.

20

Okay. But you're telling me now you vividly recall it, you recall the comment being made?-- Well, my definition of vivid may differ from yours but that's what I'm saying.

Well, what is your definition of vivid? Vividly, you mean-----?-- Well, I just tried-----

-----"I have a clear recollection of the"-----?-- Do you want me to answer the question?

30

Just listen to me please, sir?-- Okay.

You finish talking. Are you saying, "I have a clear recollection of the statement being made as I was there in the room"?-- No, what I've said is my recollection is entering the room, the two gentlemen being there, them being in discussion, there being no other persons there, me hearing those words or to that effect, and the discussion being curtailed.

40

When you spoke to the Commission staff, talking about the comment, you said, "I didn't make a note of it, I vividly recall it." Do you remember saying words to that effect?-- No, I don't but I'm quite happy to look at my transcript and confirm that.

And you don't recall it. When I asked you a moment ago, I was talking to you about a note, making a note and you said, "I have a vivid recollection," or words to that effect, is that so?-- It was a singular incident. My interview, for example, with the CMC officers was for almost four hours. I don't recall every thing that I said.

50

No, no, look, I'm just - I'm just asking you what evidence you gave a moment ago?-- I thought you wanted me to-----

A moment ago did you say, when I asked you about whether you'd made a note, you said, "I've got a vivid recollection of it." Do you remember saying that?-- Mr Nyst-----

1

Do you remember or not-- -----forgive me for being-----

Do you remember or not? You may not. Do you remember it? Do you remember saying that to me a moment ago or not?-- Would you repeat the question please. The entire question.

10

Do you remember a moment ago or now a few moments ago when I was asking you about whether you'd made a note you said, "I have a vivid recollection of it," or words to that effect?-- Yes, Mr Nyst.

And you were talking, were you, about the comment that was made to you?-- I was talking about that occasion.

Well, one thing is very clear in your mind is that there was no mention of funding anywhere in that comment?-- That is correct.

20

And no mention of an election anywhere in that comment?-- That is correct.

No mention of developers?-- That is correct.

No mention of money?-- I've never denied or asserted those things.

30

Well, that's not right, is it?-- I've never indicated that there were developers involved or money was discussed or-----

Your dossier invites that implication, doesn't it? Invites that inference, I should say, doesn't it? It makes that very clear implication, doesn't it?-- No, I don't think it does.

Well, we'll come to it in a moment?-- I will refer to it if you like.

40

Pardon?-- Should I refer to it?

We will refer to it in a moment. Well, let's deal with-----?-- To answer your question more reliably or-----

I'm sorry?-- To answer your question more reliably should I refer to my document?

Yes, I'm saying to you we'll refer to it in a moment?-- Fine.

50

Okay. Let's deal with something else first?-- Very well.

Before we come to that. But in terms of the comment, in your interview with the CMC, and you were reminded of this yesterday, you said there should be enough money or words to that effect, didn't you?-- What page of the-----

I'm sorry, do you not remember this?-- I remember us discussing that yesterday.

1

Yes?-- That was in regard to one interview with officers of the CMC.

Yes?-- The matter was also discussed at a second interview with the officers.

Yes, and you were referred to it, weren't you, the fact that you'd mentioned money. Have you forgotten that?-- As I said, this matter was discussed at the two interviews and I just want to confirm at which interview.

10

Never mind which interview, I'm saying in an interview with the - the CMC, you put it as being there should be enough money left over for the rest of us, didn't you?-- Look, I'm going to refer to the document, Mr Nyst, because I don't want to answer a question which is out of context, so, please, can you-----

20

Mr Young, you referred to this document yesterday, you had it in front of you?-- Yes, but Mr Nyst, you're-----

You read it-----?-- -----question is about a very, very particular thing.

Yes?-- And I would prefer to look at the statement, thank you.

You were being questioned yesterday about this very, very particular thing, weren't you?-- Yes, I was.

30

Had - had the-----?-- And at that time I had reference - was able to make reference to the statement-----

Yes, okay-----?-- -----and I'm just requesting that now.

And you were being asked about it, you had reference to the statement and you saw it there, have you forgotten what was in it? Are you saying today I can't remember what I saw yesterday?-- I can't remember word for word the entire paragraph, no.

40

I'm not asking you about the entire paragraph, I said-----?-- Well, the words that you're referring to are within a paragraph and I don't want them taken out of context, Mr Nyst.

Are you saying to me that you now-----?-- is there some problem-----

50

Are you saying to me that you now do not remember whether you said to the Commission staff in a record of interview something to the effect of that your statement was there should be enough money left over for us?-- My recollection of seeing the document yesterday, that sounds about right, Mr Nyst.

It is, isn't it. Have a look at the document, it's page 17 of 18?-- Of - of which interview, Mr Nyst? 1

Line 661.

CHAIRMAN: Of which interview, the first or the second?

MR NYST: 17 of 18, I think there's only one 18 page in there?-- This is the 4th of August, Mr Chairman. 10

CHAIRMAN: Thank you?-- I think. No. Did you say page 17?

MR NYST: Page 17 of 18?-- Of the 4th of August?

CHAIRMAN: Yes, it is the 4th of August. It seems to be tape 3.

MR NYST: Line 661?-- Thank you.

"I just walked into what was then the councillor's room and Councillor Power and Shepherd were sitting in conversation. Power said to Shepherd, 'there should be enough money left over for the rest of us'" or something of that nature?-- Or something of that nature, that's correct. 20

Yes, but you used the word money, didn't you?-- Or something of that nature.

But this I suggest to you-----?-- I used the word money----- 30

-----sir, is - is quite characteristic of your approach to things. Now, we've heard you cross-examined about various matters by Mr Fish and Mr Pforr and so forth and you get to a point where you suddenly realise something and you say, well, I didn't - I didn't realise that, it might be quite different now that I've got this other information. But the reality of-----?-- I reject the assertion that-----

-----it is this, that you open your mouth-----?-- -----it's characteristic of my testimony----- 40

Just - just let me finish putting the proposition-----

CHAIRMAN: Well - just, hang on, you've got a premise in there.

MR NYST: Okay.

CHAIRMAN: In the question, so the witness is entitled to comment on that premise. 50

MR NYST: Okay?-- I reject the assertion that it's characteristic of my testimony to-----

Well, that's why I want to finish the question - I suggest that approach to things, whereby you say something without the facts and then meet the facts by saying, oh, well, I don't

know those facts, is very characteristic of your modus operandi. Do you agree with that?-- That's - no, I don't.

1

Disagree with that. Okay. Well, now, anyway, just going back to where we were, certain it is that you introduced the word money when you spoke to the Commission staff?-- On that first occasion and in the context of - or if you like, certainly amended or adjusted or - I'm just not thinking of the right word, but, I've used the term or words to that effect, so, I wasn't being definite about the words and I wasn't being definite about the use of the word money.

10

All right. Certain it is you introduced the word money into that version, didn't you, when you spoke to the Commission staff?-- I believe this to be a correct record of the-----

Yes?-- -----conversation.

And certain it is that you never heard the word money or any reference to funding or any other word that would suggest the involvement of money?-- That is correct.

20

Right. And there was absolutely no reason, I suggest to you, for you to relate the conversation that you say you heard, to money?-- Why do you say that?

I'd suggest there is just absolutely no reason at all for you to relate that conversation?-- Well-----

These people could have been talking about your local fishing hole, you know, we're going fishing this weekend, I hope there's some left for us when we get there, couldn't they? Couldn't they have been talking about that?-- I've already made it plain, Mr Nyst, that they could have been talking about a number of other things.

30

Yes, they could have been talking about a fishing hole, is that right?-- Yes.

Yes, they could have been talking about sandwiches in the lunchroom, oh, he's arrived, I hope there's enough left for us?-- That is correct.

40

Could have been talking about anything, couldn't he?-- And that's why in my submission to the Minister I haven't said that they said this for a particular reason or it was definitely about this particular thing and-----

Mr Young, let me take you to what you said in your submission?-- Yes.

50

What you said in your submission was in or about January - this is about page 4 of it, in or about January 2004 I personally overheard Councillor Power telling Councillor Shepherd that there would be enough left over for the rest of us and I therefore believed the remainder of the funds may have been used for the benefit of some councillors seeking re-

election without ever being declared. Those are the words you used, weren't they?-- That is correct.

1

You were directly implying, weren't you-----?-- No.

-----that these moneys had been secretly received and never declared?-- No, I'd reject that, I didn't imply that at all. I just indicated to the Minister my belief, and I'm entitled that, based on all of the circumstances.

10

What entitled you to have that belief?-- Just as you're entitled to believe that, you know, you're finished questioning in an hour and a-half.

You-----?-- You base that upon your best understanding of circumstances and facts that prevail at the time.

You walk into a room where two people are sitting, one says I hope there's enough left for the rest of us and you deduct from that, that must relate to money that's been secretly taken and has not been declared?-- Deduct is not a term I used, Mr Nyst, and I didn't do it immediately, as I said-----

20

You believed it as a result?-- In the - when I made this submission?

Yes?-- Given the information that I had available to me at that point in time, being, for example, that a certain amount of funds, a significant amount of funds from the Lionel Boden Trust Fund were unaccounted for, that I'd overheard that discussion and the various other matters I've already referred to - to you, such as the climate at the time, the ongoing-----

30

Yeah, we've heard all of that?-- -----public debate.

We've heard all that?-- Well, these formed-----

But-----?-- -----my - this - this was the string of consciousness that was applying at the particular time I prepared this document, Mr Nyst.

40

But what I'm suggesting to you is you weren't entitled - you were not entitled, I suggest, to connect those events-----?-- I didn't suggest at all.

-----in any way, shape, manner or form?-- I just indicated to the Minister, I had a belief.

Yes. Well, you formed a belief but not only did you form a belief which I put to you in my submission - I put to you that you weren't entitled to have, but not only did you form that belief but you published it, didn't you?-- I'm not sure why you'd say I'm not entitled to believe something, Mr Nyst.

50

Well, you're not entitled, I suggest to you, sir, you're not entitled to walk into a conversation where one man says to another, there should be enough left over for the rest of us and to infer from that, without any other references, without

any reference to money or funding or anything else, that any other reference to infer illegal behaviour on the part of those people-----

1

MR BODDICE: That's-----

WITNESS: I haven't-----

CHAIRMAN: Mr Nyst - Mr Nyst, that statement is not a true statement of what the witness has done here.

10

MR NYST: I'm not talking about-----

CHAIRMAN: The witness in - well, what you're taking out of here is you're not taking his statement here in its correct way.

MR NYST: What-----

CHAIRMAN: What he's done, on that page, in that dossier that you've referred to.

20

MR NYST: Yes.

CHAIRMAN: hat he's done is referred to the fact that they declared that there was \$150,000 received into this fund.

MR NYST: Yes, yes.

CHAIRMAN: There has been a declaration from four councillors that they received a total of \$127,567.38 of that money. In other words there is a discrepancy between the third party return and the candidates returns and that there is some extra amount of money that has not been disclosed. Now we know that's true, we know now, we know in fact that more than this was received. We know that 30 odd thousand went to Quadrant which has never been declared anywhere. We know that other money went to two negative campaigns that has never been declared anywhere. This gentleman didn't know anything about those, so he wasn't able to draw the inference that that extra money was utilised in those ways. He has put together the one piece of material that he had, namely the hearing of this statement, and he raises that there may be this explanation that in fact the leftover money went to councillors, the two councillors that he heard making that statement.

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40

MR NYST: And I-----

CHAIRMAN: Now, it's not fair then to say that he has drawn that inference only from that statement.

50

MR NYST: I put to him he was not entitled to draw that inference on hearing those two men.

CHAIRMAN: Well, and that's why I'm saying to you that that's unfair. He hasn't drawn that inference only from hearing that statement, he's drawn it from an analysis of the returns together with that statement.

1

MR NYST: Well, I submit the question is quite proper. If he wants to take it more broadly, that's fine, okay, he has already said-----

CHAIRMAN: Well, I submit - I suggest to you that the question isn't proper to say that he drew it only from that statement.

MR NYST: I said to him-----

10

CHAIRMAN: He drew it from the statement together with the discrepancies in the returns.

MR NYST: The question was you are not entitled to draw that inference from the fact that you hear two men in a room say that. Now-----

CHAIRMAN: That's right, and that's not the inference that he's drawn in that statement.

20

MR NYST: Well, he can say that, he doesn't need you to give that evidence-----

CHAIRMAN: Well, you're putting that to him that he has drawn that inference and you are misquoting his statement, that's-----

MR NYST: Sorry?

CHAIRMAN: You are putting to him that he drew that inference only from that statement-----

30

MR NYST: No, I was saying to him-----

CHAIRMAN: -----and I'm suggesting to you that that is a misstatement so-----

MR NYST: Look, I'll move on but I was saying to him-----

CHAIRMAN: Move on and put it to him in the way it is in that statement.

40

MR NYST: Yes. I suggest to you that on all of the material available to you, on all of the material, you simply were not entitled to draw that inference that these people were talking about that money?-- I didn't - it depends - hinges on the word inference, I suppose, Mr Nyst. I didn't - I've said I believe and are you questioning that?

Sorry?-- You - are you - is it - do you want to use the term I believe-----

50

Yes, I'm questioning your belief, the belief that you came to?-- Well, I reject your - you know, I think I was entitled to that.

See, you were dealing with people's reputations here, weren't you, Mr Young?-- Mr Nyst, the - your questions may be more

relevant in the defamation matter that your client is prosecuting against me so-----

1

Well, we've got to get one thing out of the way, I'm not - I'm-----?-- But I'll answer your question-----

-----in no way interested in the defamation matter, okay, Mr Young?-- I'll answer your question-----

Not in slightest interested. I'm asking you about your behaviour in making these complaints et cetera. Now it is correct, isn't it, that you wrote to the Minister implying that these people had taken secret funds and that they had not declared those funds. That's correct, isn't it?-- That's not correct, that is not correct.

10

That's not correct?-- I didn't imply that.

Pardon?-- I didn't imply that.

20

Were you - were you inviting the Minister to draw that inference?-- I was addressing to the Minister a very substantial amount of information across a very broad array of issues that I thought should enlighten her interest as the Minister for Local Government to pursue the public benefit.

I suggest to you-----?-- The public interest, I should say.

Sorry?-- I'm sorry, the public interest.

30

I suggest to you that this is a course you've taken before. An example would be one that we've seen here as at yesterday, you were making statements about Mr Shepherd receiving \$50,000 et cetera, that just don't have any factual basis?-- Sorry, you're suggesting that I - this is a course that I take? I reject that-----

Yes, I suggest that you're a person that simply takes the very lightest piece of factual material and makes statements that are not justified by way of inference from those facts?-- That's a suggestion I reject absolutely.

40

You - for example, as I said yesterday we saw the example of Councillor Shepherd's \$50,000, you were just wrong about that, weren't you?-- The-----

MR BODDICE: Well, that's unfair because that depends at which Point we're talking about the statement, because the witness yesterday was asked questions about the sources of that information at a particular time and subsequently obtaining information. It's unfair it should be split up.

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MR NYST: Well, I thought it was quite clear-----?-- Mr Nyst-----

Well, you made the statements about the \$50,000; you were wrong, weren't you?-- Mr Nyst, when I made the statements I believed I was right and I took-----

It's not - well, I don't care what you believed, I'm saying you were in fact wrong, weren't you?-- I made efforts to ensure that the information was correct-----

No, you were in fact wrong-----?-- -----but in - in regard to the dollar-----

Could I just get an answer to that question, then we can-----?-- In regard to the dollar item-----

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No, can I have an answer to that question? You were in fact wrong, weren't you-----

CHAIRMAN: Mr Nyst, I think he's trying to answer the question.

MR NYST: Well-----

CHAIRMAN: Are you saying in regard to the dollar amount, if you'll let him finish it I think you'll get your answer?-- Thank you, Mr Chairman. In regard to the dollar amount of \$50,000 and the dollar amount of \$30,000 it has subsequently been proven that I was incorrect at the time but I didn't know that-----

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MR NYST: Can you say the word "wrong"? You were wrong?-- I was given false information, Mr Nyst.

Don't worry about saying it, okay?-- But in the sense of there having been a function in May, in the sense of there having been received funds for an election, a re-election campaign, in the sense that tickets were sold and funds were received from developers, I was correct, and I based my information to the Minister on the best information I could gather at the time.

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You're not even willing to concede that you were wrong, are you?-- No, Mr Nyst, that is not correct-----

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CHAIRMAN: Mr Nyst, Mr Nyst, please-----?-- It's not correct at all. What if - what if-----

That's unfair. He's using the word "incorrect".

MR NYST: Yes, okay.

CHAIRMAN: Incorrect means wrong-----

MR NYST: Okay.

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CHAIRMAN: Why be pedantic about it?

MR NYST: But the reality of it is you're not even willing to apologise except in the context that you've been threatened with defamation procedures. You made that very clear in your answer yesterday, didn't you?-- No, that's taking things right out of context, Mr Nyst. If - have you seen the letter of

demand that was issued to me by Mr Shepherd's solicitors in regard to the defamation-----

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No, look, I'm just asking - I don't want to go into any of that, I'm just asking-----?-- Well-----

-----yesterday you were asked about an apology and you seemed to be quite pointed in your answer, "I've been told that if I don't apologise and it can impact on me somehow, therefore I'll apologise," is that your position?-- No, it's not.

10

MR BODDICE: Well, I object to that, that was not the evidence at all.

MR NYST: Well, perhaps-----

CHAIRMAN: Mr Nyst, is it really relevant?

MR NYST: No, well, I'm - I've got questions about this.

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CHAIRMAN: You did seem to be keen to do this quickly.

MR NYST: Yes.

CHAIRMAN: I'm not seeing much evidence of that now.

MR NYST: Well, I've got this ground I want to cover, that's all.

CHAIRMAN: Please move on and cover it.

30

MR NYST: Well - and I suggest this is your modus operandi. That you say things when asked for detail to support them, you fall away that detail. You're just not able or not willing to provide it?-- You're entitled to-----

You disagree with that?-- Oh, I disagree that - yes.

You went through some five hours of interviews in which you said all sorts of things to the - five hours of tape-recorded interviews?-- I believe it was more than five hours I was interviewed, Mr Nyst.

40

You said some dreadful things in there, I suggest. Some quite scurrilous things about numerous people?-- Did I?

Most of which can't be supported in any shape or form, I suggest?-- I reject that.

You reject that?-- You're entitled to present details to me if you like and we can address them.

50

Well, let me present details of another situation. Back in - do you remember back in 2002 publishing claims that - to this effect? "The rezoning of significant parcels of precious agricultural land in Coomera for residential purposes contrary to detailed investigation of planning has mysteriously without trace" - sorry, I'll start again. "The rezoning of

significant parcels of precious agricultural land in Coomera for residential purposes" - start again. You've published a statement in the local newsletter referring to the rezoning of significant parcels of precious agricultural land in Coomera for residential purposes, contrary to detailed investigation in planning and mysteriously without traces of how this occurred." Do you remember that report of yours?-- Yes, I do Mr Nyst.

1

And it came before the council, didn't it?-- What came before the council?

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It came to the notice of the council that these things had been published?-- Yes. Your client brought it to the attention of council in a general business motion.

Yes. And the council resolved, didn't it, to investigate the matter?-- I don't recall exactly what the resolution was, Mr Nyst.

20

And that was in August 2002?-- I don't have the documents in front of me. I have to take your word for that.

The matter was investigated, wasn't it?-- Something was investigated relevant to that. I don't exactly know what was investigated, Mr Nyst. I think the statement was investigated or - you know-----

The council officers came to you, didn't they?-- -----not the facts of the statement.

30

The council officers came to you, didn't they, asking you to provide details? Put up or shut up sort of thing. Isn't that right?-- Can you read to me the resolution of the council, please, Mr Nyst?

No, no, I'm asking you about your recollection. Do you remember these things?-- I don't recall the officers saying, "Put up or shut up."

40

But do you remember them saying that, in effect, "Give us some details. You've got this-----?-- I don't recall-----

-----this - this-----?-- I don't - I do recall having-----

Just let me finish the question?-- I beg your pardon.

You've got this allegation in the local newsletter. We've got the job of investigating to find out what it's all about. Can you give us some detail so that we can actually run it to ground and see whether there's been any misbehaviour? Weren't you approached by council officers in that respect?-- I was approached by council officers in respect of the council resolution, and the details of what they were seeking, I cannot recall. I don't know if they were asking for details of which properties, or upon what I'd based that statement. I don't recall what their investigation was, but I do recall an officer approaching me at some point in time.

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And you didn't come up with any details, did you?-- The - my recollection is I told the officer I wasn't going to inform him which property I was referring to in particular.

It was just another spurious, unfounded allegation that you'd written in the newsletter, wasn't it? There was no basis to it?-- There's very, very strong basis to it, Mr Nyst.

And yet they were chasing you for detail. You didn't come up with it. Is that right?-- I had been advised by someone in confidence that if I said a single word about this, it was very likely I was going to be issued a defamation writ.

10

It didn't make its way into the-----?-- And so I-----

-----to the-----?-- So I chose not to tell the officers-----

Just listen to me. Listen to me.

20

CHAIRMAN: Hang on.

MR NYST: No, I'm asking the witness-----

CHAIRMAN: I don't think the witness had finished the question before you came in with your next one.

MR NYST: Well, I object to that, but, anyway, I'm not going to argue again.

30

CHAIRMAN: I'm pleased that you're not going to argue it and you will not argue it, so answer the question?-- Mr Chairman, someone had - someone close to Councillor Power had told me that if I say a single word about this, I'm going to be sued for defamation.

MR NYST: Who was that?-- That was his personal assistant, Donna Gates.

Donna Gates. And-----?-- A person who I have very high regard for and her integrity.

40

Yes. Now, have you finished your answer?-- No. And so, at that time, I chose not to tell the officer which property I was referring to in that statement. But it's a statement I can substantiate, Mr Nyst.

Did you substantiate it to the Minister when you wrote your dossier?-- Did I make mention of this?

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Did you substantiate it? Let's start with "substantiate."
Did you substantiate-----

CHAIRMAN: Well, no, let's start with, "Did he mention it?", because if he didn't mention it, he wouldn't-----

MR NYST: Well, I'll come back to that in a minute.

CHAIRMAN: Well, let's take it in order. He wouldn't substantiate it if he didn't mention it.

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MR NYST: Well, let's short-circuit it You made absolutely no reference or suggestion of it, did you?-- Well, Mr Nyst, I'm just going to check. My best recollection of my submission to the Minister is I didn't mention this, but I'm going to check. If you're aware that I did, can you please refer me to it to save me reading 20 pages? I don't believe I did refer to it in the submission to the Minister on the 8th of July, Mr Nyst.

10

Because it's just rubbish, I suggest. It was just a whole-----?-- What was just rubbish?

-----lot of rubbish?-- What?

This thing that you wrote in the newsletter back in 2004?-- No.

2002, I should say?-- No, I reject that.

20

And I suggest that this matter went on and on and on in council until 23rd of January 2005 it was recognised by the council. The council, in fact, expressed its deep concern and disappointment at your refusal to provide any detail at all to the investigation of those accusations?-- That sounds like part of the resolution that was moved.

And it's just typical, I suggest, of the way you behave. You say something without any substance, and then when asked to be given the detail, you either give detail such that it's obviously rubbish that people don't want to even bring into Court in an inquiry, or you fall away from it entirely?-- Is that a question, Mr Nyst?

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CHAIRMAN: Mr Nyst, Mr Nyst, again, I ask you not to make comments drawing inferences like that as to why or why not counsel assisting chose to put matters before this Hearing.

MR NYST: I wasn't - with respect, sir, I wasn't trying to-----

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CHAIRMAN: There can be many reasons why matters were not determined relevant to put before this Hearing.

MR NYST: Perhaps I went too far in that respect. I wasn't going to cast any dispersions on the councillor.

CHAIRMAN: Well, it sounded very much like you were trying to draw an inference from the fact that particular matters were not addressed. There can be a number of reasons, and it's not really appropriate for you to go assuming what they are.

50

MR NYST: You say, Mr Young, you cast yourself as a whistleblower type, don't you?-- No, Mr Nyst.

You publish these uncensored newsletters putting yourself across as somebody that's telling the truth, the whole truth

and nothing but the truth that other people won't disclose to the community. Isn't that what you're putting across?-- I prefer to put it into my words rather than use yours. What I try to relay to the community through the use of the newsletter is information that I think is of interest to them in a - the sense that they are ratepayers, they are citizens of the city, that decisions that are made by the council, presumably, on behalf of those citizens, are of - pertain to matters that are significant either in a local sense or in a broad scale sense.

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I suggest that you when brought - I've already put this to you, but when brought to question - when you were questioned closely about these claims, you just are unable to provide any proper basis for anything that you're saying in these newsletters?-- Well, that's a statement I reject.

I suggest as a whistleblower you're - well, you're just a fizzer. When it comes down to people saying, "What's the detail? Give us the bang," as it were, all you get is the fizzle out in the way that you did with Mr Pforr about the \$50,000, Mr Fish, earlier on today. Isn't that right? You're a fizzer, aren't you; as a whistleblower, you're just a non-event?-- Mr Nyst, I've already answered your question with regard to the matter of being a whistleblower. I don't present myself or try to represent myself as a whistleblower. Your statement about me being an unsuccessful whistleblower and just a fizzer may collect some media attention, and perhaps that's your ambition, but really if you want to put to me specific facts I'll address those.

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Well, let's do that. You had some complaint about the voting trends, I think, in your evidence through learned counsel assisting?-- See, I note for example, Mr Nyst, you don't want to explore-----

No, I don't need you to add anything, sir. I don't need you to note anything-----?-- -----the statement made in my newsletter-----

40

You have counsel here. See this man here, Mr Boddice - now, he's going to have the opportunity to further question you. If there are things that need to be brought out, then you can do it through your counsel. Please don't do it through me. Just answer the questions and I'll be----?-- Just offering that opportunity for you to get-----

-----I'll be happy?-- -----to the truth, Mr Nyst.

Now, the voting pattern business, that was something you raised to the Minister as well, wasn't it, that you'd said that - you'd essentially been making the complaint that everybody was ganging up against you; isn't that so?-- I made no statement of the sort, Mr Nyst.

50

Have you got your document there?-- Yes, I have.

Can you go to page 4 of it. You'll see there's a heading there "The candidates professed to be independent but were not. Those who were successfully elected won their places by deception"-- Yes, Mr Nyst.

1

Now, under that heading of people winning their places by deception you deal with various things and if we go to the next page you'll see at about point 5 or 6 of the page you start talking about voting patterns; do you see that?-- That's correct, yes.

10

And this is an example or some sort of support that you're giving for the proposition that people, elected people, won their places by deception; is that fair?-- See, Mr Nyst, I wasn't talking about people ganging up on me as was your first assertion. What I've-----

No, no, I just - let's deal with it one step at a time?--
-----put to the Minister here-----

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MR PEARCE: But, Mr Nyst, that was the assertion you made to the witness. He's entitled to reply to it.

MR NYST: Sir, I asked a question just a moment-----

CHAIRMAN: Mr Nyst, please don't argue with me all the time. You did say to this witness that he was asserting that people were ganging upon him all the time-----

MR NYST: I know I said, that-----

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CHAIRMAN: You used that word. He's now reply to it.

MR NYST: I know I said that but-----

CHAIRMAN: Now, if you've finished, sit down.

MR NYST: -----I just asked the question-----

CHAIRMAN: Mr Nyst, will you stop arguing? Now, had you finished your answer on that point?-- No, sir.

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Well, will you do so now?-- If you don't mind I need the question again, I'm sorry.

There was a statement in amongst Mr Nyst's question that you asserted that people were ganging up on you-----?-- That's right.

-----as part of this voting pattern?-- No, that's correct, and what I was - my response was that what I've stated in this document doesn't make any reference whatsoever to people ganging up on me, certainly not in the context of how they vote.

50

Yes, thank you?-- Thank you.

Now, Mr Nyst, if you try to be careful in your questions and not make assertions that are not contained in the document, then we won't have that situation where I have to allow the witness to explain.

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MR NYST: I'm going to go on with that assertion because I'm submitting that that's exactly what it amounts to, but the question I had asked, if I could repeat the question I'd asked that he broke in on, you were dealing with this, weren't you, under the heading of people as a kind of support for or example of the proposition that people - elected people won their places by deception; isn't that so?-- No, that's not correct, Mr Nyst.

10

Oh well, explain to me-----?-- That's part of the heading that you referred to on the previous page, page 4. It says "The candidates profess to be independent but we're not," and I think that's probably a more relevant part of the subject - this subject matter perhaps pertains more to that.

20

Yes, but can I just put that in context. This letter is a letter of complaint in which you raised a number of complaints, and if you go to page 2 you'll see them there at the bottom; I don't want to go into the detail of them but you'll see them there. They're in dot points?-- Yes.

Right. And then by way of expanding on those dot points you took each one of those and made them a heading and spoke to them; isn't that so?-- It actually occurred the other way around. I made the submission with those headings and then I presented them in dot form.

30

Are you saying in a covering letter?-- The dot form came after the-----

Well-----?-- -----the bulk, if you like.

Yes, well, you're saying that's the way it's - how you put this letter together; is that what you're saying?-- That's the construction of it, yes.

40

But what I'm saying is the letter as it appears - it doesn't matter anyway but the letter as it appears, you talk on page - bottom of page 2 about the complaints that you have and then you go on under those headings to speak to those various issues?-- That's correct, Mr Nyst.

And one of the issues that you complained of was that the candidates professed to be independent but were not; "Those who were successfully elected won their places by deception"?-- There are two elements to that heading, aren't there?

50

Yes, there are?-- Yes.

But you didn't include them as two complaints. That was one to which you spoke; isn't that so?-- Yes, I have to admit to plagiarising from Mr - well, Professor Morris Daly's report

into the Tweed, I think these headings or what became the dot points were effectively lifted from his document, Mr Nyst.

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Okay. All right. Well, in any event-----?-- So those two are separate matters, if you like-----

Okay?-- -----but under the one heading.

In any event anybody reading those would find under that heading this claim that analysis of the figures show that when a voting division has been called Councillor Power, Councillor Grew, Councillor Shepherd, Councillor La Castra, Councillor Betts, Councillor Pforr, Councillor McDonald and Councillor Hackwood have voted together up to 99 per cent of the time?-- That's correct. That's what it states.

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Yes, that's what it states but it's not correct, is it?-- It is correct to say that an analysis of figures for that period of time showed that when a voting division has been called those people up to - yes, I believe it's correct, Mr Nyst.

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I mean, I think you spoke about Councillor Betts yesterday. He didn't vote with the others to that extent, did he?-- He didn't vote to the extent of 99 per cent but he voted up to 99 per cent.

He voted with the - with for example with Power less often than you voted with Sarroff and Crichlow, isn't that so?-- I don't - I don't know. I don't have the figures in front of me.

30

Well, those were the figures that you yourself were putting forward in that interview, weren't you, as relying on that - sorry, in that newspaper report that you exhibited?-- No, I didn't exhibit. With the submission, Mr Nyst, I also provided and made reference to it at the end of that paragraph a copy of the newspaper article so-----

That's what I'm saying. That's what I'm saying. Have you got it there?-- No, I don't.

40

That's what I'm saying, you exhibited to the dossier, you exhibited the newspaper report?-- I attached it, yes.

Well, the figures in respect of Betts put him voting with Power and the others at about 84 per cent, was it, or 78 to 84 per cent of the time, something like that?-- I don't - I don't recall but my statement's still correct but those people have voted together up to 99 per cent of the time. Some of those individuals.

50

What you were saying to the Minister in effect was - was this, that these people were ganging up on you, that you weren't getting a fair go in Council?-- Mr Nyst, that's a suggestion I have to reject again and I don't know why you're basing - I don't know what you base that on whatsoever.

Well, I-----?-- This is - this document isn't about me, Mr Nyst. This is not about me whatsoever. This is about the formation of an organised team of people who actively and deliberately deceived the public-----

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And Councillor McDonald for example-----?-- -----and what they had tried to do subsequent to that and my concern being that the public interest was being subverted. It's not about me, Mr Nyst.

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Councillor McDonald-----?-- And you'll see that at the very last line of this letter to the Minister and I'll draw that to your attention now if you like. I say to the Minister - you know, I surrender my future to your deliberation and it's not a laughing matter because-----

It's a lovely little self serving speech but have you finished your answer?-- It's not a self serving speech, Mr Nyst, it is the plain truth.

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Have you finished?-- I'm finished, thank you.

Good. Councillor McDonald, do you include her in this gang that's trying to subvert justice or whatever it is?-- Mr Nyst, she's-----

CHAIRMAN: Mr Nyst, if you keep adding comments like that you are going to make this hearing go twice as long as it needs to. Just confine yourself to saying he includes Councillor McDonald in this group. If you add that extra comment all you'll do is invite argument from the witness as to whether your description of the group accurately depicts what he is saying.

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WITNESS: Thank you, Mr Chairman. I'm certainly not trying to slow things down by having to argue these points-----

CHAIRMAN: All right. Well, just answer the question?-- -----but in response to the question if we can restrict to the - I'm including Councillor McDonald as one of those who voted together to 99 per cent of the time, yes, I've certainly written that, Mr Nyst.

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MR NYST: But it wasn't right either, was it?-- What, that she doesn't vote up to 99 per cent of the time with the others? What's not right, sorry?

Well, was that right, that she votes up to 99 per cent of the time with the others?-- Well, even if she votes 1 per cent of the time that's up to 99 per cent of the time but-----

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Yeah, but it's a bit misleading, isn't it?-- -----the reality - no, it's not misleading at all.

Isn't it misleading if she votes 1 per cent of the time to say look, she votes up to 99 per cent of the time with these other people?-- It's not misleading at all, Mr Nyst, and-----

I suggest it is?-- Well-----

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And I suggest it's misleading in the way that you have a penchant for misleading people, that you just make these grandiose statements and then when called to address the detail you disappear into thin smoke, a fizzer, you just - you fall away I suggest?-- Well, we've heard that before, Mr Nyst, and I rejected it then and I'll reject it again. What I've provided to the Minister here is a simple statement that is a direct quote from the newspaper article - which you've got a copy of - I provided the Minister the full copy of the article so there is no misapprehension on her part of what the document really says, I've just made a claim in the statement there that reiterates what was put into that newspaper article and it is - it is not a misrepresentation of the truth whatsoever.

10

The newspaper article refers to Councillor McDonald I suggest as being one of the most neutral Councillors?-- I don't have the newspaper article in front of me but I think the third paragraph says that Councillors vote up to 99 per cent of the time with each other.

20

Yes, but I'm saying - I'm talking about Councillor McDonald?-- I don't have the document in front of me, Mr Nyst.

Well, I don't care whether you've got the document - you went out and made this assertion about people voting together up to 99 per cent of the time.

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CHAIRMAN: Mr Nyst, you put to him that the newspaper article says something. He makes the comment that he hasn't got the newspaper article in front of him so in effect he can't agree or disagree.

MR NYST: But with respect, sir-----

CHAIRMAN: So if you want him to agree with you on that point put it in front of him.

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MR NYST: But am I not entitled, sir, to challenge him on this-----

CHAIRMAN: Ask him to assume that it says that and then make your point. Of course you're entitled to challenge him on making that particular statement but why get involved in all these little side issues all the time that are not necessary?

MR NYST: Well, the first point is that he made the statement but the other-----

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CHAIRMAN: Well, put it to the witness.

MR NYST: -----is that - sorry, just let me - if I can argue this point with you, if I may. The first issue is, is it not extraordinary that he would make these points in a complaint and now not have to - not be able to answer about that factual matter at all without going to the document?

CHAIRMAN: Of course it's not extraordinary.

MR NYST: All right. Well, let's go to the document.

CHAIRMAN: What, do you expect him to remember every one of these statistics within this document?

MR NYST: I accept what you say, sir, I withdraw it. Could - I don't know whether we have a copy - I think we do somewhere.

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MS HAMILTON: It's number 69 and it's Exhibit 3.

CHAIRMAN: Thank you. No, it's Exhibit 3, document 69.

MR NYST: Look, I'll just hand over a copy, Mr Chairman.

CHAIRMAN: Thank you.

MR NYST: Just have a look at - you'll see there Daphne McDonald is referred to in the third paragraph from the left, do you see that there? She's numbered there amongst the most - what they refer to whether right or wrong - the most neutral Councillors, isn't she?-- I'm still trying to find this reference, third paragraph?

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Third paragraph from the left just at the bottom?-- The Mayor voted?

MS HAMILTON: Yes.

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WITNESS: Thank you. Mayor voted with members from 80 to 89 per cent of the time, so on. Daphne McDonald and Suzie Douglas. It's talking about voting between the Mayor and those Councillors, Mr Nyst.

CHAIRMAN: No, the point is the most neutral Councillors including-----?-- Oh, okay. Sorry. This document - this article refers to those three Councillors as the most neutral, what about it?

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MR NYST: It refers to Councillor McDonald as being one of the most - it numbers her amongst the most neutral Councillors, doesn't it?-- This article refers to her as that, yes.

And that's a fact, isn't it, that she votes in any particular pattern?-- It's - I don't believe it's a fact that she's neutral, Mr Nyst, but on the other hand-----

Did she have anything to do with Lionel Barden so far as you know?-- But on the other hand I don't know if she necessarily votes in a pattern.

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Did she have anything to do with Lionel Barden so far as you know?-- Not to my knowledge.

Well, why did you put her in here under this heading about people who fund their places by deception?-- Because of my knowledge of their voting, Mr Nyst, over a period of-----

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Did you read the newspaper?-- Over a period of - what, in more than five years.

What are the facts about her voting? Do you know?-- My assessment of her voting on things-----

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Sorry, I just-----?-- -----is based on my adjudication on a day to day basis over a more than five year period.

But what are the facts about her voting, do you know?-- The facts?

Yes. Do you know what the numbers are?-- I don't know if anyone knows, Mr Nyst.

But you, I'm asking you, I'm not asking other people. You don't know, is that what you're saying?-- I've never asserted that I do, Mr Nyst.

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Well, why do you include her under this fairly - fairly indicting heading?-- Because the-----

Those who were successfully elected and won their places by deception, why do you - why do you include Councillor McDonald as-----

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MS HAMILTON: Mr Chairman, I'm loath to interrupt but the witness has already said twice that the heading includes the candidates professed to be independent but were not. The lead in to the paragraph to which Mr Nyst is referring, which he has not quoted to the witness, clearly refers to the fact these figures are given as an indication of the cohesiveness of the pro-development majority team. It is directed towards the issue of their independence, as the witness has said several times, yet Mr Nyst continues to put the issue about the heading referring to winning their places by deception. Perhaps if it could be put fairly, if the whole paragraph was referred to the witness.

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CHAIRMAN: My memory is the witness has said very clearly several times now that it relates more to the first sentence in the heading rather than the second sentence. But again it's an example of including in an aside in your question that it is either not correct or just invites argument from the witness and detracts from the actual point, the question you're trying to ask.

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MR NYST: Well, with respect, it's again an example of a question that is correct. The question was-----

CHAIRMAN: Sorry, an example of what?

MR NYST: A question that is correct. The question was, why do you include under this heading this reference to Councillor

McDonald? Now he has given an explanation as to what was in his mind when he wrote this heading and that's fair enough, we've heard that, that's evidence, it's on the transcript. What I'm asking him is, why did you include in this section under that heading these - these words.

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CHAIRMAN: Well, Mr Nyst, he's already - he's already answered that. He says he took these headings from Professor Daly-----

MR NYST: Well, it probably speaks for itself anyway, sir, I'm happy to leave it.

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CHAIRMAN: Well, you know, otherwise that's all we're going to get again is a repetition of what he's already told you.

MR NYST: You see, you've been, I suggest, drumming this recurring theme of people ganging up on you in council for a long time, I'd suggest?-- I'm not sure why we're referring to this ganging up. It's certainly not a reference I've made in my submission to the Minister or to my testimony here or in interviews with CMC officers. You're just dragging this in right from the outside and it doesn't make any sense to me, Mr Nyst.

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You've been talking about a caucus in council for years, haven't you?-- Have I?

Haven't you?-- Have I used that term, "caucus"?

I'm asking you. Have you?-- I don't believe so.

30

You don't believe so. You've never used the term "caucus" in council?-- I think I would have used the term "caucus", I recall seeing an article many years ago, I don't know if I was even a councillor at the time, but I recall using that term because it's not a term I use frequently at all.

No, but that was your claim back in 2003, wasn't it, that this is prior to the council that we're talking about at the moment, prior to the formation of what you've been calling the Power bloc and so forth?-- I may have used that term, yeah, pro-development majority, other terms like that.

40

Caucus, you used that term?-- Certainly not in this submission and I don't know - I don't recall using it in the context of the previous council, Mr Nyst.

Now I suggest that you have strong views and you're entitled to them about various things that come before council, don't you?-- I don't have closed views.

50

No, I didn't say closed, I said strong?-- I have - I have a strong philosophy, I suppose, not views, about matters that come to council.

And in many respects you're in the minority, aren't you?-- In respect of the elected council?

Both this one and the previous one?-- You might say that.

1

Right back before - even before you were a councillor there were things that you didn't agree with that councillors - that the majority of council believed?-- As a private citizen?

Yes?-- And me making submissions and to - about development proposals and pursuing them to trial or whatever?

Yes?-- I think there's many, many people in that category, Mr Nyst.

10

You're a minority. Quite often you're a minority opinion out there at the council?-- I'm not sure about your interpretation or - I represent a lot of people, Mr Nyst, in Division 5, about 42 or 45,000 and I try to represent their interests to the best of my ability. You know, I had a pretty strong mandate from the community in the 2004 election. My position on various matters before the council often sees me at odds with any number of the other councillors because-----

20

And they're entitled to move you, aren't they?-- Pardon me?

They're entitled to move you?-- All of the other councillors?

Yes?-- Absolutely.

Yes, and if they happen to be in a majority in their collective view and you're in the minority you lose out, don't you?-- Not I, sometimes it's the community that I represent or it's the-----

30

You lose out on a vote is what I mean?-- Well, obviously.

But see, your tendency is this, isn't it, that when you don't get your own way you start alleging that you're being bullied or - what was the - ganged up on?-- No, that's not my tendency, Mr Nyst.

Well, it's your practice I should say?-- It's not my practice either, Mr Nyst.

40

And you've been doing it, I suggest, way back at least as far as 2003?-- Well, I've already rejected it as a practice or whatever the other term you used.

When you don't get voted as chair of a committee you stamp your feet and refuse to be on any committee?-- No, that's not exactly correct, Mr Nyst.

50

But that's what you do, wasn't it?-- No, that's not what I did, Mr Nyst. I did not stamp my feet and it wasn't in the context that you've just presented.

I mean by that just that you were acting petulantly, you threw a tantrum, you know what I mean, I mean figuratively speaking?-- Well, if you mean that you should ask the question.

Pardon?-- If that's what you mean ask the question, don't say I stamp my feet.

Well, I'm-----?-- You'll save time, Mr Nyst.

I'm saying that you, to use these figurative terms, stamped your feet, threw a tantrum, spat the dummy, whatever you like, but you acted petulantly-----?-- I've already - I reject all of that.

-----and decided that because you couldn't have your own way you were not going to play, you were going to take your ball and go away home, that-----?-- No, well, I reject all of those terminologies, Mr Nyst.

Okay. Sir, would that be an appropriate time? I've got another matter.

CHAIRMAN: Yes, thank you.

MS HAMILTON: Mr Chairman, could we get an indication of time just before we adjourn because of other witnesses? Anybody who's left, could they indicate how long they'll be?

MR DE BATTISTA: Chairman, I am going to cross-examine. At the moment I only anticipate taking 15 or so minutes, however some of the matters I intend to cover are being covered by Mr Nyst so really can't hear anything more accurately.

CHAIRMAN: Sure. It would be no more than 15 or 20.

MR DE BATTISTA: Certainly.

MR BARTLEY: I'm also proposing to cross-examine again, 10 or 15 minutes.

CHAIRMAN: Mr Bartley, isn't it?

MR BARTLEY: Yes.

CHAIRMAN: Yes, and you're for?

MR BARTLEY: For Mr Ingles and his group of companies.

CHAIRMAN: Thank you.

MS HAMILTON: Thank you.

MR WEBB: I can't give you an estimate because I've been watching how the witness has been going. I don't know how long I'll be.

CHAIRMAN: I can assure you, you won't be too long, Mr Webb. 2.15, thanks.

THE HEARING ADJOURNED AT 1.02 P.M. TILL 2.15 P.M.

THE HEARING RESUMED AT 2.20 P.M.

PETER JOHN YOUNG, CONTINUING EXAMINATION:

CHAIRMAN: Yes, Mr Nyst.

10

MR NYST: Mr Young, could we move on to your evidence regarding infrastructure charges? You said, in evidence, to counsel assisting, that people were trying to wind them back or put a stop to them altogether. Do you remember saying words to that effect?-- Yes, Mr Nyst.

And by those people, do you mean developers or do you extend that beyond there?-- People with development interests in a more general sense.

20

Development interests? You'd received, there had been some lobbying, I think you said?-- Yes.

Is that right? Lobbying - I think you said, the Council and Mr Power, did you?-- Yes.

Now, that lobbying was in the form of some written submissions, wasn't it?-- My understanding - it wasn't restricted to the written submissions I've seen.

30

It was not restricted to that?-- My understanding is it was not restricted to those written submissions, Mr Nyst.

All right. In what other form did it come?-- Councillor Power, for example, informed the Council that he had been lobbied intensively. It was - I don't know if he specifically said that was in writing or by telephone conversation, but he just made that in a general sense and the only written correspondence we were provided with was a number of - a small number of letters.

40

Okay. And that lobbying that he referred to, do you remember what it was all about? Can you remember? Did he tell - did he tell you - the Councillors what he'd been lobbied about?-- Well, about the infrastructure charges, yes.

Yeah?-- More specific than that?

Was there anything specific than that?-- I don't recall exactly. I couldn't - I don't recall, Mr Nyst.

50

Do you recall whether P Power ever mentioned being lobbied about a phasing in recommendation? A recommendation to phase in the infrastructure charges?-- I would certainly associate that kind of argument with Councillor Power, but at what point in time-----

Okay?-- -----in the history of events, I don't know he would have made that claim.

1

All right. Well, and you, the Council generally were lobbied, weren't you, about - about bringing in a system of phasing in these infrastructure charges?-- I don't recall personally being lobbied, Mr Nyst, and I can't answer for Council in general, but I think I indicated that I was aware that Councillor Power had received letters and they had been received by the Chief Executive Officer.

10

Yeah. But those letters that were sent to the CEO, they were tabled, weren't they?-- That's correct. That's why I'm aware of them.

You got to know about all of that. This was part of the process of you Councillors informing yourselves about the issue and how - and finally coming to a decision?-- Those documents were provided to us some months after they had been received by the Council - by the CEO and the - and Councillor Power.

20

And Councillor Power?-- I believe so.

Sorry, why are you saying - are you saying the letters went to Councillor Power?-- I think one of the - at least one of the letters that we saw, at some point in time, was addressed to Councillor Power, yeah.

Have you got that here?-- I may have. Just give me a moment. Thank you.

30

All right?-- I'm sorry to keep you, Mr Chairman. I don't appear to have those documents here.

Are you sure that - that such a document exists?-- A letter to Councillor Power?

Yeah?-- I couldn't say 100 per cent, Mr Nyst.

40

All right. But look, in any event, in that lead up to making the decision on the infrastructure charges you became aware of vested interests making representations to Council, or people associated with the Council, on this phasing in issue. Is that fair?-- Yes, Mr Nyst.

And did that include a representation from the urban develop - Urban Development Institute of Australia?-- I don't recall.

You don't recall?-- Specifically.

50

And what about the Property Council of Australia?-- I don't recall that specifically.

Okay?-- I believe both of those parties had representation on the - on the Advisory Committee which had been established quite a deal beforehand and it had been responsible for

reviewing and ultimately recommending to the committee - to the Council that we adopt the infrastructure policies.

1

Well, they would be proper people to be on such an advisory Council, wouldn't they?-- Amongst others, yes.

Yes. Okay. But is it fair to say that it was no part of any of the submissions that came to you, or to your notice, that anybody was trying to stop the infrastructure charges altogether?-- My recollection of the Council meeting, just immediately prior to the election, in March 2004, was that, yes, there was an attempt to put a moratorium on all charges.

10

Okay. And I'll come to that in more detail, but is that what you're talking about when you talk about trying to stop the infrastructure charges altogether?-- Yes, Mr Nyst.

I mean, you actually can't - you couldn't stop them, could you? You were legislatively required to impose these infrastructure charges, weren't you?-- I couldn't answer as to whether they were legislatively required. I know we - Council had an opportunity to introduce these and if we were to introduce them we had to go through a very specific process which we had and they had been introduced-----

20

In January, or something, wasn't it?-- -----That's correct, and I think the objective was to suspend them completely.

All right. Well, when you talk about stopping them altogether you're talking about that - that meeting just before the election?-- Yes, Mr Nyst.

30

Thank you. Now, you said yesterday that developers had told you, or words to this effect, correct me if I'm - notes? Developers had told you that - sorry - they told you that they were told to put their money behind the right people and the charges would be wound back, something to that effect?-- Something to that effect, yes.

And the detail of that is that this was passed on to you by Mr Cater, is that right?-- I think Mr Cater would have mentioned that, and I think I may have heard that Mr Bell, of Dredge and Bell, I think it's still Dredge and Bell, Mr Peter Bell, may have not directly said to that to me, but it was passed on to me.

40

I'm sorry, did you say, 'I think Mr Cater would have mentioned it'?-- I can't recall any words that he might have said to me, but my best recollection is that he was one that brought it to my attention, yes.

50

But didn't you say yesterday that he did tell you that?-- The wording from yesterday - sorry, Mr Nyst, but if I'd said yesterday he definitely said it, and today I'm saying, my best recollection is, I don't know if there's a great deal of difference.

Well, there is a great deal of difference, isn't there?-- Well, if those are the - if that's - if that's what I said, yesterday, that he'd definitely told me, but I don't have my transcript in front of me, Mr Nyst.

1

You understand, don't you, that what you're saying here is information being passed on to the Commission, and obviously to the public through the reporting of it, about important events. Do you understand that?-- Yes, I do.

10

Well, one of the important events that you gave evidence about was this notion that infrastructure was being sought to be stopped or wound back by vested interests. That's right, isn't it?-- Vested interests is a term you've introduced today, yes.

Well, sorry, I don't mean to-----?-- Essentially, yes.

-----say anything more than - by certain parties?-- Yes.

20

Right. And I understood you to be giving evidence yesterday that you had some, perhaps not direct evidence, but you had somebody who directly told you that they had been told to put the money in the right direction, and the infrastructure charges would be wound back?-- I recall specifically, Mr Cater telling me that he'd been told if he put his money behind the right people, those sorts of things would be looked after.

So he did tell you?-- Yes, I do - I do recall that.

30

So you - you're sure that he did tell you?-- Yes, that's-----

Why did you say a moment - I think Mr Cater would have mentioned about the matter?-- I'm sometimes a little uncomfortable answering your questions without having the transcript, or whatever, before me, Mr Nyst, because I don't want to commit myself to something out of context, if you know what I mean, so-----

Well, some things are either-----?-- -----there's no deliberate-----

40

-----true, or it's not true, isn't it?-- Pardon me?

Some things are either true, or it's not true. You don't need to check to see whether you can be trapped by some document, it's either true, or it's not true, isn't it?-- I just prefer to look at my statement myself, and make sure that I'm answering a question that's not being put to me out of context.

50

A few months ago you were telling us, weren't you, that you weren't sure whether Mr Cater had ever mentioned this to you?-- I think I said that my best recollection is that we had that conversation.

No - I suggest to you-----?-- I don't remember the - I don't remember verbatim what it was.

-----I suggest to you that's not what you said at all. I suggest what you said was, 'I think Mr Cater would have mentioned that', and you were then questioned further about that by me. Do you - recollect that?-- And in response to your further question, I said, my best recollection is that he would have said that, yes.

But first of all, you told us you weren't sure if Mr Cater had said it to you?-- Did I use those-----

10

Well, the record will show it?-- Did I use that term, Mr Nyst?

But now you are sure, anyway?-- Mr Nyst, my best recollection is that Mr Cater and I had a conversation in which he indicated to me that he'd been approached, tapped on the back I think was the term he used, and advised, or someone said to him, that if he puts his money behind the right people, then we'll have the right sort of outcomes, and his response was-----

20

Can I just stop you there?-- Yes.

The right sort of outcomes?-- Words to that effect, Mr Nyst, yes.

Was there any mention in what he, you now recall him telling you, about infrastructure charges?-- I don't recall that specifically.

30

But you did recall that yesterday, didn't you? There was mention about the charges being wound back?-- Our conversation may have been around that subject, and so whether or not he specifically mentioned that in the context of that statement, that - that line, I don't recall.

Are you - are you just making this up as you go along, or-----?-- No, Mr Nyst.

-----are these things you recollect?-- Mr - no, I'm not making these things up, Mr Nyst.

40

Okay, but in any event, you say that he said to you, he'd been approached if he puts his money in the right place, right - he'll get the right outcome, something like that? Is that you now recollect?-- I don't think it was that he would get the right outcome, but it was a more a collective, we would get the right outcomes.

We would get the - and did you - no mention - sorry, I better stop and say - you now - you're now remembering this conversation, are you?-- Um-----

50

What I'm saying is you're now saying, this did happen in these terms?-- This is - this is what I can recall now.

Right?-- This is the best I can provide at this point in time.

Okay. And your best recollection now is there was no mention of infrastructure charges?-- No, I didn't say that. I said-----

1

Well - you tell me?-- -----that in the - in that sentence, he didn't - he didn't include the word, 'infrastructure charges', or a reference to it, but I think - I said to you already, that our conversation included reference to infrastructure charges.

10

Well, that's what I was going to ask you. When he said these words, it didn't have reference to infrastructure charges, I take it you then said, "What are you talking about?"-- No, because I understood that to be in the context of our discussion that he was talking about.

You'd earlier been discussion infrastructure charges, had you?-- In our discussion, we did talk about infrastructure charges, and I - I don't recall if - it must have been before because my - I recall making a - a deduction at that point in time, when he said that that this is - that was the context, that's what he was talking about.

20

So you now recall he says it, and you made a deduction at the time?-- Yes.

Right. And - so, from that, you deduced, well, we must have been discussing infrastructure charges earlier in the conversation?-- It was a brief conversation. It didn't last more than a few minutes.

30

Did you say, well, who told you that?-- No, I've already said, Mr Nyst, I deliberately chose not to compromise Mr Cater-----

But hang on, can I just interrupt you there?-- Yes.

How would - at this stage you have no idea who he was saying had said this to you - to him?-- I don't recall him mentioning specific names and I don't recall asking him.

40

It could have been, for all you know, David Power saying it to him?-- It could have been.

Or Ted Shepherd?-- It could have been.

The Mayor, someone from Sunland, Raptis, anybody, it could have been anybody?-- I don't have that much of a vivid recollection of the discussion that I would say that I would've thought it would be anyone, Mr Nyst.

50

I'm not saying that you thought, I'm just saying the words were so innocuous or so-----?-- Well, I can't answer-----

-----indefinite that you couldn't - there was no - pointed to it being anybody in particular?-- It wasn't apparent to me that - who the particular person was.

So, how would it compromise him in anyway for you to say, well, who was it?-- I'm trying to recall the conversation in a broader sense and I don't recall all of the elements of the conversation, but that - that's a decision I recall making at the time, I'm not going to pursue this with Mr Cater because I don't want to compromise him. I-----

1

But thinking back now, Mr Young, if that upset you, it seems an odd decision, doesn't it, for you to not even ask, well, who said that to you?-- Well, looking back on it now with very, very many months in between and not a full recollection of the conversation or the context of the conversation, you might assert that but at the time, in the context of that conversation, I didn't feel that it was strange not to ask him further.

10

Are you sure there was such a conversation?-- Yes, I am.

Where did it take place?-- I couldn't say with complete certainty, I would make a guess and I'm - you know, if you want me to guess, I'll do that but I can't say for sure.

20

Well, I take it if you're recalling the conversation, you have some idea of - some memory of you being somewhere with someone?-- I would be guessing, Mr Nyst, that the whereabouts were at his retirement village at Helensvale, but-----

What, in his office?-- I don't recall, Mr Nyst.

No idea?-- I would be fabricating it if I was to tell you that it was in his office or outside because I don't recall.

30

You just have no idea?-- I would be able to, you know, put two and two together and maybe deduce and maybe-----

So, what you say is-----?-- -----present that to you.

-----you just don't have any idea of where it was?-- Not with the certainty, Mr Nyst, no.

40

And do you remember whether there was anybody else present?-- Whilst we had that - that small conversation, I doubt it.

You don't know?-- There wasn't another witness, I'm sure of that. It was a conversation between him and I.

You're now certain that there was nobody else?-- I'm just trying to mentally picture it.

50

And mentally picturing it are you now certain there was nobody else?-- That's my best recollection.

All right. And did you make any note of it?-- No, I didn't.

Did you mention it to anybody?-- I don't remember mentioning it to anybody, no.

Before yesterday?-- I don't remember.

1

You don't remember mentioning it to anybody before yesterday?-- I don't have any recollection of mentioning it, discussing it, whatever, with anybody which doesn't mean I did or I didn't.

Yeah, I understand, but - but you don't have any recollection until - you recollect mentioning it yesterday, don't you?-- Yes.

10

And that's the only recollection you have of ever mentioning it to anybody?-- That's correct.

And when do you say the conversation took place?-- I didn't.

Do you know-----?-- It was prior to the election in 2004.

So, sometime-----?-- Within a short timeframe from that but I'm not going to say whether it was two days or-----

20

So, you think sometime in the first couple of months of 2004?-- I'm not going to say it was within two days of the election or two months but it was in that period of time before the election.

In the couple of months before-----?-- No, excuse me, I just don't recall. It could've even been after the election.

Okay. And Mr Bell is - sorry, Mr Cater is a - was then a developer?-- That's not a term I'd use but he has a - his - he is responsible for developing a retirement centre at Helensvale, yes.

30

All right. When you say it might have been after the election, do you mean immediately after the election?-- I don't recall but it's - it was around the time of the election.

So within weeks one way or the other of the election?-- I don't recall exactly, Mr Nyst, I'm not - I'm not trying to be unhelpful, I just don't have-----

40

I understand?-- I didn't take a date and I don't recall-----

Okay?-- -----Anything that might give me a clue.

Well, when you referred to developers having told you that, one of the developers you're referring to is Mr Cater, that's right?-- He was one of the people that mentioned that to me, yes.

50

Yeah, well, I'm just harking back to your evidence yesterday, do you remember saying developers? Do you remember saying that?-- No, I don't.

You don't. All right. Was it - were you told this by developers?-- Well, I don't count Mr Cater as a developer, so,

no, and the other person to the - my best recollection was Mr Shane Thompson from Westfield and he is not a developer but Westfield are-----

1

Pardon?-- He's not a developer and neither are Westfield, I suppose, but they certainly have development interests.

Okay. And when did this conversation occur with Mr Thompson?-- Again, I don't recall. It was around the time of the election, I think.

10

Do you know where it occurred?-- No.

Do you know who was present?-- I suspect it would have been just him and myself.

Do you know what time of day it was?-- No, I don't.

Did you make a note of it?-- No, I didn't.

20

Have you told anybody about it before today?-- I don't believe I have.

Do you remember what was said?-- Not with much accuracy. I would just be trying to gather thoughts. It was probably along the lines that Peter Bell had been invited to a meeting and the issue of infrastructure charges had been discussed. The objective being to change the regime, if you like, the policy and that's about all I can recall.

30

So, did he not say to you that Bell had said that he'd been told that if he put his money behind the right people, charges would be wound back?-- He was - well, no, he didn't say that as best as I can recall, no, not those words.

So you've given us your best recollection of the Shane Thompson version of the Peter Bell version?-- Yes, sir.

All right. Well, does Thompson - did you say he's not a developer?-- No, he's - he has a role within Westfield as a general manager for Queensland or something of that nature, say-----

40

Okay. Peter Bell's not a developer, is he?-- He has development interests and obviously Westfield have development interests and I suppose, yes.

Peter Bell is a town planning consultant, isn't he?-- His clients, as far as I'm aware-----

50

Oh, I see?-- -----are 100 per cent developers.

But do you mean, development interests in the sense that he has clients who are developers?-- That's right.

I see?-- Yes.

You're not saying he's a developer?-- No, sir.

All right. Well, now - so did any developers say that to you? Did any developers say to you that they were told if they put their money behind the right people the charges would be wound back or words to that effect?-- Developers as such, no, those - it's those two people.

So when you were talking about developers, you were talking about Cater and Thompson?-- Yes, and I was - if I used the term developers-----

MS HAMILTON: Could I - excuse me, Mr Chairman, the transcript shows that the witness used - said persons with development interests which is what he's saying here now.

MR NYST: Did any developers say it to you?-- Mr Nyst, I'm probably going to insist in future that I see the transcripts if you're making reference to these, you know, because you're - I was getting a little bamboozled with your questions.

CHAIRMAN: It does make it hard, Mr Nyst, if you misquote the evidence to the witness. It's a lot better if you can be accurate, otherwise it leads to this sort of difficulty.

MR NYST: No, no, with respect, I put a note, I asked him to - I think I asked him to correct me if I was wrong, but the question I'm asking-----

CHAIRMAN: You did put to him that that was the note that you had and he said he couldn't recall saying that so there was no acceptance of your note.

MR NYST: Well, that's fine. I mean, I don't have a problem with that.

CHAIRMAN: So then-----

MR NYST: The question I'm asking now is, did any developers say that to you? Now, my friend has risen to her feet, not on the basis of anything I've put to this person. I'm not putting to him-----

CHAIRMAN: You're not-----

MR NYST: -----anything wrong about that, I'm simply asking did any developers-----

CHAIRMAN: Mr Nyst, move on.

MR NYST: Can I finish that question?

CHAIRMAN: Yes.

MR NYST: Did any developers say that to you or anything to that effect?-- Not that I can recall, no.

And the only thing said to you to that effect is what you've told us in terms of what Mr Cater and Mr Thompson

said?-- That's the best to my recollection and they're two men whose-----

1

And you took - sorry?-- They're two men whose integrity I trust.

And you've exhausted your memory on those accounts?-- I'm afraid I have.

Now, the infrastructure charges issue then was raised by you in your dossier, wasn't it?-- Yes, Mr Nyst.

10

And it was raised under this heading, wasn't it? "Implicit and explicit benefits are provided by developer-friendly councillors to developers to keep them on side in order to ensure financial support at election time"?-- It's under that general and broad heading, yes.

And you go on to say there are some examples of this or some examples of the leniency provided to developers, don't you?-- That's correct.

20

And then you go through and provide a number of examples?-- That's correct.

And one of them you give is this infrastructure charges claim?-- That's correct.

Now, to be clear what you were saying there was that this was an example of how benefits were being provided to developers for financial support?-- Sorry, do you mind repeating that?

30

You were providing this as an example of benefits being provided by councillors to developers in return for financial payments?-- I think it's probably - the better context, Mr Nyst, is if you look at the very bottom of page 9, the last sentence begins, "In the immediate build up to the 2004 elections developers were approached by standing councillors and advised that their concerns would be looked after if the right people were elected. Some examples of the lenience" - so it's more that context rather than-----

40

Yes, but this was your explanation of your heading, wasn't it? You gave the heading about-----?-- Not necessarily.

-----benefits being provided by developer-friendly councillors to developers to keep them on side in order to ensure financial support?-- I don't think it's necessarily an explanation of the heading.

50

Well, what is it if it's not that? You've set out your complaints on page 2 I think it is of 4 under the - I'm sorry, you've set out your complaints on page 2 and then you go on to expand on those complaints and you do it heading by heading, and one of the headings is this business about benefits being received in return for financial donations?-- That's how the document is constructed, but as I said, this sentence doesn't necessarily seek to explain that heading that-----

But you were implying there corrupt behaviour, weren't you? Corruption?-- What I'm implying there is that people were encouraged to support candidates so a dominant faction could be achieved and results could be delivered. Now-----

Money for benefits or leniency or whatever you like to call it?-- Supporting candidates to achieve outcomes that might favour a particular group of interests, yes.

Money for benefits or leniency, whatever you like to call it?-- I have to think about that suggestion, Mr Nyst.

Well, have a think about it and while you're thinking just have a read about what you've got written there?-- Yes. If you - if you call a benefit, for example, a reduced infrastructure charge-----

Well, you'd call that a benefit, wouldn't you?-- -----then you might say money for benefit.

Well, that's corruption, isn't it?-- But you may - you may read that another way, you may say it's a reduced payment for having paid for the campaign.

Well, what you're effectively implying there was that these people were corrupt, that there was corrupt behaviour going on?-- Which people?

The developer-friendly councillors who were giving implicit and explicit benefits in return for money?-- I didn't use the term corrupt in my document, I don't think.

No, I know that, I'm just saying that's what you were implying, wasn't it?-- I'm implying that people were encouraged to support financially a particular group of candidates so that a dominant faction could be achieved and things like infrastructure charges could be reduced and therefore - and you call that corruption if you want, I don't know if that's the term I used.

I'm not suggesting it's a term you used, but ?-- - well, perhaps if we can deal with it this way. You'd understand, would you, if somebody interpreted that as an implication of corrupt behaviour by the developers.

MR BODDICE: I object to that. This witness may think how somebody else may interrupt does not assist this Commission at all in terms of reference.

MR NYST: Were you implying it, sir? Were you implying corruption on the part of these friendly people?-- In the context of the infrastructure charges, Mr Nyst, what I was stating quite clearly was that that was a particular issue of concern to the development industry in a broader sense on the Gold Coast, and those people were promised that if they provided financial support, then there'd be some attempt to

change those infrastructure charge policies. They'd change them to reduce them, in fact.

1

Well, that would be corruption, wouldn't it?

CHAIRMAN: Mr Nyst, we can go on for ages about whether it's not-----

MR NYST: It speaks for itself. I mean-----

10

CHAIRMAN: But the witness has said if you wanted to find corruption this way, then, yes, it is. So he's given the answer.

MR NYST: All right. Well, in any event, under that heading then, you raise the infrastructure issue. Now, firstly, this is the case, isn't it? That the - there was never any resolution put to wind back the infrastructure charges, was there - infrastructure charges?-- Never any resolution to wind them back?

20

Yes?-- Since when?

There was never any resolution put to the council to wind back the infrastructure charges?-- Yes, there have been.

When?-- And "wind back", you know, we need to define that, I suppose.

Well, perhaps if I can define it in these terms. If you look at your dossier, you alleged there, didn't you, that-----

30

CHAIRMAN: You alleged a failed resolution to wind back the charges?-- Where is that, Mr Chairman?

I don't have numbers on mine.

MR NYST: At the bottom of page 10.

CHAIRMAN: Is that 10, is it?

40

MR NYST: I think it's the tenth page. They're not numbered.

CHAIRMAN: I better number them, I think.

MR NYST: You said this in the last paragraph under "Infrastructure Charges", "Councillor Power was able to demonstrate the development industry by means of a failed resolution to wind back charges that developers needed to invest in the right candidates"?-- Okay. Thank you.

50

See that?-- Yes.

And that's how - I mean, you tell me, how do you define "wind them back"?-- Well, in this sense, yes, the attempt that was being made was to, in fact, put a moratorium on them.

Right?-- Altogether.

Okay. But there was no resolution put in that regard, was there?-- Well, my best recollection of that council meeting is, say, a motion had been drafted. It was discussed, but-----

Well, let me perhaps put some instructions here in-----?-- To be specific as to whether or not it was presented as a motion and voted on

10

Okay. All right?-- -----I'd have to-----

Well, you see whether you can agree with this. I suggest that Mr Power put forward a motion regarding the suspension of standing orders to allow some discussion in camera. Do you recollect that?-- Vaguely.

That that motion was carried and you then move into the debate on the infrastructure charges in camera?-- Sounds correct.

20

And then during that discussion, Power told all of you there that some senior officers had raised concern with him regarding issues relating to the infrastructure charges in questions of retrospectively and so forth?-- I don't recall that.

But you don't challenge it, I take it?-- What I do recall is the CEO said he had been lobbied by some councillors. He refused to identify who those councillors were to the elected body of councillors. He had a draft - a motion that had been drafted in his hands, but I do not recall Councillor Power specifically saying that he'd been approached by, or lobbied, or whatever, by officers.

30

But do you challenge it or you just can't comment?-- It doesn't - it's not consistent with my recollection of the meeting, Mr Nyst.

Well, were you listening in the meeting?-- Was I listening-----

40

Were you listening?-- -----and participating actively in the meeting, yes.

See, sometimes you don't listen to everything that goes on in those council meetings, do you?-- Mr Nyst, I think I've very attentive in the council meetings, and this particular occasion dealing with this particular topic, I'm confident that my - I was alert to what was going on-----

50

Do you recollect the council-----?-- -----and I don't recall your-----

Sorry?-- And I don't recall your client making that claim whatsoever.

Do you recollect-----?-- I remember him saying that he had been lobbied by development interests. That they were going to pursue this in the Courts; all of that sort of usual stuff.

1

Can you remember a discussion about legal challenges and so forth?-- Yes, I do.

And do you remember the council ultimately deciding that if there was a problem - sorry, a risk of a legal challenge on retrospectivity or otherwise, they'd accept that risk and move forward?-- I don't recall a resolution of that nature. I suspect that that would have been an argument put, and that may have prevailed, but as to the resolution, I don't know.

10

But you do remember a discussion about legal challenges and whether the risk should be adopted or not?-- I would have to say that that was a likely part of the discussion and that it was likely that came from Mr - Councillor Power.

If it's likely that they were discussing legal challenges, et cetera, did you listen to what they were saying? See, this would be the sort of thing the councillor-----?-- Yes, I would have been listening.

20

You'd want to take a bit of notice of it, wouldn't you?-- Very important matter, Mr Nyst.

But you have no recollection of it at all. Is that what you're saying?-- No, I'm not saying that at all. I do recall quite-----

30

All right. But, anyway-----?-- -----some things very specifically, and others don't gel with my recollection.

Okay. Well, can you recall this specifically? That there was never at any stage that day any motion put forward to suspend the - sorry, to wind back the charges?-- There was - my best recollection is there was an attempt to introduce a motion. It was a motion that the CEO had. It was the motion that he advised he had had prepared by officers after having been lobbied by certain councillors, and I think there was a lot of quite heated debate, or angry debate, about this matter being raised at that particular juncture, whereas we'd only just very recently introduced those infrastructure charges after a very long period of deliberation.

40

You remember that, but you don't have any recollection of the legal issues that were raised?-- I don't recall if they were - I know that they were brought up on a number of occasions, and so I'm just saying to you I can't recall if they were specifically part of that meeting, but I know that they - those arguments were introduced on a number of occasions.

50

In any event - do you agree then in summation of what you've just told me, do you agree that no motion was put to wind back the charges?-- My best recollection is there was a failed attempt to introduce a motion, but, honestly I don't have a full recollection of that and I have to say upon seeing my

document where I've said there was a failed resolution, it's the wrong terminology, it was a failed attempt.

1

Well - but you wrote that in a dossier for the Minister, didn't you?-- Yes, and I'm quite happy to concede that-----

Under the-----?-- -----term - resolution is wrong, there was a failed attempt and-----

Under the heading of councillors giving benefits in return for money?-- Under the heading of infrastructure charges, yes.

10

Yes, but under that broader heading of councillors giving benefits in return for money?-- Under the broader heading of that and under the much broader heading of call for an inquiry.

Pardon?-- Under a much broader heading again, it doesn't necessarily follow that matters underneath a - a heading specifically pertain to that heading. I'm afraid-----

20

I suggest you're a bit loose with the way you treat people's reputation, Mr Young. Do you disagree with that?-- I disagree with that strongly.

In that same part of your dossier then, you go onto say after the election, significant attempts were made to modify the infrastructure charging regime. Is that right?-- Yes.

And you say this new arrangement arose after an advisory group was set up comprising, interestingly, development interest with financial links to pro-development councillors and interestingly it recommended that Council modify its policy and instead introduce the infrastructure charges in a stage fashion. That's true?-- If that's what my document says.

30

Yeah. And there you were trying to imply, weren't you, that there was some kind of secret lobbying going on or secret process going on whereby the infrastructure charges were going to be somehow wound back without the full knowledge of all councillors?-- I didn't use the term secret but what I have relied upon in writing this is my knowledge at the time that an advisory group had been established without any imprimatur from the elected council.

40

Can I just stop you there?-- Yes.

That was established by a Mr Cox, wasn't it, Shawn Cox?-- That is my understanding, yes.

50

And what's he, the director of Gold Coast Water?-- Gold Coast Water, that's correct.

And he has delegated power to set up such advisory bodies, hasn't he?-- I don't know if he has that power.

Did you ever check before making-----?-- Questions were asked.

Just let me finish?-- Sorry.

1

Did you ever check before making - well, putting together your dossier, for example, about this - this advisory group? Did you check whether Cox had powers to set up such a body?-- When the matter was discussed in August or September of 2004, those questions were certainly asked. Who's formed this committee or this advisory group, under what authority and so on and it was certainly, as I said, not done so with the imprimatur of the elected body and it came as a surprise to the bulk of councillors who are-----

10

And it came before-----?-- -----responsible for making the decisions for the benefit of the City.

It came before the strategic growth management committee on the 24th of August, didn't it, that-----?-- I don't know which committee it was but the date sounds correct, Mr Nyst.

Right. And did - at that meeting did Mr - Mr Cox make recommendations for some staging of the infrastructure charges?-- That's my recollection of it, yes.

20

And he gave reasonable and sensible arguments as to why that might occur?-- I'm just questioning whether it was the strategic growth management, I would have thought it would be coordination committee, but-----

Yes, but in any event, he came to one of those-----?-- Oh, yes, he'd come to certain conclusions and recommendations-----

30

And he put up sensible arguments, didn't he?-- No, I thought they were entirely unfounded and couldn't be supported.

Okay. And - but he's an experienced man, is he, Mr Cox?-- Yes, I have a high regard for him.

And he's not corrupt or anything?-- I don't know.

He's not a developer lackey or anything as far as you know?-- I don't know.

40

But you don't make that allegation?-- Certainly not.

All right. And you don't suggest he had any such motive in putting forward the recommendations he did?-- I don't know. What we tried to establish at the time was-----

You may not know it but you don't suggest it, do you? I mean, this is something I've asked you about before, you don't just come out and make suggestions on the basis you don't know one way or the other?-- I haven't made any suggestion about Mr Cox.

50

Well, that's what I'm asking you-----?-- You made the suggestion.

You make no suggestion do you, that Mr Cox is in anyway some sort of development - developer lackey or corrupt person?-- I don't make that suggestion, no.

1

Because you're not in a position to, are you?-- Well, I'm in a position to if I have information to that effect, but I-----

But you had no-----?-- About Mr Cox, I don't, no.

All right. Well, anyway he-----?-- But what was under question at the time was the formation of this committee, its membership, how those people were selected, these were genuine questions of interest - you know, these were matters of concern to the elected council.

10

Okay. Well, just have a look at these minutes, they're from - relating to Item 10 on the strategic growth management committee meeting the 24th of August. I've got some copies here. Was that the - is that a minute of that meeting at which Cox put forward that recommendation?-- This appears to be a sort of document I wouldn't - I wouldn't normally see this, this one has got in the top right-hand corner, it says, council decision.

20

Yes. That's not of interest-----?-- We would normally see it say minutes or agenda and why this one says council decision I can only guess that this may have been something that's prepared and distributed for the officers. But I can't be certain, but obviously what the content of it seems to be the report that would have been put to council.

30

Well, take your time looking at that but is that effectively what - what was being put to you by Cox?-- That - it looks like it, Mr Nyst.

Okay?-- There may have been other documents provided with it in the form of attachments or handouts at the meeting and you can see from the record on the - page - pages 11 and 12, the matter obviously wasn't decided when it went to the committee at first, it had a number of hearings at various meetings and it was a matter of significant concern.

40

He was actually ultimately moved - there was a change of Council on the 3rd of September, wasn't there, see on the last page?-- Yes.

And a new motion was moved by Councillor Sarroff?-- That's correct.

And seconded by Councillor Betts?-- Yes. The information that had been provided to Council by that point in time, contrasted very, very distinctly, from the information that had been provided in this general report in terms of the legality of the timed-----

50

All right?-- -----charging.

MR NYST: I'll tender that document?-- I think it probably important to have, if possible, that other information because it obviously supplements this agenda item.

1

We haven't finished yet, Mr Young, so don't - don't worry?-- Yes.

CHAIRMAN: That'll be Exhibit 243.

10

ADMITTED AND MARKED "EXHIBIT 243"

WITNESS: It explains why there was such a strong vote to reject the stage implementation.

MR NYST: Mr Chairman-----?-- Are we still going with that? Sorry.

20

MR WEBB: In an effort to seek to assist, this is an electronic copy of the agenda item that would have been given to this witness prior to the meeting. He was saying this isn't in the form that I would have seen it. After the agenda item has been handed out, as you're probably going to hear a little bit later, an electronic version of that is taken for record purposes. There's also a bound copy kept, that's why there's a little bit of confusion, that might explain the witness's problem.

30

CHAIRMAN: Yes, thank you?-- Just to be more clear, Mr Chairman, it was just in the very top right hand corner of the document.

Yes?-- It says-----

Council decision?-- Now, that's not the document we normally see. Everything else appears as we would see it.

40

MR WEBB: That's right. That's put on at the electronic stage.

MR NYST: Just so that we understand what we've got here. In that - that document, whether it was the document that was given to you beforehand or not, that - does that reflect, from what you understood, to be the matters put by Mr Cox and what happened in terms of resolutions, et cetera, thereafter?-- It doesn't represent all of the information that was provided by Mr Cox-----

50

Right?-- -----it only provides the initial information-----

I see?-- -----obviously subject to a lot of debate, we were provided with-----

You asked for more?-- -----much more information.

Okay. But that's-----?-- That was the initial agenda item,
and - and it just traces the history of the-----

1

And that happened on the 24th?-- It appears to be the date,
and my reference to the newspaper article, in my submission,
is of the 24th of August, that these charges were set to fall,
so it-----

Yes?-- -----looks like a - that's the first date it was
presented, yes.

10

So when you talk in your dossier about the attempts to turning
it up, but something to the effect of an attempt to wind it
back, you're talking about the events of that meeting, are
you?-- Yes, I - at the top of page 11, I say that after the
election, significant attempts were made to modify the
infrastructure charging regime.

Yes, yes, and you're talking about Mr Cox coming along and
making that recommendation at that meeting?-- Initially, yes.

20

And yet this is under the heading - this is one of the
examples of implicit and explicit benefits by Councillors in
return for money?-- It's under that heading, that's correct.

Okay, well, Mr Cox comes along and does that, then you -
sorry, Mr Sarroff subsequently called a media conference,
didn't he?-- I don't recall.

Do you remember seeing some press about it-----?-- Well, I've
referred to one piece of press-----

30

Yes?-- -----which was published on the day of the meeting. I
recall that, and no doubt, there was others.

Pardon?-- No doubt, there was others.

Just, if you could have a look at this document, and we just
see in the right hand corner there, it's headed, Refund
Outrage. Do you remember seeing an article in the Gold Coast
sun on the 25th of August, that - to that effect?-- Well, I
don't remember at the time seeing it, Mr Nyst, but this is
obviously a copy of it.

40

Well you see there, if you go down-----

CHAIRMAN: Do you have copies of this?

MR NYST: I do. I'm happy to hand them up in a moment. Do
you see there that - it referred to Councillor - this is about
four or five paragraphs down - Councillor Sarroff called a
media conference, do you see that, on Monday, to announce he
would be moving a vote of no confidence in Council CEO, Dale
Dickson. Do you see that?-- Yes.

50

He said the move was to - he said the move to refund
infrastructure charges was politically motivated. The CEO
must be put on notice. Do you see that?-- Yes.

Do you remember - were you at that conference?-- I - I don't know if there was a media conference, and I - I don't recall.

You don't recall whether you were, or you were not?-- I don't know there was one, and if there was, I don't know-----

But, do you remember - do you remember yourself commenting in the press about what had happened on the 24th? Or at that meeting of the Strategic Growth Management Committee?-- No, I don't recall at this moment.

10

Pardon?-- I don't recall at this moment.

All right. But in any event, following upon that report, following from that news report, Mr Cox sent you a memo, didn't he?-- I don't know, maybe. I don't recall.

Now, just before we come to that, there's another matter I wanted to, apropos this matter, deal with.

20

Just before we come to that, there's another matter I wanted to, apropos this matter, to deal with. At that time in August 2004 you had - you were in a habit of publishing a newsletter, weren't you?-- It's not a habit, Mr Nyst, but I certainly publish a newsletter every month.

Right. Still do?-- There are two newsletters. One is the general newsletter, the one that's published in the printed version in a document - in a publication called The Local Newsletter, that's done every month. The second document, the - what I call the uncensored version, I don't do every month.

30

That's the whistleblower version, is it?-- That's your term and not mine, but it's the second - it is the uncensored version.

CHAIRMAN: Mr Nyst, did you intend to tender this?

MR NYST: Yes, I'm happy for it.

40

CHAIRMAN: That will be Exhibit 244.

ADMITTED AND MARKED "EXHIBIT 244"

MR WEBB: I take it we're only really tendering the article on the right hand top side?

50

CHAIRMAN: Yes, the one that has Sun 25/8.

MR WEBB: Yes, thank you, Mr Chairman.

MR NYST: May I say, apropos that, it continues over onto the other side and-----

CHAIRMAN: Yes, it is - it is in the same position on the second page is a continuation of it, that's the way I read it.

MR NYST: Yes.

CHAIRMAN: And that's from the Gold Coast Sun, I presume?

MR NYST: Gold Coast Sun, yes, to my understanding.

10

MR WEBB: That's the throw away.

CHAIRMAN: I throw them all away, Mr Webb, once I've read them.

MR WEBB: Give away, give away.

MR NYST: Well, now, in the - in your newsletter then, in the censored one - the uncensored one, you did a - you made some comment about the infrastructure charges, didn't you, in - on the 16th of August, 2004?-- I recall writing about it but as to the date I'd be relying on you.

20

Pardon?-- As to the date I couldn't recall but I'm relying upon you, Mr Nyst.

Yes. Do you recall writing this? "Since the election the bloc heads have managed to reduce the charges for water and sewerage up to 30 per cent"?-- Yes, that's correct.

30

That wasn't true though, was it?-- In one area of the city that is certainly true.

In Yatala?-- A bigger area than that.

Well, where?-- A larger area than Yatala, Mr Nyst.

In Yatala the size of the pipes has been reduced, hasn't it - haven't they? I'm sorry, hasn't it?-- No, there's a very significant modification to the-----

40

Pardon?-- A very - there have been a decision to modify the infrastructure in that area very, very significantly, not just the pipes.

Okay. Well, what where was the - where were the charges for water and sewerage reduced up to 30 per cent?-- In that northern precinct of the city.

But whereabouts?-- I could tell you if I refer to the documents but-----

50

Have you got the documents here?-- No, I don't, no.

Well, where are they?-- Mr Nyst, you're talking about agenda items of the council so they'd be within the council.

Yes, but you have copies of them?-- Of those agenda items?

Yes?-- No. I would if I'd brought those here.

Well, when you - when you did this newsletter did you have copies of them?-- I didn't realise the - my newsletters were going to be the subject of questioning today. If I had any notion of that-----

But you were publishing them all over the place, weren't you?

10

CHAIRMAN: No, you were asked when you did the newsletter did you have them at that time?-- I beg your pardon, Mr Chairman. No, I thought Mr Nyst was referring to the fact that I should have them here.

MR NYST: When you - when you did the newsletter did you have the-----?-- Agenda items?

Yes?-- They would have been in my office. Obviously council had made a decision, that's my recollection.

20

Did you have some record that showed that the charges had gone up 30 per cent?-- Down.

Down 30 per cent, I'm sorry?-- Yes. There would have been agenda items and council decisions to that effect.

You now no longer have them?-- Whether I've got hard copy I doubt because I just don't have room to hold all of these documents but they're available electronically.

30

I suggest to you that that's just an incorrect statement?-- I don't believe it is.

The only fall in infrastructure charges was in the Yatala area because of a reduction of the pipes in the Yatala area?-- That's certainly not my recollection of it whatsoever, Mr Nyst. Certainly that northern area of the city, not restricted to what you might call a suburb of Yatala, and it wasn't just about the reduction in the size of pipes. We're talking very significant infrastructure and also contributions to dams and water - major water holding facilities.

40

Well, we haven't-----?-- Not just pipes.

I don't believe we've heard about any meeting at which this was decided. Do you recollect the meeting at which it was decided that some areas had dropped infrastructure charges 30 per cent?-- Yes, Mr Nyst. I don't recall a date.

50

Can you tell us the year?-- Council made that decision.

Can you tell us what year it was?-- 2004.

Some time in 2004, so some time between January and August 2004?-- I'd say more specifically between April and August 2004.

And you say - you go on to say, "And soon they will introduce a system whereby some developers will pay less than the proper amount and shortfall" - sorry - "and the shortfall will somehow be charged to other developers in the future"-- That's - that's what I've written.

1

Yes, I understand that. And - but it wasn't true, was it?-- Yes, that was the objective of the phased charges that were the subject of the agenda item that you've just presented to us.

10

Mr Cox, Mr Cox's report?-- To go to committee on the 24th of August, yeah.

So you had the agenda item by the 16th and you printed this in here because you read what Mr Cox had said in his report?-- That's correct, but I'd also had meetings with Mr Cox and I'd determined what the political flavour was, if you like, the political support for this.

20

And you've got the agenda item with Mr Cox's report and you reported, in your newsletter, soon they will introduce a system whereby developers will pay less, et cetera?-- I don't have that in front of me, but if that's what it says-----

That's what happened?-- Mmm.

That's what happened?-- What's what happened? Soon, they-----

You got the report from Cox, or the agenda, and had your discussions whatever, and you reported this off the back of that? Is that what you're saying?-- I reported to the community that there was an objective coming up which was to reduce the - or to modify the payment scenario, if you like, for - or to introduce a phased payment scenario for infrastructure charges.

30

Yeah. I'm just asking about this part in your newsletter. Do you want to see the newsletter?-- I'd love that. Thank you.

40

See there, in the first paragraph on the Infrastructure Charges, what are they and what is happening?-- Yes. Thank you.

What I'm asking you about is that part where you say, "And soon they will introduce a system whereby some developers will pay less et cetera." And the question is, did you write that, as a result of having received the agenda and having had a discussion with Mr Cox?-- I would have written this because I would have felt - I can't recall exactly, you know, what was in - my state of mind was at that time, Mr Nyst, but I'm confident to say to you that I would have written this in the full knowledge that the objective of introducing the phased charging was going to be supported.

50

Okay. Well, take whatever time you need, but I just want to know, did you have any other information or source than what

we've spoken about? That is to say you're-----?-- As to what? Sorry, beg your pardon? Continue. **1**

Any other information or source other than having got the agenda and having spoken to Cox about it?-- In terms of a document that I can submit to you, I doubt it, but in terms of my appraisal of the circumstances at the time, I think that that would have informed me to make this statement.

Yeah. What were the other sources?-- Well, it would have been my appraisal of the political condition, if you like, those that were likely to favour this outcome. Perhaps there had been some talk about this. **10**

Is it fair to say this was just speculation on your part?-- I think it would be more fair to say that it was informed speculation, yes.

It ended up being untrue, didn't it, or sorry, you got it wrong, didn't you?-- Well, ultimately it proved to be unsuccessful. **20**

Yes, but that's what I'm saying. It's not - it did not transpire that they would soon introduce the system whereby developers would pay this?-- And I have to tell you there was a very, very considerable-----

Is that right though? Is that right?-- -----amount of effort to achieve that outcome. **30**

Yes, but is that right?-- That ultimately those - that charging system wasn't modified. That is correct.

Okay. And then you go on to say those benefiting from this new system are, it seems, principally those with strong ties to Councillor Power. Now, on what basis did you say that?-- On the basis of documents I'd seen in the form of letters and-----

Okay. Well, let's stop there. We'll go at one by one. What letters?-- Letter to the Chief Executive Officer and or to Councillor Power, complaining----- **40**

Are these the?-- -----about the infrastructure charges and the impact that they was having on certain development interests in the northern sector of the city.

Are these submissions from the UDIA and the Property Council of Australia?-- I don't recall having seen those submissions, but the one that comes to mind, and I have these documents somewhere, was a - for example a letter from Mr Brian Gazman. **50**

Gazman? Yeah? Is he a developer, was he?-- No, he's a - he's involved in the development industry. He's an agent, if you like, or a consultant.

Yes. So, one of the things that you were relying on there was that you had seen a letter from Brian Gazman, what to

Power?-- I don't recall. It may have been to Councillor Power, or to the CEO.

1

What? Proposing that there be some phasing in procedure?-- I can't recall the exact content of the letter. There were a number of letters, Mr Nyst, and they complained generally of the impact of those infrastructure charges where-----

Do you remember any details of any of the other letters, or documents, that you refer to?-- I couldn't apportion one detail to a letter at this point in time-----

10

No. I just meant do you remember - do you remember what they were?-- Yes, and I was about to tell you beforehand.

All right?-- They were complaining about the impact of these infrastructure charges.

Sorry, could I interrupt you? All I'm interested in at the moment is if you can tell me what letters you're referring to or what documents-----

20

CHAIRMAN: Mr Nyst. This is - seems to me to be a - you're now talking about this newsletter that he put out at some stage. It can only be a peripheral matter going to the credit of this witness. We've already had the fact of these letters examined before lunch in quite some length. I'm, you know, you're entitled to cross-examine as to credit and I accept that, but it does seem to be going on a long time.

30

MR NYST: I do have instructions to cross-examine this witness as to his credit.

CHAIRMAN: Well, how much credit is it going to go to, to cross-examine him twice about the number of letters received and who they were from? He answered you before lunch in quite some detail about those letters and his memory, or lack thereof with respect of them.

MR NYST: I haven't raised this before. I don't know what you-----

40

CHAIRMAN: Well, it's my understanding that this is the same lot of letters that were cross-examined about before lunch.

MR NYST: I haven't raised this before.

CHAIRMAN: These letters that were received to the CEO and one perhaps to Councillor Power with respect to this issue of infrastructure charges.

50

MR NYST: I don't think that's the same. If that's the same - if he's - if those are the documents he's referring to, then I can move on. I really just want to know what documents they are. But if those are the documents-----

CHAIRMAN: Well, are they same letters that you refer to?-- Yes, they are, sir.

MR NYST: Exactly the same letters. Well, you don't remember the details of those at all. You've added one detail here of Gaslin, but apart from that, I don't think you're able to give us any detail?-- Just the general content of them, and, as I said, I couldn't apportion the content of one to one letter. There were a number of them.

All right. And so-----?-- So it was those-----

-----it was on the back of that that you said - you say there in that sentence, "Those benefited from this new system were those with strong ties to Power." Is that right?-- It was those letters plus the advisory committee which has been mentioned; the advisory group and the membership of it.

We're - yes, we're still on that, but - so this goes out on the 16th. You have the - you've got the agenda by now for the meeting?-- Mmm.

You've got the report from the advisory group with your agenda. You put this out on the 16th and then you go to the meeting on the 24th. Is that right?-- It seems to be right, yes.

And then on the - then on the 25th, or thereabouts, there is some news reporting of this matter. Is that right?-- It appeared to be, yes.

Now, then the next thing that happened after the news reporting, I suggest, is that you received a memo from Mr Cox, didn't you?-- I don't know if that was the next thing that happened, Mr Nyst.

Well, whether it was the next thing or not, after the news report of the - the reporting of the meeting on the 24th, did Mr Cox send out a memo to you?-- I don't recall.

Just have a look at this document, if you would. That's a memorandum under the hand of Mr Cox, isn't it, the director of Gold Coast Water?-- Yes, sir.

And it's addressed, amongst others, to you, isn't it?-- Yes.

It says, "Factual Errors Gold Coast Sun Article 25th August 2004"?-- Yes.

Now, you got that, did you?-- Yes.

It's dated the 30th of August. Did you get it that date?-- I can't say so. It may have-----

But within a day or two?-- It would have come that day or soon afterwards, yes.

And it refers - the first paragraph referring to the Gold Coast Sun article we've just dealt with, "Refund Outrage"?-- Yes.

And he says in the second paragraph, "In summary, the item proposes a transitional arrangement with respect to introduction of new water rates for infrastructure charges." Do you see that there?-- Yes.

And that was right, wasn't it, that that's what that item related to?-- That's correct.

Then he speaks on the second - next page at the top he says, "I propose the deferral of this item as we are still awaiting some outstanding legal advice on the matter." A bit further down he says, "I am aiming to have this advice finalised prior to the next strategic growth management committee"?-- Sorry, I'm just looking for that.

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This is the top paragraph. I'm summarising it here. I'm just giving bits and pieces. But it says-----

CHAIRMAN: Sorry, are you reading from this?

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MR NYST: Yes.

CHAIRMAN: I'm having trouble finding it.

MR NYST: Are you in the same boat, Mr Young?-- Yes.

CHAIRMAN: Yes, we're all missing page 2.

MR NYST: Perhaps I - can I approach the witness, please? You see I've mentioned to you those items there-----?-- Yes.

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You've got those. If you go to the second page then, at the top he says, doesn't he, that he proposed the deferral of this item - this is item 10 - "as we are still awaiting some outstanding legal advice on the matter." Do you remember him - he wrote that to you, didn't he?-- Well, this is in the memo-----

Yes?-- -----and that looks correct. I don't recall that's what happened at the meeting.

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Oh, you don't remember whether it happened at the meeting. I was just going to ask you, but you don't recall?-- No.

But you don't cavil with him that that happened?-- No, I don't.

Right. And then he says, "I'm aiming to have this advice finalised prior to the next strategic growth management committee"?-- I understand.

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And did he have it?-- I don't recall.

You don't recall. And did he have it?-- I don't recall.

You don't recall?-- No.

But then he goes on, "The Sun article contains a number of factual errors", doesn't he? This is on page 2?-- Yes.

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And he deals with those in some detail, doesn't he?-- Yes.

And then at the top of page 3, he says this, doesn't he? I think we probably have got this. I'll go back. Sorry, just before we leave page 2, he deals with things that are said principally by Councillor Sarroff, but he doesn't agree with him, and he gives some detail?-- On my very brief scan, that looked like it, yes.

10

Okay. Then on the top of page 3, which I think you have got-----?-- Yes.

-----he writes this, that the article also states he Councillor Sarroff said, "The move to refund infrastructure charges was politically motivated...and does not disadvantage other customer groups such as the general ratepayers." Now, did you read that?-- I would have.

20

And factually, did you have any cavil with any of that?-- I don't recall what my response to any of this - statements or - from Mr Cox would have been at the time.

Yes. But in response now, do you find any-----?-- I don't know if my response now would be relevant but-----

But you don't cavil with anything he says there, you've got no reason to challenge any of that?-- Well, I would have to look at the document with a bit more time, Mr Nyst.

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Have a look at that. You mean you want to look at the whole document?-- Yes, you're asking me to comment on the whole document and-----

I'm asking now only about the top of page 3-----?-- All right. Sorry - it's just the top of page 3?

Yes, just what I read out?-- Well, he's saying the report was prepared in response to a number of written complaints and representations made by the Development Industry. I suspect that it was also prepared in response to some political lobbying. I believe - I think that's-----

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So are you saying you suspect-----?-- I would have believed that then and that is what I probably believe now.

You suspect that he was acting politically-----?-- That the response to this matter was prepared in response to some political lobbying as well.

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Well, of course. The vested interests that would have something to say, you knew that they - people that had an interest in this matter had lobbied or written or made submissions-----?-- I'm just expanding on the fact that-----

Yes, I see?-- -----Mr Cox has only said - this is in direct, in more or less a direct response to a number of written complaints or representations made by the Development Industry and I'm suggesting it was probably made in response to some political lobbying as well. And I'm not saying that that's necessarily problematic.

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To Cox?-- I would feel confident that people had spoken with him about the matter, to encourage him to consider these issues.

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Well, that's speculation, but you say that's reasonable speculation?-- Yes, I do.

Yes. So otherwise you don't cavil with what he says there?-- He says that as is the case with all customer inquiries, we've treated this complaint seriously. He has said here, "As with all customer inquiries we've treated these complaints seriously and endeavoured to find a solution that is equitable and does not disadvantage other customer groups." I would think that would be his philosophy, yes.

20

So you don't cavil with anything further that's written in that paragraph?-- I suppose what Mr Cox hasn't reflected in this document, and I'm just, you know, trying to reconstruct history here, Mr Nyst, but at the time I suppose when reading this I would have been prompted to think, "Why hasn't Mr Cox addressed the issues that were raised with him in the meetings that he's mentioned with various councillors as to the real ability for us to implement these charges in a legal sense, because I know I raised that with him at that first meeting. I had a very significant and legitimate concern about the legality of this phased introduction.

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At the meeting of the 24th?-- Yes. I didn't take notes, but I recall that being a specific - no, no. Sorry, before the 24th, when Mr Cox and I met at an earlier time, I think.

You're not suggesting, are you, that Mr Cox did anything other than what his job was?

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CHAIRMAN: Mr Nyst, you know, what's the point of that question? You're using this as cross-examination as to credit. What's the point of asking that question? I really don't know where all this is getting us, but if you want me to be able to take anything out of this, are you seeking to tender the - what's it called, the newsletter? We'll need that, I would have thought.

MR NYST: Oh, I don't think you'd need that.

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CHAIRMAN: Well, I thought that was what you were cross-examining as to credit on, as to what was written in that. I thought that's the point of the last three quarters of an hour.

MR NYST: A part of it which he's adopted. A claim which is on the record. I've asked him when he wrote these things - you don't need the newsletter for that.

CHAIRMAN: All right. Do you think you've read enough of it in?

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MR NYST: Well, enough for now.

CHAIRMAN: I think it's safest that we take it, Mr Nyst, rather than relying on your part that you put in. And I say that not meaning that you do anything deliberately, but errors can be made.

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MR NYST: Yes. All right. But I only want to take him to that part of it, I don't really want to get the whole of the-----

CHAIRMAN: Well, Exhibit 245 is the newsletter - the date of it?-- 16th August 2004, Chairman.

Thank you.

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ADMITTED AND MARKED "EXHIBIT 245"

CHAIRMAN: And then this Gold Coast Water memorandum of Mr Cox of the 30th August will be Exhibit 246 and if you can, at an appropriate time, allow your copy to be borrowed so that we can get the page 2, just for completeness.

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MR NYST: Yes, of course.

CHAIRMAN: And that will be 246.

ADMITTED AND MARKED "EXHIBIT 246"

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MR NYST: You're not - you're not suggesting Mr Cox did anything other than his job. Is that right?

MR BODDICE: Commissioner, you've already raised whether this -----

CHAIRMAN: Yes. How - how can this go to the credit of this man when he hasn't raised this document? You've put the document in.

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MR BODDICE: And can I further add this, the witness has clearly said he cannot now. He would be reconstructing back as to what he knew at the time and what circumstances. In those circumstances in my submission there is no assistance given from this line of questioning and it is unfair.

CHAIRMAN: I can't see any assistance from it.

MR NYST: Sorry, which am I to answer?

CHAIRMAN: Well it's - he hasn't put this document in and made any comment upon it. You raise it and you ask him things on it. He has said, look, I'd need to go back and look at the whole thing. I can't recall my view at the time.

MR NYST: Well, can I deal with the first part first, firstly?

CHAIRMAN: No, your question is whether he's raising anything about the bonafides of Mr Cox.

MR NYST: Yes.

CHAIRMAN: I can't see any point in asking him, or getting him to answer that question and I can certainly see no value that would be able to be placed upon any answer that he gives.

MR NYST: Well, the point is, if he agrees and he's not and he's taken to things that he has written, both in his dossier - in his dossier and elsewhere.

CHAIRMAN: Sorry?

MR NYST: I need to then take him to things that he has written elsewhere about this process, the-----

CHAIRMAN: I see. So, you're not referring just to this document? You're referring to later things that he's written after this document?

MR NYST: Yes. I'm taking him through the process of how this process of enlightening himself and gotten to the point where he's now got a report from Mr Cox. Now I'm asking him-----

CHAIRMAN: All right. So, if he's written something at some later stage, referring to Mr Cox, or commenting on what Mr Cox has said-----

MR NYST: -----or to this protest.

CHAIRMAN: -----No, no. If it's commenting upon the process generally it might be different, but if it's referring specifically to something that has been said by Mr Cox, or if it's saying something contrary to what Mr Cox has said, then I can see you point in the question. But otherwise, no.

MR NYST: May I proceed then?

CHAIRMAN: Well, why don't you go on with the other things and then see if it becomes relevant.

MR NYST: Well this is a bit unfair, with respect. I'm trying to cross-examine in a fashion where I build some blocks as I go.

CHAIRMAN: I can understand that process and I'm not wanting to inhibit you. I am just aware that yesterday afternoon you said your cross-examination would be up to an hour and a-half. I can only presume that your instructions changed after that time to be attacking the credit of this man and that's why we're taking so long.

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MR NYST: No. Can I say-----

CHAIRMAN: I'm just wondering when it's going to finish?

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MR NYST: Can I say that when I embarked on this process some time ago, I thought I was going to be a very long time with Mr Young. When I found out that half of what he said before has now been abandoned, I had to shorten that process and having shortened that process I have made an estimate. At lunchtime I sought specific instructions on the issue of whether I was to proceed. I had my own views as to what state Mr Young's credit is now in, but I sought instructions as to whether I would proceed. I got instructions to proceed. I'm wanting to now cross-examine on his credit.

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CHAIRMAN: The - in your cross-examination so far his opinions have been attacked. His voracity as to whether he's telling the truth on a particular point or not. So far, to my understanding, has not been attacked.

MR NYST: Well, I-----

CHAIRMAN: His opinion has been attacked.

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MR NYST: Well, I wouldn't accept that. I would not accept that.

CHAIRMAN: Well, I can't think of anything that you've put where you suggest to him factually you are wrong in saying that-----

MR NYST: Oh, well, I thought I had.

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CHAIRMAN: -----you are lying in this point, or whatever.

MR NYST: I don't even want to debate that unless your Honour does.

CHAIRMAN: So. I - I don't know what the point is of attacking on credit other than the credit of his opinion.

MR NYST: Well, may I say, what I'm now asking him about is the infrastructure charges issue. Now, this is partially going to credit. This is also going to the substantive issue because the more one looks at what happened in respect of infrastructure charges, the more it is patently obvious that there is absolutely nothing in this. Now, it's been put in this context and you should understand, Mr Chairman-----

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CHAIRMAN: Mr Nyst, I'm finding these memos of assistance.

MR NYST: I'm sure.

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CHAIRMAN: And if you can go ahead and just go through and put all these sorts of documents that make your point, they will be of assistance.

MR NYST: Yes.

CHAIRMAN: But I don't know that I need them enmeshed around the half an hour of cross-examination about each document that really doesn't take it any further. The document speaks for itself.

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MR NYST: I can only do it as I know, sir. I'm here on my own doing it.

CHAIRMAN: Don't sound so sorry for yourself.

MR NYST: I can only do it in the way I know how, sir.

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CHAIRMAN: Keep going, Mr Nyst.

MR NYST: Mr Young. You're not saying that Mr Cox did anything other than his job?-- No.

MR BODDICE: I continue my objection in respect of that because the witness has said he would have to reconstruct and it's of no assistance and it's unfair in those circumstances.

CHAIRMAN: Well, the witness hasn't said so why are you suggesting to him that he might be? He hasn't said that Mr Cox is doing anything other than his job.

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MR NYST: I'm asking because it is the - patently obvious to me and I would have thought everybody else who brings an open mind to this issue, that Mr Cox has done nothing other than his job. Now, I'm asking him what is he now saying about that? Is he saying that Mr Cox is some sort of corrupt officer? Is he saying he's some sort of developer lackey? Is he saying that he did something other than just doing his job? It's quite clear, in my mind, but I need to get it from him - this witness before I move on.

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CHAIRMAN: Mr Nyst. I don't allow the question. This witness has never suggested here that Mr Cox was doing anything other than his job.

MR BODDICE: I thank you, sir.

MR NYST: If I can assume then, for the time being, Mr Young, that Mr Cox was doing nothing other than his job, did you make a complaint about this process that Mr Cox had adopted when you sent your dossier to the Minister?-- You can assume what you like, Mr Nyst, but as to me raising this matter in the context of Mr Cox or Mr Cox in the context of this matter to be more accurate, in my submission, I don't have any recollection of doing that specifically.

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Do you remember writing this in a newsletter on the 22nd of November. Under the heading "Developer contributions to Gold Coast City Council candidates makes Tweed Shire look like a playground" did you say this: "Some people from the development industry with financial interests in the campaigns of some candidates were selected to form an advisory panel to provide this advice to council"-- I don't have the document in front of me but I assume you're reading correctly, yes.

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Do you want to see the document?-- I'm fine with that, Mr Nyst.

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Pardon?-- Yes, if you have a copy, please.

I do?-- Thank you.

You'll see there on the first page the heading "Developer contributions to Gold Coast City Council candidates makes Tweed Shire look like a playground"; do you see that?-- Yes.

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And then if you go down to the fifth paragraph there, it starts thus, I suggest: "This is a council that has since the election drastically decreased infrastructure charges for developers. It has also tried to introduce a special reduced transitional infrastructure payment scheme for certain developers. Interestingly some people from the development industry with financial interests in the campaign of some candidates were selected to form an advisory panel to provide this advice to council." You wrote that, didn't you?-- Yes, I did.

30

And you were there referring to Mr Cox's advisory panel that he put together; isn't that so?-- I don't know if Mr Cox put it together.

Well, isn't this the advisory panel you're talking about?-- I'd be referring to the advisory group and I don't know if that's - I don't know if Mr Cox put it together.

But Mr Cox had told you he'd put it together, hadn't he?-- I don't know if Mr Cox was responsible for putting it together or some of his officers.

40

Had he told you that though?-- Did he?

Had he told you that? You don't remember?-- I don't recall that specifically. It was formed - whether he was the one that chose the individuals I don't know.

Okay. Well, whether he - let's not stick on the terminology. It's his advisory panel you're talking about?-- It is the advisory group that was referred to in the context of the phased introduction, yes.

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And you're implying here, aren't you, corrupt behaviour, aren't you?-- Well, I'll just have to check that. No, I'm not implying that at all. I'm-----

Well, what are-----?-- -----just implying perhaps that there was a - some of the members of that group had close relations in a financial sense with some councillors.

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What's the purpose of that in your uncensored, as you refer to it at the club - "Welcome to the uncensored newsletter"?-- I think that's in the public interest, Mr Nyst.

Yes, but you're saying this to imply, aren't you, that there's corrupt behaviour going on here, that vested interests are being mounted in a nefarious fashion?-- I'm not saying that at all and I'm not implying that. I'm - what I'm saying is exactly what is written there. How people might interpret it is up to their own point of view on a matter, but-----

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Come now, Mr Young. You were inviting them, weren't you, to draw the inference that these people getting together behind closed doors - that Mr Cox and his group were all getting together, that it was all developers together to push this through. Isn't that what you-----

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CHAIRMAN: Mr Nyst, again it's this issue of your questions that have premises attached in them. You're saying Mr Cox and his group getting together. Where is it referred to about this group? Is it on the missing page 2? Because in the pages 1 and 3 I have of Exhibit 46 there's no reference to the group. Is it on the missing-----

MR NYST: No, he's already agreed to - in evidence - he's agreed that it is Mr Cox's group we're talking about.

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CHAIRMAN: Well, with respect, he hasn't. He said he doesn't know whether Mr Cox put that group together.

MR NYST: Not-----

CHAIRMAN: Surely a group of developers-----

MR NYST: I-----

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CHAIRMAN: Excuse me. Surely a group of representatives like that isn't put together by a council officer, for goodness sake, is it? Is that the way the Gold Coast Council works?

MR NYST: Well, I had moved away from it being put together by him. He'd said he didn't know whether it was put together by Mr-----

CHAIRMAN: Well-----

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MR NYST: -----well, let me finish.

CHAIRMAN: You hadn't moved away from it, you said by Mr Cox and his group.

MR NYST: Yes, well-----

CHAIRMAN: In your question.

MR NYST: Well, it's the only way I - can you give me a better terminology and I'll use that.

CHAIRMAN: Well, perhaps the group.

MR NYST: The group, okay.

CHAIRMAN: The group.

MR NYST: Well, we'll talk about - I don't want to confuse what the group is but I'll talk about-----

CHAIRMAN: Well, if it has a title then use the title.

MR NYST: Well, I thought it was Mr Cox's advisory panel.

CHAIRMAN: Well, I don't know.

MR NYST: That's what I'd call it.

CHAIRMAN: You've taken it that this document is going to establish it, wasn't it, and I don't see any reference in this document to that group at all.

MR NYST: Well, he had said he doesn't know whether Cox put it together, I said let's not work out whether he put it together or not but that's the group we're talking about, the Cox group-----

CHAIRMAN: See, surely the idea of your cross-examination is to take me along with you so I'm following you, I'm going with you, you're persuading me. I would have thought that was your idea.

MR NYST: I'm hoping so.

CHAIRMAN: And as I said, documents and things like that can be very helpful towards that but this jumping that you do to an assumption of something when the witness doesn't agree to it I find very unhelpful, and I find it quite confusing of the witness and therefore quite confusing as to what use I can make of the answer that follows. I ask you to be as accurate as you can in your questions.

MR NYST: Well, let's call it the advisory group, that way everybody will be happy-----

CHAIRMAN: But is it referred to in the missing page 2?

MR NYST: I would think so, I don't have the documents. But I don't think there's any - I think perhaps I can clear it up with the witness?-- It may be referred to in the agenda item that was tabled beforehand.

Yes, but you understand what I'm talking about when I talk about the advisory group, we're talking about the group that Cox had some involvement in and had reported back as a result

of that involvement to the management committee meeting. Do you understand that?-- Yes, there's an advisory group formed - there was an advisory group formed. I don't know if Mr Cox directly - involvement in the formation of that-----

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Yes, all right?-- And that advisory group gave advice to Council through the officers-----

Yes?-- The officers were provided advice by the advisory group and then the officers incorporated that advice-----

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Okay, well, let's just-----?-- -----in their recommendations to Council.

Let's just call it the advisory group, okay?-- Very well.

Now the advisory group then of that - the advisory group, are we agreed that it acted quite properly then so far as you could see?-- What did?

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The advisory group, it put certain-----?-- I've no comprehension of the matters that they dealt with. I beg your pardon we - I think I have at some point in time seen some minutes or record of their meetings but I can't be specific at this point in time, Mr Nyst, and-----

Okay, but-----?-- -----as to the veracity of their decisions or the way that they came to those decisions I wouldn't want to pass comment at this point in time.

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But you did pass comment in the dossier, didn't you, about them?-- About the advisory group-----

In the dossier to the Minister?-- -----I don't believe so.

In your dossier, have you got it there?-- Yes, I have.

Page 11?-- Yes.

You see it - no Council - from imprimatur was ever given for the establishment of this advisory group nor its membership but it is highly likely some pro development councillors were instrumental in the group's establishment and membership?-- That's what I've written so I'm not commenting about the ability or veracity or anything of - or-----

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Yes, and you-----?-- -----whatever of the group itself, I've just made a comment there which I've repeated today which is the truth. There's never any Council decision or knowledge even of this advisory group at the time of its formation.

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What was your basis for saying - what was the basis for saying it was likely some pro development councillors were instrumental in the group's membership?-- Well, because my belief was given the debate that transpired over a period of time, certainly before and after the election about the matter of infrastructure charges, the references to - by Councillor Power, for example, to lobbying that he'd been subjected to by

certain development or people with development interests, it made me assume - not assume, made me make that comment in this document that I suspected that some of the members of that group had been nominated by some councillors. I - I - it was my-----

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Speculation again?-- That's all I've said here in this document, in this submission. It's highly likely.

Yes, inviting an inference to be drawn, weren't you?-- But that certainly - it's an opinion of mine, Mr Nyst, based upon those circumstances.

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And expressed under that heading of developers getting money in return for favours?-- And it's in the context that when we'd sought to establish how that advisory group was formed we were never really provided very adequate responses.

All right. Look, we'll leave the infrastructure charges issue, but before we do I want to suggest to you that there was absolutely nothing untoward in the way Mr Cox or any of the councillors dealt with this infrastructure charges issue?-- I don't have a full knowledge of Mr Cox's involvement, so it's not a question I really feel comfortable answering.

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Or any of the others?-- I've never made any suggestion of that myself, but-----

And indeed - indeed, the way they dealt with it was entirely consistent with sensible, responsible local government?-- Mr Nyst, I think you have to understand the political reality is that in a - in a situation where experienced and, you might say, dominant councillors express an opinion or pursue an objective with an officer, and I'm not suggesting that there's - officers are rolling over, but they will certainly take on board the opinions or expressions that are made to them and it's my belief that on a number of occasions in this Council and many instances the officers will make a decision that is influenced to some degree by the opinion of councillors. I mean, you could argue that that's just a normal part of events. We are the policy makers and they are responsible for implementing that and they obviously need guidance from us and whether or not that comes from the body politic or from an individual councillor is perhaps the distinction that needs to be drawn.

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Well, are you agreeing with my proposition that the way they dealt with this infrastructure charges issue was consistent with sensible, responsible local government?

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MR BODDICE: All right. I ask by the "they"; the witness has said that he can't comment on Mr Cox, who is included in "they".

CHAIRMAN: I think the question's too broad to be able to answer by a witness. It ranges from right back in January through to August.

MR NYST: I'll move on?-- I suspect that really the best process for Mr Cox to have taken would have been to alert the entire Council of the intention-----

Just - just - I'm not inviting you, sir, I-----
CHAIRMAN: No, it's-----

MR NYST: I mean-----

CHAIRMAN: It's all right.

WITNESS: I'm trying to respond. I beg your pardon.

MR NYST: Now, Mr Young, just to - if I could move then to the issue about committees that you raised through Council assisting. I think that you said that each who was associated with the bloc, as you called it, was appointed chair over others with more experience. Is it correct that each of the people appointed chair, all except with the exception of Mr Shepherd, had been previous chairs?-- Are you talking about the post-election meeting?

Yes. Well, that's what you were talking about, as I understood it?-- Well, we'd spoke for a long time about committees yesterday and chairs and so forth.

Well, I'd better get that straight. I understood that your complaint was that after the 2004 election each person who was associated with the bloc was appointed the chair over others with more experience?

CHAIRMAN: Again, I'm sorry to be pedantic, but I don't think it was each person because some clearly weren't appointed. He was saying that each of the chairmen except, I think it was qualified for Councillor Sarroff at the beginning, each of the chairmen, apart from Councillor Sarroff, came from the bloc, to use that term.

MR NYST: Yes, I understood that to be what he meant. I'm reading from a note. But that's what you were saying, wasn't it, that each of the people appointed chair of the various committees came from the bloc?-- That's your question; each person that was appointed as a chair was a member of the bloc?

That's what you were saying, wasn't it, yesterday, that after the 2004 election the number of chairs were appointed and each of the people that were appointed chairs of committee were people that were members of the bloc and in some cases they were appointed over people with more experience?-- With the exception of Councillor Sarroff who I didn't - shouldn't included in that definition of the bloc.

Well, is-----?-- And that error in my assertion earlier was certainly raised with me yesterday.

Yes. But it is correct, isn't it, that everybody that was appointed chair of the meeting had previous experience as a

chair other than Councillor Shepherd?-- To the best of my recollection, that'd be correct. They were different committees in some cases.

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And Councillor Shepherd had been on the Council for some time. He was an experienced councillor?-- Same time as me.

Pardon?-- The same time as me.

And had you been a Chair before?-- I'd been a Deputy Chair.

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Well, this time it was his turn, he became a Chair?-- I don't see it that way but-----

Okay. But there was nothing more in it than that, was there, that you missed out. Chairs were appointed and you missed out?-- No, there was a lot more in it as far as I saw and if you'd been a party to the meeting I think you would have formed the same opinion which was that there seemed to be a very rehearsed exercise in determining what committees there were going to be and who was going to be the Chairs. There was a lot of debate about the types of committees that we should but, ultimately, what I sought, let's say in terms of having planning north and south as an example, that was unsuccessful.

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Anyway, Councillor Sarroff was appointed Chair?-- Yes.

You were invited onto various committees?-- Well, all councillors were asked to nominate.

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But you refused to go on any committee?-- At that point in time whereas I'd already made a vigorous attempt to retain planning north and south and whereas I'd made a vigorous attempt to become the chairman of planning - the City Planning Committee that was formed, thereafter, from my recollection, I indicated - and with other things that were going on at the time, what appeared to me to be a very rehearsed exercise whereby certain people were granted Chairs of certain positions, I objected to the process, I objected to what the outcomes were. Didn't - and I made it clear didn't mean that I wasn't going to involve myself in those - in any of those committees. I made that intention very clear, just not as a member of the committees. So I made an intention clear then and followed through with the fact that I went to lots of committee meetings.

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Finished?-- Thank you.

But then, subsequently, you were approached to come onto committee meetings - committees, is that right?-- To become a member of the committee?

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Yes?-- I don't know if I was approached, Mr Nyst.

You were invited to put your hand up for some committees?-- I don't know if I was - you mean at that meeting?

No, no, down the track-----?-- Subsequent-----

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-----ultimately you - this is my expression - but you threw a bit of a tantrum, you refused to be on any committees for a little while, but then once you'd got over your huff or whatever it was, you agreed to go back onto some committees. Is that fair summary?-- No, it's not. Let's reject the contest of a tantrum and a huff and getting over that-----

All right?-- I certainly made it a decision at a later point in time to try to become a member of some committees, yes.

10

All right?-- I don't know if I was approached or invited. I made an attempt of my volition.

Yes, all right. Let's deal with the Yarrayne issue that you also raised in your evidence with the Counsel Assisting. It is correct, is it, that ultimately your view was that the right outcome was achieved in that Yarrayne issue?-- Ultimately, I think I was satisfied with the outcome.

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Yes?-- Whether it was the best outcome, I don't know.

Well, I think you said in evidence - you can comment on it - this is only my note but I think you said, "Ultimately, I think the right outcome was achieved but it was at risk." Do you remember saying that?-- That sounds familiar from yesterday.

Right. And is that a fair summation of your position on it? The right outcome was achieved but it was at risk of not being achieved?-- I think it was a satisfactory outcome is probably a better term, whether it's the right one.

30

The right outcome was a whole-of-catchment response, wasn't it, to the drainage issue?-- I don't recall the specifics, Mr Nyst, and whether - use that term.

Well, you weren't at the original meeting, were you?-- No, I wasn't.

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So I think you've said you were a bit sketchy on it. Is that right?-- As to what transpired at the meeting, I really had no knowledge directly.

Yes. But in any event, do you know that the - that the outcome was a whole-of-catchment response to the drainage?-- And I've just said to you, I'm not exactly certain if that was the outcome and it's not a term I recall in the context of that decision but as to the particulars of drainage matters affecting that property, the outcome seemed satisfactory. Whether you'd call it the whole of - whatever you termed it.

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Whole of catchment?-- Whole of catchment. I don't know if that's - that was the terminology that was used.

Do you understand what that concept is, the whole of catchment response to drainage?-- I believe I do, yeah.

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Pardon?-- I believe I do.

And that was the outcome that the - Power had been pushing for, wasn't it?-- I'm not-----

Do you know? You may not know?-- I'm saying to you I'm not familiar with that term in the context of this application-----

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Yes?-- -----or don't recall that. I'm - I'm not arguing that it may have been used, but I don't recall that.

But you understand what it is?-- I believe I do.

Yes. And you understand, on your understanding of what it is, that that's what Power was pushing for in this application? He was looking for a whole of catchment response to the drainage?-- I wasn't present at the committee meeting so I don't know what the arguments-----

20

You don't know?-- -----were being put forward.

Well, look, you did say that - you did say in evidence, though, your concern was that an outcome sought by Power was to give a greater yield. I'm not sure whether you said an outcome or the outcome, but you said, "I was concerned that it seemed apparent that an outcome sought by David Power was a greater yield." Do you remember saying that?-- I think I said that my reference to this matter was specifically to - was Councillor Sarroff's submission to the CMC-----

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Yes?-- -----and I've summarised those points-----

Yes?-- -----and my understanding, therefore-----

Yes?-- -----is principally or in a large - to a large degree based on that.

40

Okay?-- So in the sense of the - the outcome that Councillor Power sought-----

Yes?-- -----and when I was discussing that yesterday-----

Yes?-- -----it's in that context, yes.

Well, what you're saying is, "I don't" - "I don't know what outcome he was seeking because I wasn't there."? Is that - is that what you're saying?-- I-----

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CHAIRMAN: Mr Nyst, I think we concluded this really yesterday during Mr Ratcliffe's - that this witness really knows nothing about this apart from the complaint that was put forward by Councillor Sarroff. That was - Mr Ratcliffe established that yesterday as I understood.

MR NYST: Yes. Well, I did want to-----

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CHAIRMAN: So unless there's anything further over and above that, this witness is really just relying upon Councillor Sarroff's complaint.

MR NYST: Yes. Yes, well, perhaps, your Honour, I can take him straight to my concern. Is that right, that you just knew nothing about it other than what Sarroff had told you?-- There was I believe attention to it in the media and I - I would've had discussions with - obviously I'd reviewed the material before the committee and I may have had discussion with Councillor Sarroff prior to going to the - the full council. But clearly my impression was that the result of Councillor Power's objective would've been an increased yield.

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Mmm. Could the witness please see then - I'm sorry, I don't have the exhibit number. It was made an exhibit, but it's the report of Warren Rowe on this matter. I'm afraid you took my copy at the time and I didn't mark it. It may be 206. It's a report dated the 9th of November 2005. I thought it went in as an exhibit, but I didn't make a note, I'm afraid.

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CHAIRMAN: It is 206. It's a memo by Mr Dixon that quotes Mr Rowe.

MR NYST: Thank you - sorry.

CHAIRMAN: So it is 206.

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MR NYST: Could the witness see that? Just whilst that's coming, you weren't at the original meeting but you were at the council meeting, weren't you?-- That's correct.

Could you just have a look at Exhibit 206? You'll see there it's a memo from Mr Dixon to Councillor Power and it quotes a report by Mr Warren Rowe, the Director of Planning, Environment and Transport starting about half the way down the first page. Do you see under the words "background information"?-- Yes.

40

And then I think you'll find that report of Mr Rowe or that purported report of Mr Rowe goes through to the end of the first paragraph - first paragraph on the third or fourth page - the last page?-- Yes.

Now, starting with relevant points - I don't want to take you through this but if you can just read the details of that. I just want to ask you whether or not that's consistent with your understanding and recollection as a result of being at that council meeting?-- Well, I couldn't say that at all. This memorandum refers to - well, incorporates, as you said, in quotation marks there from the first page, a whole series of information that's obviously only been constructed recently. This was - all of this information wasn't provided to council-----

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Oh, I see, okay-----?-- -----at the time of making its decision.

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All right, but none of this - there's none of this you can challenge. You're not in a position the veracity of any of this?-- I'm - I would have to read it, Mr-----

Yes, that's what I'm asking you to do-----?-- The whole thing?

If - if you like, yes.

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CHAIRMAN: How much longer will you be because otherwise the witness can read it overnight and you go onto something else. I don't want to sit here for 10 minutes-----

MR NYST: Oh, perhaps, that's better.

CHAIRMAN: -----while he reads it.

MR NYST: That'd be better if-----

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CHAIRMAN: Yes.

MR NYST: -----he's going to take the time to read it, yes.

CHAIRMAN: Mr Young; can we leave that and we'll get a copy for you to have a look at overnight-----?-- Yes, certainly, sir.

-----and-----

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MR NYST: I should say, sir, I won't - I don't think I'll be that long-----

CHAIRMAN: Well, someone else can go on.

MR NYST: -----but if he's going to take 10 minutes-----

CHAIRMAN: Yes.

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WITNESS: Well-----

MR NYST: -----to read it, I think-----

WITNESS: -----with the document in my hand, I don't mind receiving a question but as to the - saying that this represents everything that was presented to the council, I'd have to refute that because it's-----

MR NYST: Well, you have a read of that. I don't mind if we do it tomorrow-----?-- Very well, sir.

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One matter that we might deal with now then is the measure of your discussions with Mr Fish, the developer; that conversation that you had with him, did that occur by telephone-----?-- Sorry, which conversation is-----

I'm sorry. The conversation that you were talking about earlier in evidence, he cross-examined you on it. Three days before the - the council hearing?-- My recollection, Mr Nyst, is that Mr Fish asked me if I had phoned him three days before the election-----

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Yes?-- I said, "I didn't recall that." And-----

You don't recall-----?-- -----he said - he asked, did I recall - did I not recall having a conversation with him on the telephone three days before or something. I said, "I don't recall that."

10

Okay. Do you-----?-- So if I don't recall it-----

Right. You do recall though, having a conversation with him about selling your house and him buying your house?-- Yes, as I've indicated yesterday-----

Yes?-- -----in evidence, we had a discussion about that-----

20

Yes?-- -----but I'm not conceding-----

That's okay-----?-- -----that was by telephone.

No. That's what I was trying to get to-----?-- Mmm.

Do you recall having a conversation but you don't remember whether it was by telephone or in person?-- Well, I don't recall having a telephone conversation with Mr Fish but my recollection is that we had a face-to-face meeting-----

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Uh-hmm?-- -----my diary, as I said - indicated yesterday shows to all accounts and purposes that we had two meetings and I don't recall having two meetings with him-----

Yes?-- -----but my recollection is a face-to-face discussion with him in his office.

Right. But did you have - did you have a discussion with him about three days before the hearing?-- Well, I don't recall bumping into him. Certainly don't have any record of a meeting with him and I don't recall any conversation with him on the telephone.

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Yes, okay. I'm just trying to put it - I'm just trying to fix a date here or a time or approximate date if you can. Do you think you had a - you know you had a conversation with him about selling your house; don't you?-- It was a subset of a - you know - it was part of the broader conversation-----

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Yes, yes?-- -----about-----

-----I know-----?-- -----and not part of - within-----

-----I'm just trying to get-----?-- -----and as-----

You had some conversation which your house was mentioned?-- And as I said yesterday, my diary show the entries for 26th of October and the 2nd of November, from memory.

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And would either of them three days before the - or shortly before the hearing?-- My diary indicates that the hearing was the 9th of November.

And so you had a meeting-----?-- Nineteen ninety-eight.

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And you had one meeting on the 26th October and one on the 2nd November?-- That's my recollection from presenting my diary yesterday, yes.

And you think the hearing was on the 9th?-- Yes.

All right. You don't recall any telephone conversation with him?-- No.

20

But it's possible, I suppose?-- Mr Fish and yourself and Mr Pforr, and I think others, have alluded to this, but I still don't recall.

Don't recall. Okay, and during that conversation, you said to him, did you, that-----?-- This conversation that I don't recall?

Hmm?-- The conversation that I don't recall or-----

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The conversation you do recall?-- Okay.

During that conversation you said to him something to this effect, did you, "The best way for us is to both just get away from one another"?-- Mr Nyst, I recall saying something like that yesterday. This is a - a conversation I had with Mr Fish seven years ago.

Yes?-- And it really hasn't been top of mind to me for a very, very long time.

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All right?-- What I tried to present yesterday is that-----

Yes?-- -----my best recollection of that.

But you do recollect that you-----?-- Meaning that, word for word I'm not going to, you know-----

Said the best way to settle your - the effect of it was the best way to settle the disputes between the two of you was for you to buy his house or him to buy yours?-- The dispute in the sense of an ongoing dislike, not in the sense of the appeal, and he didn't own - sorry, he didn't own that property. A company that he was interested in - or had an interest in as a director owned the property and-----

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Yes?-- -----it wasn't his house or anything.

But you'd held up the development there for a good many months, hadn't you, with your appeal?-- I wouldn't say I'd held it up, Mr Nyst.

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Sorry, your appeal had held it up for a good many months?-- Which development? Which property?

The one on Sickle Avenue?-- My recollection is that council first dealt with a matter January or February of that year and itself had delayed the matter for further investigation and further reports-----

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Mmm-hmm?-- -----and again had deferred the matter for further investigation and reports. I think perhaps on the fourth time it was presented to council it was finally approved.

Right?-- Subsequent to that, I lodged a legitimate appeal-----

Yes?-- And then the process, of course, you know-----

Yes?-- -----has its own timetable.

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And so did the appeal result in the development being delayed a number of months?-- I don't recall the date that the appeal was lodged and I - or - and when the judgment was made, but I've no doubt that by virtue of there being an appeal there was a delay, yes.

Of a number of months?-- Yes.

And when you ultimately - you ultimately didn't reach an agreement that day when you had the discussion about your house, did you?-- I don't recall anything much more than that about that - that matter, which was quite a separate - in my mind, it was quite a separate thing.

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Okay?-- The - and I can only presume-----

Well, you didn't sell your house to him?-- That's correct.

And he didn't sell his land to you?-- No.

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No, and you appeared, then, unrepresented at the hearing?-- That's correct.

And you lost completely, didn't you?-- That's not my recollection of it, Mr Nyst.

Well, what's your recollection?-- My recollection is that the Judge accepted that there should be a reduced density - reduced yield, that there should be an increased provision in the contribution for bikeways and a - an increased provision in the open-space dedication.

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All right. Well, so far as the proposal that he buy your house was concerned-----?-- Mmm.

-----you offered to settle your differences by him paying you a million dollars for the house, is that right?-- Settle our

differences in the context of us as neighbouring property owners and no other sense whatsoever, because-----

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You had-----?-- -----for example, when I had purchased and moved to that property, material was being dumped on my property and apparently under instructions from Mr Fish and-----

CHAIRMAN: Mr Nyst, I assume there's some relevance to your client in this cross-examination? Mr Fish is the person directly affected is already cross-examined on it.

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MR NYST: Yes.

CHAIRMAN: Councillor Ford is corrected - connected in an indirect way because he was the one who made the statement about it as cross-examined on it.

MR NYST: This is really solely to credit-----

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CHAIRMAN: I'm finding it difficult to see how any of this is going to credit-----

MR NYST: Well, I'll-----

CHAIRMAN: -----as to whether he won the appeal or whether he didn't and, you know, that's-----

MR NYST: I really just want to explore some of the-----

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CHAIRMAN: It's not going to have any effect upon me in viewing his credit I can tell you.

MR NYST: Mr - Mr Young, that property that you were wanting a million dollars from Mr Fish for, you bought that for \$270,000, didn't you?-- That'd be correct in 19-----

About two years before?-- 1994, that would have been four years before.

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Four years before?-- Mmm.

And it was then valued at about 300,000, wasn't it?-- I've got no idea. I mean, clearly-----

It's not valued at any more than that-----?-- Clearly the proposition that I might buy his 30 acre property for \$600,000 - or him buy mine for a million, well, you know, wasn't a credible proposition and I - it was just a matter of just saying to him, "John, you know, you and I we've got these problems and I don't, you know, unless you take some active action they're not going to go away." But it was-----

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If you were suggesting - you were suggesting that he buy your property for a million dollars?-- I remember that - that sum of money being raised, yes, for sure.

Which would be over - more than three times what it was worth at the time, isn't that so?-- Look, I don't know what the property value was, I've just told you that.

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You wanted to - this wasn't an attempt to extort money out of him?-- Absolutely not and I - and I need to say the application for Sickie Avenue was by a company called Wild Breeze, I think, and how I would associate that with Mr Fish whose association I only knew with a company called Jefferson Properties is beyond me. He's said - I think he was suggesting this morning that perhaps there was some kind of vendetta whereby he was the subject of my legal actions and that something - he didn't say but I'm going - you know, refute that kind of insinuation.

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Would that be a suitable time?

CHAIRMAN: Yes, thank you. 9.45 tomorrow.

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THE HEARING ADJOURNED AT 4.35 P.M.

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WITNESS LIST

PETER JOHN YOUNG, CONTINUING EXAMINATION..... 1618

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EXHIBITS

ADMITTED AND MARKED "EXHIBIT 240"..... 1619

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ADMITTED AND MARKED "EXHIBIT 241"..... 1620

ADMITTED AND MARKED "EXHIBIT 242"..... 1656

ADMITTED AND MARKED "EXHIBIT 243"..... 1710

ADMITTED AND MARKED "EXHIBIT 244"..... 1712

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ADMITTED AND MARKED "EXHIBIT 245"..... 1722

ADMITTED AND MARKED "EXHIBIT 246"..... 1722

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