

**REPORT OF PROCEEDINGS BEFORE**

**GENERAL PURPOSE STANDING COMMITTEE NO. 4**

**INQUIRY INTO THE APPROVAL OF THE DESIGNER OUTLETS  
CENTRE, LIVERPOOL**

---

**At Sydney on Thursday 9 September 2004**

---

**The Committee met at 10.00 a.m.**

---

**PRESENT**

The Hon. J. A. Gardiner (Chair)

The Hon. J. C. Burnswoods

The Hon. A. R. Fazio

Ms S. P. Hale

The Hon. D. E. Oldfield

The Hon. P. T. Primrose

The Hon. J. F. Ryan

**CHAIR:** Good morning. Welcome to the eighth public hearing of the inquiry of General Purpose Standing Committee No. 4 into the approval process for the designer outlets centre on Orange Grove Road, Liverpool. During earlier hearings I made extensive comment on a number of procedural matters. I will make reference to those statements if the need arises during today's hearing. I deal next with the order for papers. Following the hearing on 25 August, the Committee made an order for papers to the Premier's Department and the Office of the Premier for certain documents relating to the designer outlets centre. Yesterday the Committee received correspondence from Dr Col Gellatly, Director-General of the Premier's Department, declining to respond on the basis that the Committee did not have the power to order the production of those documents. The director-general has advised that he is acting on advice from the Crown Solicitor.

I note that the Department of Infrastructure, Planning and Natural Resources eventually provided documents requested by the Committee earlier in this inquiry on a voluntary basis, despite initially declining the order on the basis of legal advice. I deal next with media broadcasting. The Committee previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. Copies of the broadcasting guidelines are available from the table by the door. In reporting Committee proceedings members of the media must take responsibility for what they publish, including any interpretation placed on evidence before the Committee. In accordance with these guidelines, while a member of the Committee and witnesses may be filmed or recorded, people in the public gallery should not be the primary focus of footage or photographs.

Under the standing orders of the Legislative Council, evidence and documents presented to the Committee that have not been tabled in Parliament may not, except with the permission of the Committee, be disclosed or published by a Committee member or by any other person. I deal next with messages. Witnesses, members and their staff are advised that any messages should be delivered through the attendant on duty or through the clerks. Mobile phones should also be turned off during the hearing.

**EMILIO FERRER**, Macquarie Bank, 217 Denison Road, Dulwich Hill, affirmed and examined:

**CHAIR:** In what capacity are you appearing before the Committee?

**Mr FERRER:** As the former Chief of Staff to Minister Knowles.

**CHAIR:** Are you conversant with the terms of reference of this inquiry?

**Mr FERRER:** Yes, I am.

**CHAIR:** If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, indicate that fact and the Committee will consider your request. I think that you have an opening statement to make?

**Mr FERRER:** Yes, I do.

**CHAIR:** You may proceed.

**Mr FERRER:** Madam Chair, I am appearing today following an invitation from the Committee. I will be happy to answer questions relating to the terms of reference of this inquiry. I am providing this statement in the hope that the information it contains is of assistance to the inquiry. My academic qualifications are a Bachelor of Arts from Macquarie University and a Master of Public Policy from the Sydney University. Consequently, public policy has always been my area of professional interest. I worked in the public sector for 15 years, initially in policy, planning and research roles for a number of government departments and later as a senior adviser to two Cabinet Ministers. In June 1995 I joined the staff of the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs, the Hon. Andrew Refshauge as a senior policy adviser.

In April 1999 I joined the staff of the Minister for Health, the Hon. Craig Knowles, as a senior policy adviser. In April 2003 I stayed with Minister Knowles in his role as Minister for Infrastructure, Planning and Natural Resources, as his Deputy Chief of Staff. From late March to mid-April this year I was Acting Chief of Staff to Minister Knowles. From 17 May to 19 July 2004 I was on annual leave. From 20 May to 2 July 2004 I was away on an overseas trip. On 4 August I began employment in a new job with the private sector. On 20 April 2004 I attended a meeting in the office of the Minister Assisting the Minister for Infrastructure and Planning, the Hon. Diane Beamer. The other people who attended the meeting were Minister Beamer, Mr Michael Meagher, Chief of Staff to Minister Beamer, and Mr Graeme Wedderburn, Chief of Staff to the Premier. I cannot remember who initially asked me to attend, but I do remember Mr Meagher contacting me to let me know the time and location of the meeting.

My recollection of the meeting is that the issues discussed included: that the Orange Grove development had initially been approved by Liverpool council as a bulky goods centre; that an officer of Liverpool council, under delegation, had changed the permissible use of the centre from bulky goods to retail, and that it took months for the council to communicate this decision to the public; that there were allegations arising from communications from Westfield to Mr Wedderburn that this process might have involved corrupt behaviour; that the Orange Grove development had been found to be a prohibited development by both the Land and Environment Court and the Court of Appeal; that Westfield also told Mr Wedderburn that they were concerned the owners of the centre could attempt to use inappropriate means to pressure the State Government to overrule the courts; that the Department of Infrastructure, Planning and Natural Resources had recently received a request for an LEP amendment to rezone the land and effectively legalise the operation of the Orange Grove centre; and that Minister Knowles had opened the Orange Grove centre 2003.

Mr Wedderburn issued a strong warning to everyone in the meeting to take all reasonable steps to avoid being inappropriately lobbied and to ensure that the decision about the LEP amendment be made based on sound planning principles. My recollection is that I said very little, but I do remember saying that there was no reason for my Minister to get involved because the responsibility for LEPs had been delegated to the Assisting Minister. Following the meeting—it might have been that evening or the evening of the following day—I spoke briefly to Minister Knowles about this issue. I warned him about the possibility of inappropriate lobbying and emphasised the importance of him staying arm's length from the decision-making process. I told him this was particularly important, given he had opened the centre and the perception this could create. Minister Knowles

agreed with my advice. He also made the point that he would have stayed arm's length from the process anyway as LEPs were the Assisting Minister's responsibility. After that I also had a conversation along the same lines with the new Chief of Staff, Ms Sarah Taylor. I do not recall having any further involvement with the Orange Grove issue prior to going on leave on 17 May.

**CHAIR:** Thank you Mr Ferrer.

**The Hon. JOHN RYAN:** You said that you working for a bank. Would you care to tell the Committee what bank it is?

**Mr FERRER:** I work for the Macquarie Bank.

**The Hon. JOHN RYAN:** When did you first become aware of Orange Grove as an issue?

**Mr FERRER:** At the meeting.

**The Hon. JOHN RYAN:** Which meeting?

**Mr FERRER:** At the meeting on 20 April.

**The Hon. JOHN RYAN:** So you had no prior engagement in this issue at all?

**Mr FERRER:** No. I knew I was going to a meeting to do with the development of an outlet centre in Liverpool, but I did not know any of the details. At the meeting I learned all the details.

**The Hon. JOHN RYAN:** Did you attend the meeting involving the Minister and Westfield in the previous November, prior to the Minister opening the centre?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** Do you know who in the office did?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** But you were the Chief of Staff?

**Mr FERRER:** Not at the time.

**The Hon. JOHN RYAN:** Were you aware of any representations that Westfield had made to your Minister about this matter?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** Just a couple of other preliminary inquiries. Are you a member of the Australian Labor Party?

**Mr FERRER:** Yes, I am. And I am very proud of being a member of the Labor Party.

**The Hon. JOHN RYAN:** There is nothing wrong with that.

**The Hon. DAVID OLDFIELD:** Speak for yourself!

**The Hon. JOHN RYAN:** In which branch are you a member?

**Mr FERRER:** Dulwich Hill branch.

**The Hon. JOHN RYAN:** In preparing your statement and preparing for today, have you met with any representatives of the Government, including the staff of Minister Knowles or the staff of the Premier?

**Mr FERRER:** In preparing my statement, no, I prepared the statement myself. I discussed it with my legal representative.

**The Hon. JOHN RYAN:** Would you care to name your legal representative?

**Mr FERRER:** Yes, Mr John McCarthy.

**The Hon. JOHN RYAN:** He is your legal representative?

**Mr FERRER:** Yes.

**The Hon. JOHN RYAN:** Interestingly enough, he has also represented all of the other Government people. How did you happen to choose the same legal representative?

**Mr FERRER:** Well, I acted in accordance with the guidelines from the Department of Attorney General. I mean, what are you saying—that I don't have the right to have some legal representation?

**The Hon. JOHN RYAN:** No. I am just—

**Mr FERRER:** I went to see him because I wanted to know my rights and responsibilities. I have never done this before, so you can imagine I am a bit nervous about it. I think it is actually a good thing to do. I think you would have done the same thing.

**The Hon. JOHN RYAN:** No, I am not—

**Mr FERRER:** No? You would not have done the same thing?

**CHAIR:** You will just answer questions, Mr Ferrer, not ask us questions.

**Mr FERRER:** Okay. Yes.

**The Hon. JOHN RYAN:** If you would just give me a chance to ask these questions, we might—

**The Hon. PETER PRIMROSE:** Point of order. It is appropriate if they are lawful questions. I mean, the choice of a solicitor, a barrister or someone else has nothing to do with this inquiry—unless Mr Ryan wishes to try and suggest some sort of conspiracy. But he has clearly indicated that is not the case, so I would suggest we move on.

**The Hon. JOHN RYAN:** I am not going to take your suggestion. Now—

**The Hon. AMANDA FAZIO:** To the point of order, Madam Chair, which I might remind you you have not ruled on—

**CHAIR:** There was not any point of order.

**The Hon. PETER PRIMROSE:** I just made a point of order that it may not be a lawful question to inquire about the reasons for someone choosing a particular lawyer in a matter.

**The Hon. AMANDA FAZIO:** I mean, it is really not any business of this inquiry or of the Parliament to determine the way in which this witness has selected his legal representation.

**The Hon. JOHN RYAN:** Madam Chair—

**The Hon. AMANDA FAZIO:** It has nothing to do with you.

**The Hon. JOHN RYAN:** I made it clear that the reason I was asking this question was that I was seeking to find out what discussions Mr Ferrer has had with representatives of the Government prior to coming to this inquiry. He said he has had no representations, no discussions with any member of the Government. But I note that, coincidentally, he has chosen the same legal representative that all of the other people representing the

Government and employed by the Government have selected, and I am trying to find out how this spectacular coincidence occurred.

**The Hon. PETER PRIMROSE:** And what has that go to do with the inquiry?

**The Hon. AMANDA FAZIO:** That has got nothing to do with the terms of reference.

**CHAIR:** I will rule on the point of order. The question that Mr Ryan has asked was about whom Mr Ferrer might have spoken to in relation to coming to this inquiry. Therefore it is within the terms of reference.

**The Hon. PETER PRIMROSE:** I move dissent from your ruling.

**CHAIR:** You have to put it in writing.

**The Hon. PETER PRIMROSE:** I am very happy to put it in writing.

**CHAIR:** We will have to have a deliberative meeting to discuss the dissent against my ruling. So I will have to clear the room so that we can do that.

**(Short adjournment)**

**CHAIR:** Mr Ferrer, firstly, the motion of dissent was defeated.

**The Hon. PETER PRIMROSE:** On party lines.

**The Hon. DAVID OLDFIELD:** How could it be on party lines?

**The Hon. PETER PRIMROSE:** Because you're part of them.

**The Hon. DAVID OLDFIELD:** You have four different parties.

**CHAIR:** Order! In relation to your statement, have you got any spare copies of that? Could you table that?

**Mr FERRER:** I have tabled one.

**CHAIR:** Okay.

**The Hon. JOHN RYAN:** He has presented one. He has not tabled it yet.

**Mr FERRER:** Well, I have presented it. I would be happy to table it as well, if that is required.

**Document tabled.**

**CHAIR:** It has been tabled. Can we have that distributed to the Committee, please? We will resume with the questions.

**The Hon. JOHN RYAN:** I am trying to work out what consultation you had prior to coming to the Committee today.

**Mr FERRER:** Well, about the statement, I have actually written the statement myself. I have written a statement that best reflects my recollection of the events of what I thought might be relevant to this Committee. I mean, I don't know what you are suggesting. Why don't you tell me what you are suggesting, and then I will say yes or no?

**The Hon. JOHN RYAN:** I told you what I am suggesting.

**Mr FERRER:** Oh! Well, good!

**The Hon. JOHN RYAN:** I am simply trying to find out whether you have had any discussions with representatives of the Government—

**Mr FERRER:** Not about my statement, no.

**The Hon. JOHN RYAN:** — or with staff. In preparing yourself to arrive at the Committee today, who have you discussed your evidence with?

**Mr FERRER:** My evidence, with my legal representative.

**The Hon. JOHN RYAN:** Have you had any discussions with Mr Wedderburn prior to coming to the Committee today?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** Have you had any discussions with your Minister prior to coming to the Committee today?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** Well, I could go through a tedious length of questions, Mr Ferrer, but obviously somebody has given you at least some prior information as to what evidence would be relevant to the Committee, so—

**Mr FERRER:** Well, I can clarify that issue, if you let me. I can clarify this issue. My name appeared in the newspapers the other day, so that was a bit of a clue what this Committee might ask me. So then I actually went to find out, mainly through information that is publicly available, why my name was being mentioned, and I prepared the statement consistent with this process, which I think is perfectly reasonable.

**The Hon. JOHN RYAN:** How did you chance on your legal counsel being the same as everybody—

**Mr FERRER:** Because I asked the question, "Do I have the right to have—." Given this is actually an issue where, if I have to appear before the Committee, it will be not as a private citizen but in my capacity as a former Deputy Chief of Staff to Minister Knowles, I asked the question, "Can I have some legal representation?" and the answer was yes, and John McCarthy was the person who was suggested.

**The Hon. JOHN RYAN:** Who did you ask?

**Mr FERRER:** I asked my former Chief of Staff, Sarah Taylor.

**The Hon. JOHN RYAN:** So you have in fact discussed the evidence.

**Mr FERRER:** I haven't, no. You asked me a question. You see, I have come here. You have invited me, I have come. Let's keep it pleasant.

**The Hon. JOHN RYAN:** I am perfectly happy—

**Mr FERRER:** What you are suggesting now is quite offensive. You asked me who have I discussed my evidence with. I didn't discuss my evidence with Sarah Taylor. I discussed my appearance with Sarah Taylor. I said to her, "Do I have the right to have legal representation?" She said, "Yes. The person handling this matter is John McCarthy." I went to see John McCarthy. But the question you asked me before was did I discuss my evidence with anybody, and the answer is no.

**The Hon. JOHN RYAN:** Is Sarah Taylor the only representative of the ministerial staff with whom you have discussed your appearance today?

**Mr FERRER:** No. I had a couple of phone calls yesterday from people saying, "Are you nervous? Good luck."

**The Hon. JOHN RYAN:** Who were they?

**Mr FERRER:** I think it was Kathy Connell, who works in the office. She said, "Good luck. You must be a bit nervous."

**The Hon. JAN BURNSWOODS:** Point of order, Madam President—

**Mr FERRER:** I don't know what this, you know—

**The Hon. JAN BURNSWOODS:** —Chair, or whatever. My point of order is, I think, very similar to the one that Peter Primrose raised earlier.

**The Hon. DAVID OLDFIELD:** Good! You'll be able to use the same dissent motion, then.

**The Hon. JAN BURNSWOODS:** That is whether this Committee has any right at all, or whether it is relevant to the terms of reference, to ask the witness for the names or other details of people who rang him to say, "Are you nervous about appearing before this Committee?" The witness has told us that that is what the calls were about. I would submit that we have no right at all to ask the witness the questions that are currently being asked. I would ask for some advice from the clerks on that issue to you, please.

**The Hon. JOHN RYAN:** Already determined by a vote, Madam Chair. There is no point of order.

**The Hon. PETER PRIMROSE:** No. It is a different point of order.

**The Hon. AMANDA FAZIO:** No. Are you so thick you can't understand that?

**The Hon. JOHN RYAN:** The member said it is exactly similar. I recall her saying—

**The Hon. AMANDA FAZIO:** Madam Chair, could you please advise who is in the chair! Is it you or is it that twirp next to you?

**CHAIR:** Order!

**The Hon. JOHN RYAN:** I beg your pardon? What was that?

**CHAIR:** Order!

**The Hon. AMANDA FAZIO:** Oh, you're so thick-eared!

**The Hon. JOHN RYAN:** What was that?

**CHAIR:** Order! Mr Ryan, you can proceed by outlining why the question is relevant to the terms of reference. Proceed.

**The Hon. JOHN RYAN:** The reason that it is relevant—

**The Hon. JAN BURNSWOODS:** I actually took a point of order. It wasn't only relating to the terms of reference.

**CHAIR:** Okay. The point of order—

**The Hon. JAN BURNSWOODS:** It was also about the right of the Committee to ask private questions about private telephone conversations the witness has had with private citizens.

**CHAIR:** I rule that Mr Ryan—. You are misrepresenting what Mr Ryan actually asked. He wasn't asking—

**The Hon. PETER PRIMROSE:** Mr Ryan is trying to misrepresent what is going on in relation to the witness.



**CHAIR:** Order! I have made my ruling. The question is in order. And if the questions can be framed so that they are within the terms of reference, that would be good for everyone.

**The Hon. JAN BURNSWOODS:** Madam Chair, I move dissent from your ruling.

**Mr FERRER:** Another coffee coming up!

**CHAIR:** I need it in writing, and we will have to have another deliberative.

**(Short adjournment)**

**CHAIR:** Order! We will resume the public hearing.

**The Hon. PETER PRIMROSE:** May I ask Mr Ferrer in relation to his statement, if he is prepared to make that public, Madam Chair, and, if so, move that it be made public?

**CHAIR:** Sure. Are you happy to—?

**Mr FERRER:** Sure. Absolutely.

**The Hon. PETER PRIMROSE:** Can I move that way?

**CHAIR:** Mr Primrose has moved that the opening statement be made public. All those in favour say aye. All those against say no. I think the ayes have it. The ayes have it.

**The Hon. JOHN RYAN:** Mr Ferrer, you explained to us who—

**Mr FERRER:** Yes.

**The Hon. JOHN RYAN:** —from the Minister's office called to wish you luck, and you did name one person.

**Mr FERRER:** Yes.

**The Hon. JOHN RYAN:** I think you mentioned there were two. Who was the other one?

**Mr FERRER:** Paul Perry, I think, actually, I spoke to again, "Good luck. You must be nervous."

**The Hon. JOHN RYAN:** Does he work for—

**Mr FERRER:** Yes.

**The Hon. JOHN RYAN:** Mr Knowles?

**Mr FERRER:** Yes.

**The Hon. JOHN RYAN:** And the other person you mentioned was—?

**Mr FERRER:** Kathy Connell, people I worked with for a while. You know, it was just, basically, a good-luck-you-must-be-nervous call.

**The Hon. AMANDA FAZIO:** Mr Ferrer, did they ring you in their capacity as ministerial staff?

**Mr FERRER:** No.

**CHAIR:** Order!

**Mr FERRER:** Absolutely not.

**CHAIR:** You'll get your chance later, Ms Fazio.

**Mr FERRER:** Absolutely not. Lots of people called me.

**The Hon. AMANDA FAZIO:** No, I'll ask a follow-up question when it suits me.

**Mr FERRER:** Lots of people called me that related these comments as well.

**CHAIR:** No, you won't

**The Hon. AMANDA FAZIO:** Yes, I will

**CHAIR:** Not on this Committee, you won't.

**The Hon. JAN BURNSWOODS:** Mr Ryan does it when he pleases.

**The Hon. AMANDA FAZIO:** Are you going to actually chair the Committee for a change?

**CHAIR:** Order!

**The Hon. AMANDA FAZIO:** That would be a first.

**CHAIR:** Mr Ryan has the call.

**The Hon. AMANDA FAZIO:** Permanently, the way you carry on.

**CHAIR:** You are a newcomer to this Committee. You will find that it operates in a fair way.

**The Hon. AMANDA FAZIO:** Unfortunately, I have suffered under your chairmanship before.

**CHAIR:** Mr Ryan.

**The Hon. JAN BURNSWOODS:** Chairmanship?

**The Hon. JOHN RYAN:** You said that you don't—

**The Hon. JAN BURNSWOODS:** Chairmanship? Is that what you'd describe it as?

**CHAIR:** Order!

**The Hon. JOHN RYAN:** You described, you outlined some information—

**The Hon. JAN BURNSWOODS:** You're very generous, Amanda.

**The Hon. JOHN RYAN:** —you had about this development and so on?

**Mr FERRER:** Sorry?

**The Hon. JOHN RYAN:** You outlined some information you had about this development and its history?

**Mr FERRER:** No, I outlined my recollection of issues that were mentioned at the meeting.

**The Hon. JOHN RYAN:** That's right.

**Mr FERRER:** Yes.

**The Hon. JOHN RYAN:** They are similar to things, almost a similar order, actually, to that which has been referred to by other people from ministerial staff.

**Mr FERRER:** That's right.

**The Hon. JOHN RYAN:** Where did you get this background information and when did you have it, prior to the meeting or after it?

**Mr FERRER:** I got that information at the meeting. This is my recollection of the meeting.

**The Hon. JOHN RYAN:** So, at the meeting Mr Wedderburn explained the background to this development, did he?

**Mr FERRER:** No, Mr Meagher explained the background to this development. Mr Wedderburn told us what he knew based on some approaches he has had from Westfield. I think if you go through the statement it's quite clear. And that's my recollection. You've got to understand, it was quite a long time ago. That's what I member of the meeting.

**The Hon. JOHN RYAN:** I don't think it's that long ago.

**Mr FERRER:** Sorry?

**The Hon. JOHN RYAN:** I don't think it's that long time ago.

**Mr FERRER:** Well, it was for me. In between that meeting and now I have actually been on leave for eight weeks. I have been overseas for six weeks. I've got a new job. Yeah, it is quite a long time ago for me.

**The Hon. JOHN RYAN:** Your memory is excellent, nonetheless, it would appear.

**Mr FERRER:** Thank you very much.

**The Hon. JOHN RYAN:** So, did Mr Meagher explain that the Orange Grove development had initially been approved by Liverpool council as a bulky goods centre? Is that what he said?

**Mr FERRER:** Yes. That's my recollection. In fact, I think Mr Wedderburn might have mentioned this as well.

**The Hon. JOHN RYAN:** Sorry, Mr Wedderburn might have mentioned it?

**Mr FERRER:** He might have mentioned that as well. My recollection of who said what is pretty vague. I remember the issues, but—

**The Hon. JOHN RYAN:** It is important to us to find out who said what to the best of our ability.

**Mr FERRER:** Yeah, sure.

**The Hon. PETER PRIMROSE:** It is important to Mr Ryan to find out.

**Mr FERRER:** But one thing that is—

**The Hon. JAN BURNSWOODS:** Mr Ryan is now not only our Chair—

**Mr FERRER:** Can I answer the question?

**The Hon. JAN BURNSWOODS:** —but also our legal adviser and—

**CHAIR:** Order!

**Mr FERRER:** But at the same time, Mr Ryan, I have taken—

**CHAIR:** If the Government members don't want to—

**Mr FERRER:** —an affirmation, so it's very important to me that I'm not guessing. And I am only telling you what I do remember rather than what you want to know. I may not be able to help you.

**The Hon. JOHN RYAN:** It may be you won't.

**Mr FERRER:** Yeah.

**The Hon. JOHN RYAN:** I am obliged to ask.

**The Hon. AMANDA FAZIO:** I think he is beyond help, actually.

**The Hon. JOHN RYAN:** Who told you about an officer of Liverpool council under delegation had changed the principal use of the centre from bulky goods, and that it took months for the council to communicate this decision to the public?

**Mr FERRER:** I do not recall. That was mentioned at the meeting. It might have been Mr Meagher. It may have been Mr Wedderburn.

**The Hon. JOHN RYAN:** Do you remember the business of it being—taking months for the council to—?

**Mr FERRER:** Yeah, I remember that being mentioned.

**The Hon. JOHN RYAN:** By whom?

**Mr FERRER:** I remember that being mentioned. I don't remember who.

**The Hon. JOHN RYAN:** You're absolutely sure that issue was referred to at that time?

**Mr FERRER:** I'm fairly certain.

**The Hon. JOHN RYAN:** Because I—

**Mr FERRER:** Because that was part of why the whole thing was a bit inexplicable. You understand?

**The Hon. JOHN RYAN:** What was inexplicable?

**Mr FERRER:** That a council officer, under delegation, would have changed the permissible use of the building to something that eventually was found by the courts to be prohibited development and that that has not become public for a long time.

**The Hon. JOHN RYAN:** Right.

**Mr FERRER:** I think that was part of the allegations. This doesn't really gel.

**The Hon. JOHN RYAN:** You've used the word "corrupt"—

**Mr FERRER:** Yeah.

**The Hon. JOHN RYAN:** —in reference to an explanation—

**Mr FERRER:** No, I used the words, if you quote me correctly—

**The Hon. JOHN RYAN:** Yep.

**Mr FERRER:** —"it might have involved corrupt behaviour."

**The Hon. JOHN RYAN:** That's right.

**Mr FERRER:** Yeah.

**The Hon. JOHN RYAN:** You used the word "corrupt"?

**Mr FERRER:** That's right.

**The Hon. JOHN RYAN:** There were allegations arising from communications from Westfield to Wedderburn—

**Mr FERRER:** Yeah.

**The Hon. JOHN RYAN:** —that this process might have involved corrupt behaviour?

**Mr FERRER:** Yeah and—sorry, can I clarify the process under which the permissible use of the shopping centre had been changed?

**The Hon. JOHN RYAN:** Do you recall the words "corrupt behaviour" being used by Mr Wedderburn?

**Mr FERRER:** No, I don't recall. That's my paraphrasing of what I understood was being said.

**The Hon. JOHN RYAN:** So, do you recall what Mr Wedderburn actually said?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** Do you recall words like "smelly"—

**The Hon. AMANDA FAZIO:** What, in relation to you?

**Mr FERRER:** I don't, actually.

**The Hon. JOHN RYAN:** —being used?

**Mr FERRER:** I don't. It might very well be that that was said. I don't have a specific recollection of which words were said. I remember the issues that were discussed as outlined in my statement.

**The Hon. JOHN RYAN:** Who told you that the Orange Grove development had been found to be prohibited development by both the Land and Environment Court and the Court of Appeal?

**Mr FERRER:** I think Michael Meagher might have mentioned that at the meeting.

**The Hon. JOHN RYAN:** Who told you that Westfield also told Mr Wedderburn that they were concerned that the owners of the centre will attempt to use inappropriate means—

**The Hon. JAN BURNSWOODS:** Could attempt, not would attempt.

**The Hon. JOHN RYAN:** Sorry, could.

**The Hon. JAN BURNSWOODS:** If you're going to read the statement, would you be accurate? It's like when you said "corrupt" and then had to be corrected by the witness.

**CHAIR:** Order!

**The Hon. JAN BURNSWOODS:** What game are you playing, for God's sake?

**CHAIR:** Order! Order! Order!

**The Hon. JAN BURNSWOODS:** You could at least be honest.

**CHAIR:** I'll stop the clock.

**The Hon. JAN BURNSWOODS:** As I said the other day, devious and dishonest are the two words that describe you, Mr Ryan.

**CHAIR:** I'll stop the clock.

**The Hon. PETER PRIMROSE:** Stop the clock, then. Who cares? Stop the clock.

**The Hon. AMANDA FAZIO:** What difference does it make?

**CHAIR:** Okay.

**The Hon. PETER PRIMROSE:** The clock's stop.

**The Hon. JAN BURNSWOODS:** It's like you denying that you said "Wednesday" in the House last week.

**CHAIR:** Mr Ryan.

**The Hon. JOHN RYAN:** I think the problem is that I, like you, suffer from the ravages of age and have difficulty reading the print.

**Mr FERRER:** That's just not nice at all.

**The Hon. DAVID OLDFIELD:** I don't think you're suffering as much as she is.

**The Hon. JOHN RYAN:** Who told you that Westfield also told Mr Wedderburn that they were concerned that the owners of the centre could attempt to use inappropriate means to pressure the State Government to overrule the courts?

**Mr FERRER:** Clearly, Mr Wedderburn.

**The Hon. JOHN RYAN:** Was the concern only that the owners would use inappropriate means to pressure the State Government?

**Mr FERRER:** That's my recollection, yes.

**The Hon. JOHN RYAN:** There wasn't any suggestion that inappropriate pressure might have come from other people, other than—?

**Mr FERRER:** Not that I recall, no.

**The Hon. JOHN RYAN:** Do you recall people being named?

**Mr FERRER:** I think people were named, but I don't recall who was actually named. You see, I got to go carefully here because after I came back from my holiday and I came back to work—I mean, I been actually following this in the media, so I know the names you are referring to, but I know the names through my reading of the media. At the time I am sure some names were mentioned. Those names would have meant nothing to me, so I wouldn't have recalled who was mentioned or who wasn't mentioned.

**The Hon. JOHN RYAN:** Do you know Mr Tony Beuk?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** You don't recall his name being mentioned?

**Mr FERRER:** No, I don't.

**The Hon. JOHN RYAN:** I only mention it because he was a member of the Labor Party and you might have met him otherwise.

**Mr FERRER:** The Labor Party's got thousands of members.

**The Hon. JOHN RYAN:** Do you recall Mr Sam Bargshoon?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** I think all of the other people that the other witnesses mentioned were Mr Gazal—

**Mr FERRER:** Yeah.

**The Hon. JOHN RYAN:** —obviously you recall him?

**Mr FERRER:** I know who all of those people are because I read about it in the paper, but I don't recall them being mentioned. It would have meant nothing to me at the time.

**The Hon. JOHN RYAN:** Who told you that Minister Knowles had opened the Orange Grove centre in 2003?

**Mr FERRER:** I think Graeme Wedderburn mentioned that.

**The Hon. JOHN RYAN:** Did you find that out for the first time at that meeting?

**Mr FERRER:** Yes.

**The Hon. JOHN RYAN:** Were you given any indication—was there some reason—did anybody explain to you why a representative from Mr Knowles' office might have been invited to this meeting?

**Mr FERRER:** No, nobody made it explicit, but it's very clear that, given my Minister had opened the centre, it was important for my office to be aware of what was being said.

**The Hon. JOHN RYAN:** I'm not exactly sure that that follows.

**Mr FERRER:** You're not sure that that follows?

**The Hon. JOHN RYAN:** Well—

**The Hon. JAN BURNSWOODS:** Well, that's your opinion, isn't it?

**Mr FERRER:** Well, it's—yeah.

**The Hon. JOHN RYAN:** But opening the centre had been and gone months prior to this.

**Mr FERRER:** Yes.

**The Hon. JOHN RYAN:** There was no suggestion that your Minister had any involvement in the decision making on this matter, was there?

**Mr FERRER:** No, but there could be a perception.

**The Hon. JOHN RYAN:** So what was the point of warning you to warn your Minister—

**Mr FERRER:** Hang on, you are saying here things that I have not said. You are asking me: Why was I at the meeting? I am saying my guess is that is because my Minister opened the centre the previous year.

**The Hon. JOHN RYAN:** So nobody explained to you why you were there.

**Mr FERRER:** You know, we are all part of a team. We hear information that may be relevant. I was there as well because it might very well be that at a press conference or a press event my Minister was going to be asked about this so it is important that he knows what is going on. There is no mystery to this.

**The Hon. JOHN RYAN:** Why not invite the staff of Mr Della Bosca?

**Mr FERRER:** Because Mr Della Bosca is not the Minister for Planning.

**The Hon. JOHN RYAN:** No, but Mr Della Bosca is the Minister regarding employment. There were 400 jobs involved in this matter. I am trying to work out why—

**Mr FERRER:** I cannot answer that question. I do not know why Mr Della Bosca—you should actually ask the people who set up the meeting—was not invited or why you were not invited or why Peta Seaton was not invited. I do not know. That is just spurious.

**The Hon. JOHN RYAN:** It is not spurious, Mr Ferrer, to ask that if you were attending a meeting—

**The Hon. AMANDA FAZIO:** It's very polite of you just to call it "spurious".

**The Hon. PETER PRIMROSE:** It's spinning a yarn, for God's sake.

**The Hon. JOHN RYAN:** If you were invited to attend a meeting as the Chief of Staff of Mr Knowles it certainly is not spurious to ask why you were there and what your role was at the meeting. That is not spurious.

**The Hon. PETER PRIMROSE:** You also asked why other people were not there.

**The Hon. JOHN RYAN:** Why—

**Mr FERRER:** You may actually find this surprising but we meet all the time. We have meetings all the time. There is nothing strange about people that are working together as a team getting together to discuss an issue. Why was Graeme Wedderburn involved? Because somebody had approached him because the Premier runs the whole of the Government so any issues that affect the Government affect the Premier. Why was my Minister involved? Because he had opened the centre, because he is the Minister for Planning and because he might have somebody saying, "Account for this" and he needs to be briefed. That is why. There is no mystery to this. It happens all the time. We have meetings all the time. I am sure you do too.

**The Hon. JOHN RYAN:** Were there other meetings that you were invited to regarding the Orange Grove centre at all?

**Mr FERRER:** No, and if you read my statement it is very clear why that would not have been the case afterwards.

**The Hon. JOHN RYAN:** Well, why this one and none of the others?

**Mr FERRER:** Because it was important for my office to be aware that this was happening; this was being said.

**The Hon. JOHN RYAN:** Madam Chair, I heard the alarm go off. Do you want to pass on and I will come back?

**CHAIR:** Yes. Sylvia Hale.

**Ms SYLVIA HALE:** Mr Ferrer, have you retained Mr McCarthy to advise you?

**Mr FERRER:** Sorry, I am not sure what that means.



**Ms SYLVIA HALE:** Are you paying for Mr McCarthy?

**Mr FERRER:** No, I am not.

**Ms SYLVIA HALE:** Who is paying Mr McCarthy?

**Mr FERRER:** Mr McCarthy will be paid according to the guidelines set by the Attorney General.

**Ms SYLVIA HALE:** So Mr McCarthy is being paid by Mr Wedderburn—

**Mr FERRER:** Not by Mr Wedderburn.

**Ms SYLVIA HALE:** He is being used by Mr Wedderburn, Mr Meagher and yourself.

**Mr FERRER:** You are telling me that, yes.

**Ms SYLVIA HALE:** You say that you moved in April 1999 from Dr Refshauge's staff to that of Mr Knowles and then you moved with him from Health to DIPNR.

**Mr FERRER:** Yes.

**Ms SYLVIA HALE:** So you obviously had a fairly close and a good working relationship with him during that time.

**Mr FERRER:** Absolutely.

**Ms SYLVIA HALE:** So were you aware at the time that he did open the Orange Grove centre?

**Mr FERRER:** I was not aware. It is nothing that I recall. I mean, his diary is busy. I cannot remember that that actually happened, no—any more than I can remember anything else that he opened in the past few years, even though he has actually participated in a lot of events.

**Ms SYLVIA HALE:** You say that you could not recall words such as "smelly" being used and that you have no specific recollection of the words actually used. So when you say in your statement that "I warned him about the possibility of inappropriate lobbying", were those the words you used?

**Mr FERRER:** I would have used those words or words to that effect, yes.

**Ms SYLVIA HALE:** But the phrase "inappropriate lobbying"—did you read the Hansard transcript of these proceedings?

**Mr FERRER:** I read part of the *Hansard* because I understood that I had been mentioned so I actually went to see what was said about me, yes.

**Ms SYLVIA HALE:** Phrases such as "inappropriate lobbying" seem to have been used consistently.

**Mr FERRER:** Yes. It may very well be that these are the words that were used.

**Ms SYLVIA HALE:** Were they suggested to you by Mr McCarthy or were they words that you came up with spontaneously?

**Mr FERRER:** Nothing in this statement was suggested by anybody, okay. I wrote this statement as my best recollection of the events.

**Ms SYLVIA HALE:** Right. Even though the wording and phrasing—whether it is "inappropriate lobbying" or "following proper planning principles"—the fact that they are used through everyone's statement—

**Mr FERRER:** That is right.

**Ms SYLVIA HALE:** It means there has been no consultation?

**Mr FERRER:** Maybe that is because they were the words actually said.

**Ms SYLVIA HALE:** But you would have no knowledge of that. You cannot remember that being said.

**Mr FERRER:** I cannot remember the specific words. They are the words that I have chosen to best describe my recollection of events.

**Ms SYLVIA HALE:** Sure. But it seems to be funny. A word like "smelly" is obviously very memorable, one would have thought, as opposed to a fairly formal phrase like "inappropriate lobbying".

**Mr FERRER:** I have written a statement that best reflects my recollection of the events.

**Ms SYLVIA HALE:** Okay. After the meeting you say that you spoke to Sarah Taylor about it. What did you say to her?

**Mr FERRER:** The conversation. Sarah had just started on the job so I would have just said to her exactly what I said to Minister Knowles—"There's been a meeting, this is what's happened. It's important that Mr Knowles stays arm's length from the decision-making process. The main issue is that he opened the centre and there could be a perception issue." She said, "Fine."

**Ms SYLVIA HALE:** Did she ask you questions about it?

**Mr FERRER:** No, not really. She said, "Fine, that sounds reasonable."

**Ms SYLVIA HALE:** She did not ask you for any of the background?

**Mr FERRER:** I gave her the background that I had actually got at the meeting, yes.

**Ms SYLVIA HALE:** So did you talk to her about the allegations about Liverpool council and the way in which the development application was supposedly inappropriately approved?

**Mr FERRER:** Yes, I would have mentioned that. I would have talked or whatever—

**Ms SYLVIA HALE:** You would have mentioned it all?

**Mr FERRER:** Yes.

**Ms SYLVIA HALE:** Did you mention any names of the people who were involved—the personalities—when you were talking to her?

**Mr FERRER:** No.

**Ms SYLVIA HALE:** On what presumably was going to be a fairly contentious issue—

**Mr FERRER:** Ms Hale, you are actually ignoring something. I was not actually saying to Minister Knowles or to Sarah Taylor, "This is an issue for us." I was actually saying, "This is happening but No. 1 it is important that our Minister is not involved and is arm's length because there could be a perception issue; and No. 2 there is no need for him to get involved because this relates to the assessment of an LEP amendment and this task has been delegated to the Assistant Minister." Neither Minister Knowles nor Ms Taylor were particularly interested in following this up. It was not a matter that we would have to deal with; it was a matter for Minister Beamer.

**CHAIR:** Mr Oldfield.

**The Hon. DAVID OLDFIELD:** Mr Ferrer, is it?

**Mr FERRER:** If you pronounce it properly, it is "Ferr-air"; or you can call me "Ferr-er", which is what everybody else calls me.

**The Hon. DAVID OLDFIELD:** Mr Ferrer, can you tell me why was it that you felt that you needed legal representation prior to—

**Mr FERRER:** I wanted to know my rights and responsibilities in attending this Committee.

**The Hon. DAVID OLDFIELD:** With regard to your statement, I note you say that you prepared it yourself but you did discuss it with your lawyer.

**Mr FERRER:** Yes. I gave him a copy.

**The Hon. DAVID OLDFIELD:** So Mr McCarthy had a copy and he went through the statement with you.

**Mr FERRER:** No, I gave him a copy.

**The Hon. DAVID OLDFIELD:** How did you discuss it with him if he did not go through it with you?

**Mr FERRER:** I am sorry, when did I say that I discussed it? I actually gave him a copy, he read it and said, "That's fine."

**The Hon. DAVID OLDFIELD:** A minute ago you told us that he discussed it with you—in fact, you only just said you told us—

**Mr FERRER:** He read the statement and he said, "That's fine." He told me, "All you have to do is go to the inquiry and tell the truth." That was his advice.

**The Hon. DAVID OLDFIELD:** Did you actually need to get advice that all you needed to do was come and tell the truth?

**Mr FERRER:** No. You do not actually need to get advice for that but it is actually reassuring that, when you are a bit overwhelmed by something you have to do, somebody simplifies what you have to do to something as simple as that. I felt better.

**The Hon. DAVID OLDFIELD:** This is a fairly straightforward inquiry. There are no allegations against you. There have been no accusations made where you are concerned. Why would you be overwhelmed by it?

**Mr FERRER:** Well, maybe I am not made for these sorts of forums but I actually find the idea of coming here for one and a half hours—maybe longer—and getting questions from you and getting some of the questions that I have already had as somewhat intimidating. You are a parliamentarian: You actually do this all the time. I do not. And I think that is a reasonable thing.

**The Hon. DAVID OLDFIELD:** How long have you been involved in politics?

**Mr FERRER:** For a long time.

**The Hon. DAVID OLDFIELD:** You must have been around these sorts of scenarios.

**Mr FERRER:** I have been around these sorts of scenarios but this is the first time ever that I appear before an inquiry. I think you get better with practice, don't you think?

**The Hon. DAVID OLDFIELD:** Most people get better with practice.

**Mr FERRER:** You get less nervous. I think that is a reasonable thing.

**The Hon. DAVID OLDFIELD:** So you were nervous coming here?

**Mr FERRER:** Yes.

**The Hon. DAVID OLDFIELD:** With regard to your statement, you say that Westfield also told Mr Wedderburn that they were concerned that the owners of the centre could attempt to use inappropriate means. When you were being told that did it occur to you at all that maybe it was not all that kosher, so to speak, that Westfield was doing this themselves?

**Mr FERRER:** No. I just saw it as a claim. I did not actually place any judgment on whether the claim was true or not; it was just something that was being said. The most concrete bit of evidence about it was that there did not seem to be an explanation of why the use of the centre had been changed under delegation to something that afterwards two courts had found to be a prohibited development. So I mean—

**The Hon. DAVID OLDFIELD:** But of course since that time the Government-appointed administrator of Liverpool council had submitted a change to the LEP to the Planning Minister.

**Mr FERRER:** Yes.

**The Hon. DAVID OLDFIELD:** Did you see anything wrong with that?

**Mr FERRER:** No. I saw this as the administrator looking after the best interests of the council.

**The Hon. DAVID OLDFIELD:** How was that looking after the best interests of the council?

**Mr FERRER:** Because they had actually made a decision that this was a mistake, according to two courts. So she was just seeking to reverse it. At a local level there was an issue to do with jobs. So it was in the best interests of the area to maintain the jobs. These were the local issues as opposed to the bigger planning issues. So I did not think there was anything wrong with that. But you see at that stage I had no idea—nobody had any idea—how the LEP would be assessed. I mean everything was a reasonable thing to do. But we did not know what the outcome would be.

**The Hon. DAVID OLDFIELD:** So when you are looking at this and you have a situation where corruption is being suggested as possibly taking place through one developer through the council, it did not occur to you at all that the same could be levelled at Westfield and that they simply started at the top instead of at the bottom—being that Westfield is a competitor?

**Mr FERRER:** No, that did not occur to me. Westfield was presented as the people who had taken this centre to court and won. So at the very least two court decisions supported their allegation that the centre was a prohibited development. I mean I saw Westfield's involvement from that angle at that stage. Now, after—

**The Hon. DAVID OLDFIELD:** Westfield's involvement was as a competitor, wasn't it? Westfield was so concerned about the whole thing they took action themselves in the court.

**Mr FERRER:** Yes.

**The Hon. DAVID OLDFIELD:** And Westfield, who had everything to gain by the closing of the centre, went to the Premier and had the Premier organise a meeting, which included you, his Chief of Staff and the Assistant Minister for Planning's Chief of Staff, and it did not occur to you at all—

**Mr FERRER:** To my knowledge—

**The Hon. DAVID OLDFIELD:** That this may be just as equally inappropriate as what was being alleged?

**Mr FERRER:** I am sorry, Mr Oldfield, I have to correct you. To my knowledge, Westfield did not actually cause this meeting to occur. I mean I have no evidence that the reason for the meeting was—

**The Hon. DAVID OLDFIELD:** Let me inform you that all of the evidence before this Committee is that Westfield did exactly cause this meeting to occur.

**The Hon. JAN BURNSWOODS:** Don't make things up. Take no notice of the inventions over there.

**Mr FERRER:** That is your claim. I have no evidence before me to support that.

**The Hon. DAVID OLDFIELD:** Madam Chair, can I get your direction? My understanding of what we have heard is that Westfield contacted the Premier's Department, Mr Wedderburn had a meeting with Mr Ryan and, as a consequence of that meeting, the meeting that Mr Ferrer attended. That is how it all came about. Is that your recollection?

**CHAIR:** I think that is a fair assessment.

**Mr FERRER:** That is your claim. From my point of view—

**The Hon. PETER PRIMROSE:** Point of order—

**CHAIR:** If we can direct the questions to you, Mr Ferrer.

**The Hon. PETER PRIMROSE:** Point of order: Let us get this clear. We have not had a deliberative on this.

**CHAIR:** Sure.

**The Hon. PETER PRIMROSE:** Are you giving a direction as to what the evidence has shown?

**CHAIR:** No, no, no.

**The Hon. PETER PRIMROSE:** Well, that is what you have been asked.

**CHAIR:** I will ask that the questions—

**The Hon. PETER PRIMROSE:** You are saying that—

**The Hon. DAVID OLDFIELD:** Let me make it easy: Is there somebody who is willing—

**CHAIR:** Mr Oldfield, can you direct your questions to the witness rather than to me because we will get to the—

**The Hon. DAVID OLDFIELD:** Well, the difficulty here is that the witness is not aware, apparently, of evidence that we have received—

**The Hon. PETER PRIMROSE:** He can't read your mind. That's the problem.

**Mr FERRER:** Mr Oldfield, what I am aware of is what I actually heard at the meeting.

**The Hon. PETER PRIMROSE:** Mr Oldfield still thinks the *X-Files* was a documentary, you know.

**The Hon. DAVID OLDFIELD:** I actually did not ever watch the *X-Files*, I am sorry to tell you, Peter.

**CHAIR:** The witness will answer to the best of his knowledge.

**Mr FERRER:** Yes, can I answer the question? When I attended the meeting—

**The Hon. JAN BURNSWOODS:** Hang on, Madam Chair. There has been a point of order on which you have not ruled and the point of order relates precisely to the line of questioning being given to the witness.

**The Hon. DAVID OLDFIELD:** What point of order?

**The Hon. JAN BURNSWOODS:** As Ms Fazio said before, could you please remember that you are the Chair of this Committee?

**Ms SYLVIA HALE:** What is the point of order?

**The Hon. DAVID OLDFIELD:** What was the point of order?

**Ms SYLVIA HALE:** That is not a point of order.

**The Hon. DAVID OLDFIELD:** Where was the point of order?

**The Hon. JAN BURNSWOODS:** The point of order was raised earlier—

**Ms SYLVIA HALE:** What was it?

**The Hon. DAVID OLDFIELD:** Do you mean the two—

**The Hon. PETER PRIMROSE:** The report will be presented to this Committee as the Chair's report.

**The Hon. DAVID OLDFIELD:** I am sorry, are you trying to tell me that Westfield did not create the meeting that he attended?

**The Hon. PETER PRIMROSE:** I am trying to create the position whereby I am asking—

**The Hon. DAVID OLDFIELD:** Is that not all the evidence we have?

**The Hon. PETER PRIMROSE:** the Chair whether she is presenting a report.

**CHAIR:** No.

**The Hon. PETER PRIMROSE:** Good.

**CHAIR:** I will rule that the evidence will be considered at a deliberative meeting later on.

**The Hon. PETER PRIMROSE:** Thank you.

**Mr FERRER:** Can I answer the question? I think the way you are putting it is not correct from my point of view.

**The Hon. DAVID OLDFIELD:** How can it be not correct from your point of view?

**Mr FERRER:** If you want you can sit here and answer the question yourself.

**The Hon. PETER PRIMROSE:** You have asked the witness the question. Let him answer it.

**The Hon. AMANDA FAZIO:** Point of order—

**The Hon. DAVID OLDFIELD:** How can something not be correct from your point of view? It is either correct or it is not.

**The Hon. AMANDA FAZIO:** My point of order is that the Hon. David Oldfield is asking Mr Ferrer questions and then cutting into his answers so that we do not get to hear the answers. I would like to hear Mr Ferrer's answers to Mr Oldfield's questions without interruption. I ask that you rule that way and asked Mr Oldfield to stop interrupting.

**CHAIR:** I do rule that way. I ask Mr Oldfield to let the witness answer the questions and I ask the witness to let Mr Oldfield finish asking his questions. Mr Ferrer?

**Mr FERRER:** I am sorry, I am a bit confused.

**The Hon. DAVID OLDFIELD:** The question is simply this. Westfield created the meeting that you attended. Now that you have—

**Mr FERRER:** Well, that is a statement you are making.

**The Hon. DAVID OLDFIELD:** No, it is not a statement I am making. It is a statement of all the evidence.

**Mr FERRER:** I do not know that. My answer is that I do not know that.

**CHAIR:** Mr Ferrer, if you would just let Mr Oldfield get to the end of this question.

**The Hon. DAVID OLDFIELD:** Westfield created the meeting you attended—whether you knew that or not at the time, you know that now. That is the situation. Does it not occur to you at all that at one level we have allegations being made—

**The Hon. JAN BURNSWOODS:** Point of order. You have just ruled in answer to the point made earlier by the Hon. Peter Primrose that these matters will be determined in the future by the Committee. Once again, I ask you to stop Mr Oldfield prejudging the discussions the Committee will at some later stage have and pretending to put questions to the witness, which are not questions but mistaken assertions.

**CHAIR:** Mr Oldfield is entitled to ask questions by putting a preliminary position if that is what you wish to do.

**The Hon. DAVID OLDFIELD:** Mr Wedderburn, the Premier's chief of staff, has given specific evidence as to how the meeting came about. I am basing my question on his evidence, not on the deliberations of the Committee. He has given us evidence that the meeting came about because he was contacted by Mr Ryan, who caused the corruption allegations to be made. They had a meeting and, as a consequence of that meeting, you had your meeting. Given that circumstance, does it occur to you that Westfield were merely doing in many respects what they were alleging others were doing but doing it at a higher level?

**Mr FERRER:** No, it does not occur to me.

**The Hon. DAVID OLDFIELD:** Mr Wedderburn tells us that he gave Mr Meagher a directive from the Premier to tell the Minister to simply make a decision based on planning principles and to avoid lobbying. Do you have a recollection of that at all, at the meeting?

**Mr FERRER:** I did not see it as a direction, no. I do not remember any direction. I remember Mr Wedderburn giving a piece of advice. It was a distillation of all the issues. Given all of these things we have discussed, what are we to do? The two things that are important are to make sure that inappropriate lobbying does not occur and to make sure that decisions are made on sound planning grounds.

**The Hon. DAVID OLDFIELD:** What is your understanding of inappropriate lobbying?

**Mr FERRER:** Anything that is not directly relevant to the facts of the application or the issue.

**The Hon. DAVID OLDFIELD:** Could you give me an example of that?

**Mr FERRER:** I do not know, somebody trying to bribe you would be inappropriate. I would say, given the allegations, that even trying to get into discussions about this issue might have been inappropriate.

**The Hon. DAVID OLDFIELD:** Was there any suggestion to you there had been a bribe?

**Mr FERRER:** No. Mr Oldfield, you asked me for example. I am not saying this occurred.

**The Hon. DAVID OLDFIELD:** Let me ask you what did occur.

**Mr FERRER:** I do not know.

**The Hon. DAVID OLDFIELD:** What were the specific allegations that one could consider to be inappropriate lobbying, of which you were being warned?

**Mr FERRER:** At that point, if I were interpreting this for myself, I gave a piece of advice to my Minister which was, make sure you stay at arm's-length, because any involvement with any of the people involved, in my view, at that stage, after we had a knowledge there were allegations, would have been inappropriate.

**The Hon. DAVID OLDFIELD:** But it was not inappropriate to be involved with Westfield?

**Mr FERRER:** I was not involved with Westfield.

**The Hon. DAVID OLDFIELD:** Your Minister was.

**Mr FERRER:** Not to my knowledge.

**The Hon. DAVID OLDFIELD:** He met with them, just prior to opening the centre.

**Mr FERRER:** Prior to opening the centre, yes.

**The Hon. DAVID OLDFIELD:** And the meeting you attended was as a consequence of Westfield—

**Mr FERRER:** No. I do not know what you are talking about.

**The Hon. DAVID OLDFIELD:** It is a shame you do not know what I am talking about and we are having difficulty understanding what you are talking about. I do not understand from you, and I am happy to have explained to me, what constitutes inappropriate lobbying in this case.

**Mr FERRER:** I have answered the question.

**The Hon. DAVID OLDFIELD:** Answer it for me again. What constitutes inappropriate lobbying? What were you told was inappropriate lobbying?

**Mr FERRER:** I think I have answered the question.

**The Hon. DAVID OLDFIELD:** I do not think you have, so I am asking you again.

**The Hon. PETER PRIMROSE:** You cannot. The witness has said he answered the question.

**The Hon. DAVID OLDFIELD:** The witness has not answered the question.

**Mr FERRER:** You may not like the way I have answered the question, but I have answered the question.

**The Hon. DAVID OLDFIELD:** Did you take any notes at this meeting?

**Mr FERRER:** No.

**The Hon. DAVID OLDFIELD:** You just took it all on memory back to your Minister?

**Mr FERRER:** I did not take notes, no.

**The Hon. DAVID OLDFIELD:** You just remembered everything?

**The Hon. JAN BURNSWOODS:** You have notes, David, have you, in case you forget something?

**Mr FERRER:** I remembered some things, but I do not remember everything.

**The Hon. DAVID OLDFIELD:** I do take notes.



**The Hon. JAN BURNSWOODS:** You are also handed a lot of notes from very suspicious sources, too.

**The Hon. DAVID OLDFIELD:** My staffer.

**The Hon. JAN BURNSWOODS:** Where did he get them from?

**The Hon. DAVID OLDFIELD:** They are in his writing. Maybe somebody put the thoughts in his mind.

**CHAIR:** Order! The Hon. David Oldfield will not be distracted.

**The Hon. DAVID OLDFIELD:** You did not take any notes?

**Mr FERRER:** No.

**The Hon. DAVID OLDFIELD:** You just took it all on memory and took it back to the Minister?

**Mr FERRER:** No, I do not think I took it all on memory. I attended the meeting and paid attention. That is what I did.

**The Hon. DAVID OLDFIELD:** You did not use your memory?

**Mr FERRER:** I used my memory at some stage. If you want to make this into a medical discussion, I am perfectly happy.

**The Hon. DAVID OLDFIELD:** If you did not take notes and you are saying you did not use your memory—

**Mr FERRER:** I did not say I did not use my memory. I said I paid attention and that I took appropriate action as I saw fit. My statement describes the action I took. If you want to make this into some sort of stuff *West Wing* story, that is your prerogative.

**The Hon. DAVID OLDFIELD:** It is interesting that you go to a meeting which has been called essentially by the Premier's chief staff, who you earlier told us is the person who runs the State and tells everybody what to do.

**Mr FERRER:** I did not say that.

**The Hon. DAVID OLDFIELD:** You did say that.

**Mr FERRER:** I did not say that.

**The Hon. DAVID OLDFIELD:** You are saying he does not run the State? He does not tell everyone what to do? He does not tell his Ministers what to do?

**Mr FERRER:** I have not said that. I will tell you what I said. I said Mr Wedderburn issued a strong warning to everybody in the meeting to take all reasonable steps to avoid being inappropriately lobbied and to ensure the decision about the LEP amendment to be made on sound planning principles. That is what I said.

**The Hon. DAVID OLDFIELD:** That is all that was said, is it?

**Mr FERRER:** That is what I remember of what was said.

**The Hon. DAVID OLDFIELD:** You have written down a lot more than that.

**Mr FERRER:** Yes.

**The Hon. DAVID OLDFIELD:** You have written down an entire recollection.

**Mr FERRER:** That is right.

**The Hon. DAVID OLDFIELD:** You do not find it odd that you went to a meeting called by the Premier's chief of staff, with all these corruption alarm bells ringing. He has a meeting specifically based on this and potential corruption and inappropriate lobbying, these deceitful people doing all these things, and you do not take a single note and then you go back and tell the Minister about this, and then, four or five months later, you give us a statement of everything that took place?

**Mr FERRER:** I do not find it odd.

**The Hon. DAVID OLDFIELD:** I am sure you would not.

**Mr FERRER:** If you are sure, why do you ask me?

**The Hon. DAVID OLDFIELD:** I am sure you would not because it suits your case not to find it odd.

**Mr FERRER:** I went to the meeting. I took from the meeting what I thought was relevant to my role. I counselled my Minister to my best ability and what I thought was relevant. To that extent, I think I fulfilled what anybody would have expected of me.

**The Hon. DAVID OLDFIELD:** To your best ability, does that always—

**Mr FERRER:** I always do it to my best ability. I cannot do it beyond my best ability. I would like to.

**The Hon. DAVID OLDFIELD:** Your best ability includes that you do not ever have to take notes?

**Mr FERRER:** Sometimes I take notes, sometimes I do not. That meeting, I saw no reason.

**The Hon. DAVID OLDFIELD:** How important would a meeting have to be for you to take notes?

**Mr FERRER:** I would have taken notes if there was something complex I had to do following the meeting. This was not complex, it was an issue that largely had nothing to do with my Minister. The only thing I thought I had to follow up is what I have said in my statement, to counsel my Minister that it is important that he stays at arm's-length from the decision-making process because there could be perception issues.

**The Hon. DAVID OLDFIELD:** So, you attended this meeting, which was a corruption warning, and all you needed to take away from that was to go back to Craig and say, "Craig, this has been a corruption warning. Stay away from it, it is not really your responsibility anyway. Thanks very much, did not take any notes, that is all you need to know"?

**Mr FERRER:** When you are part of government and part of the team, that is exactly what you do. You take the bit you are meant to do and you let other people do the things they are meant to do. I am sure you work that way too.

**The Hon. DAVID OLDFIELD:** Did you ever consider taking this to ICAC or did you consider advising your Minister that it was an issue for ICAC?

**Mr FERRER:** No. The allegations had not been made directly to me, so, no, I did not see it had to be taken to ICAC.

**The Hon. DAVID OLDFIELD:** Was their discussion at the meeting that it should?

**Mr FERRER:** Not that I can recall.

**The Hon. DAVID OLDFIELD:** So it was never raised that this was a matter for ICAC?

**Mr FERRER:** Not that I can recall.

**The Hon. DAVID OLDFIELD:** How seriously did Mr Wedderburn broach this matter?

**Mr FERRER:** What do you mean?

**The Hon. DAVID OLDFIELD:** We are talking about a multimillion-dollar development. We are talking about allegations of corrupt behaviour from the very lowest level all the way through council to try to assist this developer with all these shadowy figures in the Labor Party locally, and no-one mentioned ICAC?

**Mr FERRER:** I think it might have been mentioned. I do not have a recollection that ICAC was mentioned.

**The Hon. DAVID OLDFIELD:** So now it might have been mentioned?

**Mr FERRER:** That is what I said to begin with. I do not have a recollection of ICAC being mentioned.

**The Hon. JOHN RYAN:** Can I just finish with your recollection of the meeting with Mr Wedderburn. You listed a number of dot points as your memory. Did anybody make reference to the fact that the centre as it was trading employed approximately 400 people?

**Mr FERRER:** No. I do not remember the number of jobs being mentioned but, to be fair, I think I recall jobs in the centre being an issue, of course. Whatever happened, these were people who did not have a responsibility for this and could be adversely affected.

**The Hon. JOHN RYAN:** Why did you not include that in your dot point recollection?

**Mr FERRER:** I do not know. You have mentioned the issue now and I remember it.

**The Hon. JOHN RYAN:** It is just that largely the list that you produce of your recollection appears to be largely a repeat of the Government's case?

**Mr FERRER:** That is probably because that is what happened at the meeting.

**The Hon. JOHN RYAN:** In other words, the meeting largely focused on the fact that this was a suspect development? It did not approach it in an objective manner—

**Mr FERRER:** No, you are making an assumption here. You seem to assume that the meeting was somehow what to do about the LEP. It was not about that. It was about listing the issues, and Mr Wedderburn's warning was a summary of the meeting. Okay, given all these facts—you remind me now that it included the jobs—given these facts we must make sure two things happen: One, that nobody gets inappropriately lobbied and, two, that the decision on the LEP is made on sound planning principles. Clearly that will include an assessment of the impact on the jobs.

**The Hon. JOHN RYAN:** I am just imagining it, but a decision like this, which involved either the continuation or termination of 400 employed people, would usually be a pretty important issue for discussion in terms of the impact—

**Mr FERRER:** If the meeting is about the merits of the LEP, yes, but it was not.

**The Hon. JOHN RYAN:** Can you just wait until I have asked the question.

**CHAIR:** Mr Ferrer, can you make sure the question is complete.

**The Hon. JOHN RYAN:** I can only imagine a decision of this nature, which is clearly politically sensitive because it involves 400 jobs, but that would be one of the first things or one of the important things discussed. The Government is about to make a decision, for good or ill, which will impact on 400 people who are currently working at Liverpool. I find it hard to believe that that would not be paramount and a significant matter that would have been mentioned in a meeting of the Premier's office, unless the meeting was all about why this is a suspect development. I cannot imagine that that aspect of this politically sensitive issue was not a memorable part of the discussion?

**Mr FERRER:** You just reminded me—and I acknowledge—that, yes, that was also discussed. If you look at my statement, I said that my recollection of the meeting is that issues discussed "included", and I wrote down the things that I remember the most. You reminded me of this. Yes, of course, this was mentioned as well.

**The Hon. JOHN RYAN:** Do you recall Mr Wedderburn using the words "stick to the rules"?

**Mr FERRER:** No, I do not. I do not recall the exact words he used. I recall he gave everybody a warning. I cannot recall the words he used.

**The Hon. JOHN RYAN:** Do you recall Mrs Beamer speaking at the meeting, and if so do you remember what she said?

**Mr FERRER:** No. I remember that at the meeting Minister Beamer and I would have been the people who spoke the least. That is my recollection of her. I cannot remember anything specific she said.

**The Hon. JOHN RYAN:** Do you recall Mr Wedderburn speaking to Mrs Beamer and telling her, "Look, it's important that you stick to the rules," and Mr Wedderburn asking her to repeat it back to him?

**Mr FERRER:** No. I do not recall that.

**The Hon. JOHN RYAN:** I ask you that because that was his evidence.

**Mr FERRER:** I do not recall that. I am not saying that it did not happen; I am simply saying I do not remember that. My recollection of the meeting is that Mr Wedderburn's warning was to the meeting generally; he was not actually focusing on anybody in particular.

**The Hon. JOHN RYAN:** Did Mr Wedderburn ask the people present, including yourself, whether they were aware of representations that had been made by any of the parties about this matter during the meeting?

**Mr FERRER:** No. I do not recall that.

**The Hon. JOHN RYAN:** I will read to you a statement from Westfield of 22 July. Westfield stated:

Westfield made its opposition to Orange Grove Road clear in submissions to Liverpool council, to the Department of Infrastructure, Planning and Natural Resources, and to Planning Minister Craig Knowles, but it did not meet with Diane Beamer and made no submission to her.

In your role as chief of staff, were you aware that Westfield had made submissions to planning Minister Craig Knowles about this matter?

**Mr FERRER:** No, I am not aware of that. I was the acting chief of staff for a period, as I said in my statement. I am not aware of that.

**The Hon. JOHN RYAN:** When you spoke to Mr Knowles and issued that warning to him, did he tell you anything about his prior knowledge of this matter?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** Did he complain to you about people making submissions to him in the early hours of the morning or in the late hours of the evening?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** Did he explain to you that one of the proponents of this development was an architect who had designed his home?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** Did he explain to you that two of the proponents of this proposal had in fact given him a financial reference for a housing loan?

**Mr FERRER:** I am not aware of any of these things.

**The Hon. JOHN RYAN:** Did he say anything about them being personal friends of his, and that that was an additional reason for him to be careful?

**Mr FERRER:** No. It was a hurried meeting. I recall it because I was on the way home, I had my bag, we stood up, and he said, "By the way—". I had a meeting along the lines of what I said in my statement. It must have lasted probably two minutes.

**The Hon. JOHN RYAN:** Were you sure that Mr Knowles knew which development you were speaking about?

**Mr FERRER:** Yes, I think so. To the best of my knowledge, yes.

**The Hon. JOHN RYAN:** What did he say that enabled you to determine that?

**Mr FERRER:** What I remember him saying is, "Well, it is an issue for Diane Beamer because it's to do with an LEP, so I will not get involved anyway. But, yes, you're right, I should stay at arm's length." That is the extent of the feedback I got from him.

**The Hon. JOHN RYAN:** He did not mention that he had already had personal representations made to him by the proponents, or Westfield, or anyone of that nature?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** When the decision was made by Diane Beamer, or approaching or around 8 July, were you briefed on what decision Mrs Beamer would make?

**Mr FERRER:** No. I was on leave. I had just come back from an overseas holiday.

**The Hon. JOHN RYAN:** Who would have handled that matter?

**Mr FERRER:** I do not know.

**The Hon. JOHN RYAN:** Did you have any further contact with the Premier, or anyone from the Premier's office, after the Orange Grove matter had been mentioned?

**Mr FERRER:** On this issue?

**The Hon. JOHN RYAN:** Yes.

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** Did you have any further contact with Mrs Beamer, or her office, on the Orange Grove matter?

**Mr FERRER:** On this issue, no. To be fair, I probably had a couple of corridor conversations with Michael Meagher—"How is it going?"—but no substantive issue would have been discussed. This was after I came back from leave, so that would have been in late July or early August, when the whole thing was being reported in the media.

**The Hon. JOHN RYAN:** Why would you be asking Mr Meagher, "How is it going?"

**Mr FERRER:** Because it was an issue that was pretty prominent in the media.

**The Hon. JOHN RYAN:** Do you know Jennifer Westacott?

**Mr FERRER:** Yes.

**The Hon. JOHN RYAN:** How would you characterise her relationship with Mr Knowles?

**Mr FERRER:** Professional.

**The Hon. JOHN RYAN:** Have you ever worked with Ms Alice Spizzo?

**Mr FERRER:** Yes.

**The Hon. JOHN RYAN:** Have you ever worked with Holly Parry?

**Mr FERRER:** Yes.

**The Hon. JOHN RYAN:** Have you ever worked with Todd Clewett?

**Mr FERRER:** Yes.

**The Hon. JOHN RYAN:** In what respect?

**Mr FERRER:** We were all working for Mr Knowles at one stage.

**The Hon. JOHN RYAN:** Are you aware that they all have jobs with the Department of Infrastructure, Planning and Natural Resources?

**Mr FERRER:** Yes, I am.

**The Hon. JOHN RYAN:** Did they ever discuss their appointments with you?

**Mr FERRER:** No.

**Ms SYLVIA HALE:** Mr Meagher in his evidence to the Committee described the purpose of the 20 April meeting as being for Mr Wedderburn to deliver his message of anticorruption to the Minister. Presumably, at that meeting there was a lot of discussion about the corruption elements?

**Mr FERRER:** There was discussion that there was this inexplicable thing that had occurred, where an officer of Liverpool council under delegation had changed the permissible use of the building from something that was legal to something that was illegal, and that nobody actually knew the circumstances surrounding this inexplicable event.

**Ms SYLVIA HALE:** How clear was it made at that meeting that these allegations had come from Westfield?

**Mr FERRER:** I think, very clear. He actually said, "I have had somebody from Westfield contact me. These are the things that are being alleged."

**Ms SYLVIA HALE:** Did he name that person?

**Mr FERRER:** Probably, but the name would have meant nothing to me. I know who you are referring to now, because I read it in the media. But at the time—

**Ms SYLVIA HALE:** But you have never met fellow Labor Party member Mark Ryan?

**Mr FERRER:** No.

**Ms SYLVIA HALE:** You are saying that although there has been a discussion about a development that had been opened by the Minister, whereby people with whom he had ongoing, quite prolonged relationships—

**Mr FERRER:** I am sorry. I have read about this in the media, and there have been some claims today, but I was not aware of that at the time.

**Ms SYLVIA HALE:** In this supposedly two-minute conversation, when it came up almost as an afterthought as you were leaving, the Minister expressed no interest in the details of that meeting? He did not want to know who had been named, or what had been said?

**Mr FERRER:** No. The Minister expressed interest in the fact that my council was sound. I was actually saying, "There are these allegations, and it is important that you stay at arm's length from the decision-making process." He said, "Yes, I agree with you. But, by the way, I would not have got involved anyway, because it is an LEP."

**Ms SYLVIA HALE:** Did the Minister know that you were attending this meeting?

**Mr FERRER:** No.

**Ms SYLVIA HALE:** He did not know it at all?

**Mr FERRER:** No.

**Ms SYLVIA HALE:** So you, casually as you were making your way out of the office, just said, "By the way, I went to a meeting and we discussed Orange Grove"?

**Mr FERRER:** Yes.

**Ms SYLVIA HALE:** That is the centre you opened?

**Mr FERRER:** Yes.

**Ms SYLVIA HALE:** The Minister did not ask you any more detailed questions than that?

**Mr FERRER:** No.

**Ms SYLVIA HALE:** He did not want to know anything further?

**Mr FERRER:** No.

**Ms SYLVIA HALE:** You say that staff meet and talk regularly and act as a team. Surely, where you have major allegations of corruption being made, so much so that the Minister's chief of staff calls a meeting specifically to discuss the matter—you are saying that discussion about those allegations went no further during that meeting?

**Mr FERRER:** No. You see, if I had told Mr Knowles that this is a matter for us, he would have been interested in a lot of more. I was saying to Mr Knowles, "By the way, this is not a matter for you," and he was agreeing with me. Ministers are very busy people. They tend to focus on the things they have to deal with, not the things that other Ministers have to deal with.

**Ms SYLVIA HALE:** But they are also interested, are they not, in their electorates, what is happening in the surrounding area, and presumably whether people are going to lose their jobs?

**Mr FERRER:** Yes, that may very well be. But on this occasion he said, "Yes, I agree with your advice. But, by the way, I would not have been involved anyway because LEPs are the responsibility of the assistant Minister.

**Ms SYLVIA HALE:** I find it difficult to believe that where the Minister has opened a centre which he says will be great for Liverpool—presumably because of the jobs and the commercial activity it will generate—and you have been to a meeting that focuses upon corruption, the Minister expresses so little interest in it and you tell him so little about what is happening.

**Mr FERRER:** There is nothing strange about this. As I said, Ministers are very busy people. They tend to focus on the things they have to deal with. This was a matter that he, in fact, did not have to deal with.

**Ms SYLVIA HALE:** But are you not the political eyes and ears of the Minister to some extent? Surely it is these sorts of things that—

**Mr FERRER:** I believe my advice to the Minister was sound advice, and he agreed with me that it was sound advice.

**Ms SYLVIA HALE:** It seems to me to indicate a remarkable lack of interest about what is happening in an area in his own locality—

**Mr FERRER:** No, that is not true. You are interpreting this as a lack of interest. I am trying to explain that Ministers are very busy people, and they focus on the things they have to do. In fact, I was saying to him, "It is important that you do not have anything to do with this matter, because there could be a perception." So there is nothing strange about him saying, "Yes, you're right."

**Ms SYLVIA HALE:** I find it odd that the Minister did not at least ask you questions, that he was prepared—

**Mr FERRER:** As I said, I was on my way home. I mentioned it, and this was the extent—

**Ms SYLVIA HALE:** And you have never discussed it with him since?

**Mr FERRER:** Well, I have discussed it since.

**Ms SYLVIA HALE:** When was that?

**Mr FERRER:** In late July, after the whole thing was being reported in the media.

**Ms SYLVIA HALE:** This was after you had left his employment?

**Mr FERRER:** No. I was actually in the office in late July, when I came back from my holidays.

**Ms SYLVIA HALE:** And then you discussed it in some depth?

**Mr FERRER:** We discussed it, because he had a press conference. He had to respond. That was well after the decision had been made.

**Ms SYLVIA HALE:** At that stage did you alert him to the corruption allegations in detail?

**Mr FERRER:** No.

**Ms SYLVIA HALE:** He was not at all perturbed that you had not told him earlier on of what had transpired at the meeting?

**Mr FERRER:** But I had told him what had transpired at the meeting.

**Ms SYLVIA HALE:** But a lot of what had transpired at the meeting were very detailed allegations about the Minister being encircled by a web of corruption, where people had been named, people whom he knew—?

**Mr FERRER:** I had dealt with that issue with him. I said to him, "Is that the allegations? You opened the centre. That could create a perception. It is very important that you stay at arm's length." He agreed with my assessment, and said, "Yes, you're right. But I don't need to get involved anyway because LEPs are the responsibility of the assistant Minister."

**The Hon. DAVID OLDFIELD:** When you said to him, "Here are the allegations," what were they?

**Mr FERRER:** That there was no explanation as to why the use of the centre had been changed, under the allegation—this was not the council, this was an officer making this decision—and that Westfield had told



Mr Wedderburn that the owners of the centre could attempt to use inappropriate means to pressure on the State Government to overrule the courts.

**The Hon. DAVID OLDFIELD:** And that is it?

**Mr FERRER:** Yes.

**The Hon. DAVID OLDFIELD:** For how long have you known Sarah Taylor?

**Mr FERRER:** Not very long at all.

**The Hon. DAVID OLDFIELD:** How long?

**Mr FERRER:** Since she started in her job. I think I had met her once before.

**The Hon. DAVID OLDFIELD:** Once before she started?

**Mr FERRER:** No, once before, years ago, at some gathering or something. I think we had a common friend.

**The Hon. DAVID OLDFIELD:** Once before she started?

**Mr FERRER:** I had met her once at a gathering before she started, and then after she started.

**The Hon. DAVID OLDFIELD:** When did she become Minister Knowles's chief of staff?

**Mr FERRER:** I do not know the exact date. It might even have been 19 April. She had just started when this happened, so figuratively I was still the acting chief of staff.

**The Hon. DAVID OLDFIELD:** When did you go on holidays?

**Mr FERRER:** I went on holidays on 17 May, and I left for overseas on 20 May.

**The Hon. DAVID OLDFIELD:** You had about a month working with Sarah?

**Mr FERRER:** Yes.

**The Hon. DAVID OLDFIELD:** Did you become friendly with her?

**Mr FERRER:** What do you mean?

**The Hon. DAVID OLDFIELD:** I am not suggesting anything inappropriate. Were you friends with her?

**The Hon. AMANDA FAZIO:** Point of order: Madam Chair, whether or not Mr Ferrer was friendly with Ms Sarah Taylor during their working relationship in Minister Knowles's office has nothing to do with this inquiry and it is clearly outside the terms of reference. I ask that you rule the question out of order.

**The Hon. DAVID OLDFIELD:** To the point of order: I am merely trying to ascertain the level of relationship between Ms Taylor and Mr Ferrer. I am trying to ascertain, for example, whether he simply reported to her when there was something to say, whether they had coffee, whether there a relationship, and whether they became friendly.

**CHAIR:** There is no point of order.

**Mr FERRER:** I am happy to acknowledge that I did have a cup of coffee with her once.

**The Hon. DAVID OLDFIELD:** During the course of that month, before you left the office, did you become friendly with her?

**Mr FERRER:** Well, she was my boss. The relationship was pleasant, yes. We had a good working relationship, yes.

**The Hon. DAVID OLDFIELD:** Did you talk about, as people normally do, what they had done before and things along that line?

**Mr FERRER:** No.

**The Hon. PETER PRIMROSE:** Did you ever eat ice cream with her?

**Mr FERRER:** No.

**The Hon. DAVID OLDFIELD:** Do you know what it is that Sarah Taylor did before she came to Minister Knowles' office?

**Mr FERRER:** No. I think she was living overseas.

**The Hon. PETER PRIMROSE:** What is her star sign?

**Mr FERRER:** I do not know.

**The Hon. PETER PRIMROSE:** What is your star sign?

**Mr FERRER:** I suggest these questions that you are getting at you actually ask people that can answer them, you know. I came here to my own accord to try to answer questions of relevance.

**The Hon. PETER PRIMROSE:** Are you a Libran or a Sagittarian?

**The Hon. DAVID OLDFIELD:** I am asking you the questions because I had the idea that you might have been able to answer these questions. They are fairly straightforward. Most people, when they work together—you are the deputy chief of staff, she is the chief of staff, you are there for a month before you go, you formed some sort of relationship with her which you have described—

**Mr FERRER:** Well, she is my boss.

**The Hon. PETER PRIMROSE:** You do not even know her star sign.

**The Hon. DAVID OLDFIELD:** —which you have described as "pleasant".

**Mr FERRER:** Well, it wasn't pleasant—we were not fighting. It was—you know.

**The Hon. DAVID OLDFIELD:** One of the first things that people talk about when they start a new job is what is the job they left.

**Mr FERRER:** She was living overseas, I am not sure.

**The Hon. DAVID OLDFIELD:** You are not aware of the suggestion that she had previously, in fact, worked for Westfield?

**Mr FERRER:** No.

**The Hon. DAVID OLDFIELD:** So you are not aware of what her job was at Westfield?

**Mr FERRER:** No.

**The Hon. DAVID OLDFIELD:** So you really do not know anything about her at all?

**Mr FERRER:** Not very much at all, no.

**The Hon. PETER PRIMROSE:** Even her star sign.

**Mr FERRER:** Can I clarify, I never had a conversation with Sarah Taylor about Westfield. I do not know whether you are making this up or what it is.

**CHAIR:** Okay. Mr Ryan?

**The Hon. JOHN RYAN:** Mr Meagher's description of the meeting with Mr Wedderburn included the following features: he outlined that Mr Wedderburn was giving an outline of his previous development—his recollection of what Mr Wedderburn had said—he said that it had a seedy history, the council decision to permit it was highly suspicious; he said that he had used the words "there was a real stench about it"; he talked of the sacked Liverpool council and the cloud over it from the Oasis development, and a network of figures who were supportive of it, including Frank Mosca and Nabil Gazal; that because of this network there was a background of possible corruption; and that the Minister should be cautious about being inappropriately lobbied.

That description of the meeting sounds like Mr Wedderburn really gave this thing a working over in terms of telling you how awful the whole situation had been, that it was immensely corrupt; you do not get a very favourable impression from that description. Is your memory of the event that Mr Wedderburn spoke in almost those passionate terms, using words like "highly suspicious, seedy" and so on? Do you remember it the same way as Mr Meagher did?

**Mr FERRER:** Yes, I remember that, yes, there was a question mark on a number of elements to do with this development, and I think I used the words that this process might have involved corrupt behaviour. So, yeah, that is consistent—

**The Hon. JOHN RYAN:** What I am getting to is that Mr Meagher gave a description of what Mr Wedderburn had to say which suggests that what Mr Wedderburn said was highly unfavourable from beginning to end about the development. It does not appear as though Mr Wedderburn had a good thing to say about the potential of this development at all. Do you remember Mr Wedderburn being so passionate, as Mr Meagher had said?

**Mr FERRER:** No. I remember Mr Wedderburn outlining some of these facts, in particular the fact that we did not know how is it possible for an officer and a delegation to change the permissible use of a building from something that is legal to something that is illegal, okay, and that there were allegations about that process that might have involved corrupt behaviour. That is the thing that I remember about the meeting, okay? I do not remember any specific words that were used. And the other thing that I remember is the other fact was that for some reason the council had not communicated that to the public immediately, and there had been a number of months that elapsed before it became public that now this was no longer a bulky goods centre, it was in fact a retail centre.

**The Hon. JOHN RYAN:** Do you recall writing down the names of the people who might have inappropriately lobbied the Minister?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** I mean simply on the basis that if I had been at the meeting I think I would have written the names down. I would have said to my Minister, "Look, you had better be careful of these people talking".

**Mr FERRER:** No.

**The Hon. AMANDA FAZIO:** Were you not listening earlier? Mr Ferrer said he did not take notes at the meeting.

**Mr FERRER:** No. But I took a different approach. After what I heard my approach was, "Minister Knowles, you shouldn't meet with anybody to do with this development any longer; it doesn't matter who they are".

**The Hon. JOHN RYAN:** Any longer?

**Mr FERRER:** Yes. You understand that—let me give you an example—if the day before I knew about this anybody had said, "We want to come and see you to explain the development" or whatever, I may very well have said, "Yeah, that's a reasonable thing to meet about". After you have that knowledge that is no longer the case.

**The Hon. JOHN RYAN:** But surely if you are being warned about contact with particular individuals, a prudent thing to do would have been to write down the names of those individuals and communicate that to your Minister—

**Mr FERRER:** That may very well be true. I didn't.

**The Hon. JAN BURNSWOODS:** There you go again, putting thoughts into a mind, assuming that they would do what you would do. Why anyone would ever do what you might do is an absolutely insane question.

**The Hon. JOHN RYAN:** If you need to babble go outside, have a good babble and come in when—

**The Hon. AMANDA FAZIO:** Don't you dare speak like that.

**The Hon. JAN BURNSWOODS:** That's okay.

**The Hon. JOHN RYAN:** I am getting very intelligent answers from the witness so he obviously—

**The Hon. JAN BURNSWOODS:** The time for the session has finished. We have not asked any questions to let you babble on as long as you liked. You are just going over and over the same ground.

**CHAIR:** Order! If you want to go outside you can. Mr Ryan has got the call.

**The Hon. JAN BURNSWOODS:** Madam Chair, could I ask whether the finishing time of 11.30 is going to be sort of adhered to?

**The Hon. JOHN RYAN:** Yes, it is sort of going to be adhered to. I have got a single question to be answered.

**CHAIR:** Mr Ryan indicated he had a couple more questions.

**The Hon. JAN BURNSWOODS:** Mr Ryan, the de facto Chair, has actually answered the question asked of the Chair.

**CHAIR:** If Government members do not have any further questions, yes, we will be pretty much on schedule.

**The Hon. JAN BURNSWOODS:** So again Mr Ryan, the de facto Chair, has answered the questions that the Chair is supposed to answer. Rafferty's rules.

**The Hon. JOHN RYAN:** You referred earlier to a discussion you had with Mr Knowles in late July, I think after a press conference?

**Mr FERRER:** No. I am saying that this was a matter of relevance to the office and it was a thing we were dealing with then.

**The Hon. JOHN RYAN:** Sorry?

**Mr FERRER:** I did not refer to any specific discussions I had with Mr Knowles. I said that when I came back to work this was actually an issue in the media and therefore if you ask me did I ever discuss this with Mr Knowles, well yes, I did then, in the context of what was running in the media. I did not refer to any specific conversations.

**The Hon. JOHN RYAN:** Do you recall what Mr Knowles said?

**Mr FERRER:** No. I mean the whole thing was—I have not got any specific recollection except discussing this is actually running. I remember some people were preparing for him to do a press conference. There is no mystery to this.

**The Hon. JOHN RYAN:** He did not ask about the detail? You are only the chief of staff, why wouldn't—

**Mr FERRER:** I was not the chief of staff then, no.

**The Hon. JOHN RYAN:** What was your responsibility at that time?

**Mr FERRER:** I was the deputy chief of staff.

**The Hon. JOHN RYAN:** Which did what?

**Mr FERRER:** I had some responsibility for the running of the office and looked after the specific policy issues.

**The Hon. JOHN RYAN:** Which specific policy issues?

**Mr FERRER:** Mainly in planning, metropolitan strategy.

**The Hon. JOHN RYAN:** Like this?

**Mr FERRER:** No. My relation to this was only in relation to SEPP66.

**The Hon. JOHN RYAN:** Which is in fact what Orange Grove is about, is it not?

**Mr FERRER:** Yes, that is right. So in that sense I had some responsibility for the State policy, yes.

**The Hon. JOHN RYAN:** You do not remember anything specifically about it?

**Mr FERRER:** No. I am actually telling you the office was dealing with responding to things that were being claimed in the media. That was the involvement of the office with these issues.

**The Hon. JOHN RYAN:** Did you always have responsibility for SEPP66?

**Mr FERRER:** For quite a while, yes.

**The Hon. JOHN RYAN:** Do you recall being present at a meeting where Westfield specifically called on the Minister to deal with SEPP66?

**Mr FERRER:** No.

**The Hon. JOHN RYAN:** Because that is what the meeting in November was all about.

**Mr FERRER:** No. Well, I did not attend that meeting.

**The Hon. JOHN RYAN:** Why would you have not attended the meeting?

**Mr FERRER:** I do not know, but I did not attend that meeting.

**The Hon. JOHN RYAN:** Was there someone else involved that dealt with SEPP66?

**Mr FERRER:** Not to my knowledge. The chief of staff might have attended. I do not know who attended that meeting.

**The Hon. JOHN RYAN:** You understand that this was the issue in November when Westfield called on the Minister in November and asked him not to attend—

**Mr FERRER:** You are saying these things. These things made no sense to me. I do not have knowledge of this.

**The Hon. JOHN RYAN:** I am simply telling you that Westfield's evidence to this Committee was that in November, when they called on the Minister, I think about 17 November, the specific issue they were making a submission to the Minister about was in fact draft SEPP66.

**Mr FERRER:** Yes, lots of people were making submissions about that.

**The Hon. JOHN RYAN:** I am just wondering why the Minister would not have had present with him the policy adviser that dealt with that issue at that time?

**Mr FERRER:** I do not know. I might have not been in the office. I might have had something else on, I do not know. I mean, I can actually go back to my diary, but I am fairly certain I did not mention them.

**The Hon. JOHN RYAN:** Let us imagine that you were present at the meeting.

**The Hon. AMANDA FAZIO:** Point of order: You stated earlier that you would attempt to adhere to the finishing time of 11.30, at which point the Hon. John Ryan indicated he had one further question. He has now given us a range of assertions; he has read slabs of previous evidence onto the record, and he is now imagining things in putting hypothetical questions to the witness. I would ask you to ask Mr Ryan to finish up and for this portion of the hearing to conclude, because we have gone at least 10 minutes over time.

**The Hon. JOHN RYAN:** If the Government wants to cover-up that is fine by me.

**The Hon. AMANDA FAZIO:** We are not attempting to cover-up. We are just sick of hearing your inane musings.

**Ms SYLVIA HALE:** Was that a point of order?

**The Hon. AMANDA FAZIO:** Yes, it was a point of order.

**Ms SYLVIA HALE:** To the point of order: Could I suggest that the opportunity to question the witness has been cut short by the dissents from the Chair's ruling, and that therefore it is only reasonable that that amount of time be added to the hearing at the very least.

**The Hon. AMANDA FAZIO:** Further to the point of order and the inane comments of Ms Sylvia Hale: The Government members have not asked questions today in order to allow the three members opposite to have at least half an hour each to grill Mr Ferrer, and in those circumstances I would ask that you bring this part of the hearing to a close.

**CHAIR:** On the point of order, I agree with Sylvia Hale's point. I think that Mr Ryan is getting towards the end of a line of questioning and when he has finished that we will conclude this.

**The Hon. DAVID OLDFIELD:** I have one.

**CHAIR:** Mr Oldfield has one, okay.

**The Hon. JOHN RYAN:** Do you recall proponents of the Cross Roads centre, who also wanted to develop a factory outlet centre, coming to the office to brief Mr Knowles about that proposal?

**Mr FERRER:** No, they briefed me, not Mr Knowles.

**The Hon. JOHN RYAN:** What were the circumstances of that briefing, and what did you pass on to Mr Knowles.

**Mr FERRER:** They had requested to meet with Mr Knowles. Mr. Knowles could not meet so I met with them.

**The Hon. JOHN RYAN:** You are aware that that issue is related to the factory outlet at Orange Grove and that it was, in fact, the subject of the LEP?

**Mr FERRER:** Yes, at some stage.

**The Hon. JOHN RYAN:** Why would they—

**Mr FERRER:** My meeting with Cross Roads was actually much earlier than that, it was early last year.

**The Hon. JOHN RYAN:** I am aware of that. Nevertheless, you were briefed about the matter. Was there any further correspondence from the proponents relating to Orange Grove since then?

**Mr FERRER:** Not to my knowledge.

**The Hon. JOHN RYAN:** What did you tell Mr Knowles about the Cross Roads development?

**Mr FERRER:** I do not recall saying anything to Mr Knowles about the Cross Roads development.

**The Hon. JOHN RYAN:** Are you aware that it is either in or neighbouring his electorate?

**Mr FERRER:** Yes.

**The Hon. JOHN RYAN:** Was that the reason that they had come to brief you?

**Mr FERRER:** No. They had to come to brief me basically to explain what the proposal was and to talk about a SEPP66 and how it affected the development.

**The Hon. JOHN RYAN:** What did they ask you to do, having briefed you about it?

**Mr FERRER:** They did not ask me to do anything, they just briefed me, and I said, "Thank you", and I listened, and that is it. I mean, that is part of my role, to actually listen to people. I do it and I did it.

**The Hon. AMANDA FAZIO:** Perhaps you could coach Mr Ryan.

**Mr FERRER:** Yeah. I mean, you know, there were plenty of these meetings. I did it with Cross Roads, but I did it with other people as well that came to bring issues.

**The Hon. JOHN RYAN:** But usually they ask you to do something?

**Mr FERRER:** No, they did not ask me to do anything.

**The Hon. JOHN RYAN:** That is unusual.

**Mr FERRER:** You are saying it is unusual. It is not unusual. People actually want to come to brief you of proposals. That is a much part of my job.

**CHAIR:** Mr Oldfield has got a question.

**The Hon. PETER PRIMROSE:** You are not allowed to answer questions, they can just assert things. They do not actually give them the opportunity to respond.

**The Hon. DAVID OLDFIELD:** With regards to Sarah Taylor, I note in your statement you have said that, "After that I also had a conversation along the same lines with the new chief of staff Sarah Taylor"—

**Mr FERRER:** Who had just started.

**The Hon. DAVID OLDFIELD:** Who had just started.

**Mr FERRER:** So it was not really—for all intents and purposes I was still the chief of staff; she had just arrived.

**The Hon. DAVID OLDFIELD:** She is still there now, is she?

**Mr FERRER:** Yes.

**The Hon. DAVID OLDFIELD:** So can we reasonably presume that she is well-versed with this matter, obviously, since then?

**Mr FERRER:** I do not know. I mean, this matter was handled by Minister Beamer, not Minister Knowles, so I do not know how well-versed she is with the matter. As I said, the issues dealing with this matter in the office related to after the decision was made and what was being claimed in the media.

**The Hon. DAVID OLDFIELD:** If you had known at the time that Ms Taylor had previously worked for Westfield and had a direct connection with Mark Ryan, having worked with him in Paul Keating's office, would that have concerned you at all, given the circumstances of where this matter had begun with Westfield?

**Mr FERRER:** Well, it would not have changed anything. I would have then said to her as well, "And, by the way, this is yet another reason why this should be an arm's length relation".

**CHAIR:** Thank you, Mr Ferrer, for your time this morning. That concludes this morning's segment.

**(The witness withdrew)**

**(Luncheon adjournment)**



**NABIL NASRI GAZAL**, Managing Director, Gazcorp, 230 Victoria Road, Gladesville, on former oath:

**CHAIR:** Order! I reconvene the public hearing in relation to the Orange Grove matter. Thank you for being here, Mr Gazal.

**Mr GAZAL SNR:** Thank you.

**CHAIR:** The oath or affirmation that you made at an earlier hearing still applies today, so we do not need to go through that procedure.

**The Hon. PETER PRIMROSE:** I have something that I need to convey to the Committee before we begin taking evidence from Mr Gazal. Earlier today, in asking questions, Mr John Ryan made some statements relating to the Hon. Craig Knowles. I am advised that Mr Knowles has never sought or received a written reference from either Mr Gazal or Mr Mosca for any reason. Mr Knowles has never required any person to be a guarantor in any financial dealing. Mr Knowles once had Mr Mosca draw some plans for a security fence at his former home. The fence was never built. Mr Knowles has already placed on record the history of his relationship with Mr Mosca and Mr Gazal. Finally, neither Mr Knowles nor any person on his staff was involved in the determination of the Liverpool council request to rezone the Orange Grove land. Thank you.

**CHAIR:** Mr Gazal, you have sought to address the Committee to provide some further testimony and to reply to and refute the comments and allegations made by Mr Mark Ryan and others in reference to allegations and inappropriate dealings and associations with regard to the designer outlets matter. I propose, firstly, to allow you to respond to adverse mentions. Then we will deal with the other matters separately. Before I allow you to commence I just remind you, Mr Gazal, that I have made extensive remarks at the commencement of these hearings in relation to adverse mentions. I just remind everyone that witnesses are expected to exercise restraint and judgment in presenting their views to the Committee. The making of adverse reflections can divert the process of an inquiry away from the terms of reference and it may not be constructive. So, bearing that in mind, Mr Gazal, do you have a statement that you would like to make to the Committee in the first instance?

**Mr GAZAL SNR:** No. I just wanted to explain some of the relations with the people on the—I do not know what he calls it.

**CHAIR:** The diagram presented by Mr Ryan. Is that what you are referring to?

**Mr GAZAL SNR:** Yes. I have the wrong one here. The web of influence.

**CHAIR:** The web of influence?

**Mr GAZAL SNR:** Yes.

**CHAIR:** Okay. You may now proceed, Mr Gazal, to address that matter.

**Mr GAZAL SNR:** The only thing I do not understand are the dotted lines or the straight line and the double arrows. We take Phuong Ngo. I do not understand the dotted line. Phuong Ngo has nothing to do with this matter at all. I think Phuong Ngo has been in gaol for the last five or six years—I am not very familiar—I think in 1999. We started this project in 2002. My relation with Phuong Ngo, he is putting it as if I am an associate. I have never been an associate or a partner, or had any business relation. I had no business deal with Mr Phuong Ngo. I met him through the Labor Party and basically through Joe Tripodi and Reba Meagher. This is the extent of my relation with Phuong Ngo. He offered me his services a few times. I declined and I agreed that one of them. This is the whole extension of my relation with Phuong Ngo.

My relation with Mosca Pserras: Frank Mosca, I met Frank Mosca by coincidence in Liverpool council about 16 or 17 years ago. We became friends and we had an ongoing business relation since 1987 or 1988. Basically, he looked after my property, architectural work, and all property construction. Basically, he is the principal architect and the only architect to the firm. Mr Bargshoon I met, I recall, about 10 or 12 years ago, also by coincidence at a petrol station. We were filling up with petrol. We spoke Arabic and basically we talked and we became friends. He told me about his involvement in the Liverpool area The Austral Bringelly ALP branch:

I know the people but I have no idea about the branch. I do not know where it is and I have never been there. I have had no dealing with the branch.

Julia Irwin I met through Mr Bargshoon. Basically, it is just a relation. Sometimes they had functions or things. She invited us and she offered her services when we had the problem with the factory outlet. This is the longest time I have met Julia in the last two months. Maybe I met her four or five times. I met her before maybe two, three or four times since about 9 or 10 years ago. Liverpool council: I knew of George Paciullo for a while. I know Tony Beuk. I have never met Geoff Hunt. I met Gerard Turrisi when we were in court for the cinema. I have seen him four or five times when we were having the cinema. All my relation is just to say hello. I never had a full conversation with any of them—Geoff or Gerard Turrisi. I know my son asked him to do a contracting job for us, a consulting job. Then when I knew he was involved with the Cross Roads, which are competitors, we basically did not give him any more work. We had nothing to do with this person or anything. But he was working for a competitor.

George Paciullo rang me when the thing started and he started talking about this disreputed council and that he was corrupt. He told me the story about the Oasis, which I had some idea about. I met him about four or five times during this period. This is all my relation with George Paciullo. DIPNR: I had no relation. I have never met cold or knew anybody in DIPNR. I did not know what it stood for before this program happened. I used to remember calling it the Department of Planning. Craig Knowles: I met Craig Knowles when he was a councillor and the Mayor of Liverpool about 14, 15 or maybe 16 years ago. I had a social relation and friendship through Frank Mosca. I met him a few times in his office in Ingleburn.

One of the times is really when we went to invite him for the opening of the factory outlet when we received a development application—I think a week after. It was in December 2002, or something like that. We went to him and we went at 6.30 or 7.00 in the morning we were there because we knew it was early. I met him also when I invited him to open the mega centre in 1999. I rang him maybe once or twice at his office. I tried to arrange a meeting with him during this period but I could not. I had met him in social functions maybe two, three or four times. Basically, this is my relation with him. It is a friendly relation. I have never expected any help and he never helped me in anything.

Liverpool south ALP: I know nothing about it. I know that it's the branch of Marie and Stan—

**The Hon. JOHN RYAN:** Knowles.

**Mr GAZAL SNR:** —Knowles, the father and the mother of Knowles. And I know that Marie is the one who run the show of the Knowles. She run Craig, as I understood, and Stan. She is the boss basically. This is what I have been told by the people who know the branch, like Sam and Frank Mosca. She's a nice lady. When we went to visit him early, she told us to come early. She offered us a cup of coffee. This is the extent I know Marie. I met her, I think, at the function for Mark Latham, who was sitting on the same table. I attended a lot of functions for the ALP. Being in Liverpool, and it's an ALP centre, I attended a lot of function for Mark Latham, for Craig Knowles, for Reba Meagher, for Joe. You know, I used to be invited and we buy a table. It's like social function.

Gerard Turrisi: I told you of my extension of knowing him. Otherwise, I have never spoke to him any other time except we said hello in the court.

Sam Bargshoon: He's a cleaning contractor, and I met him by coincidence when we build the Megacentre. I ask him to quote me, and he was the cheapest. Since then, we had a friendly relation and he has been doing a good job for the business.

Joe Tripodi: I met him about ten, nine or ten years ago through Sam Bargshoon. My extent of Joe Tripodi's knowledge: we had few meeting; we had basically lunches at that time, or dinners, involving Phuong Ngo and involving Reba Meagher. And then the relation was cold for a while for a certain reason. And then Sam reconciled us. I met him again through the period, but we had always—I felt that Joe doesn't like me, or he felt I don't like him, I don't know, but I never had a good warm relation with Joe. Sam tried to bring us together about a year ago, or a bit over a year, I can't recall. We had a lunch in Lansvale. It was attended by Frank Mosca, Sam Bargshoon, my son Nabil Jnr, and myself, and then we renewed the friendship of Joe, because he was very interested in the factory outlet.

I don't see how Mark Ryan came with the influence, the web of influence and the seediness. It's very hard to do business in the south-west and not to know Labor Party identities. They run the place. This is their territory. I have invested a lot of money in Liverpool. I invested over \$40 million in 1986. And this is how I came to know all these people—half of them by coincidence, half of them because of doing business in the area. If doing business with people is a seediness and corrupt, why didn't Mark Ryan mention Frank Lowy? I play cards with Frank Lowy. I don't do business. We're friends. This is where, maybe, corruption happen between friends. I can't understand how he came to suggest even that there is corruption, or there is seediness. I'll challenge him to prove or to bring any evidence.

But the thing which hurt: just by mentioning that and he phoned the Premier office he gets an appointment the second day. I thought, you know, the Premier of New South Wales and his Chief of Staff usually are very smart people. They go into action blackening our name with the Minister Diane Beamer before they check—at least to check with Craig Knowles if he knows I know Craig Knowles, he check with Craig Knowles if I am a seedy or corrupt person. This is the least you would expect from a Chief of Staff or a Premier, instead of jumping on the bandwagon and trying to screw our project and to screw the life of 450 people. I can't understand it for a person of the standard of Mr Carr and Mr Wedderburn. I mean, he said his alarm corruption bell, or whatever he said, started ringing. If he had any commonsense—. He didn't want to go to ICAC, which he should have gone, to at least ring some of these people which Mr Mark Ryan, there is Julia Irwin, member of Parliament, there is Joe Tripodi, member of Parliament, Craig Knowles, Minister, George Paciullo, ex-Minister. I mean, if they're all rotten, I don't know why Bob Carr is there. This is the least you expect of a Premier or a Chief of Staff, and the least you expect from a person like Mark Ryan, who used to be a Chief of Staff for a Prime Minister. This is all my extent of relation with all these people. If you have any question, you are welcome to ask.

**CHAIR:** Thank you very much, Mr Gazal. We will move to questions.

**The Hon. JOHN RYAN:** Madam Chair.

**CHAIR:** Mr Ryan.

**The Hon. JOHN RYAN:** I will deal with some of those things.

**Mr GAZAL SNR:** Sorry. I'd like to submit something I forgot.

**The Hon. JOHN RYAN:** Okay.

**CHAIR:** Sure.

**Mr GAZAL SNR:** I have a stat dec from a friend with a group of people we play cards with which I mentioned that I play cards with, Frank Lowe. I'd like to submit it to the Committee. The aim of it is just—

**CHAIR:** We will have a look at it first to see—

**The Hon. AMANDA FAZIO:** What, to see if it's relevant to the terms of reference?

**CHAIR:** Just proceed, Mr Gazal. We will just—

**Mr GAZAL SNR:** The aim of it—

**The Hon. JAN BURNSWOODS:** Point of order, Madam Chair. Before that is submitted, I think it would be fair for the Committee to see it, but if—

**CHAIR:** That's what I was saying.

**The Hon. JAN BURNSWOODS:** Oh. So the witness won't be able to talk to it until we've checked it and copied it for the Committee members to see?

**CHAIR:** Yes. I just want to check if it's got names and things—

**The Hon. JAN BURNSWOODS:** Yes, but I mean, I just wanted the witness to be aware—

**CHAIR:** We will get back to that later, Mr Gazal, if that's okay.

**The Hon. JAN BURNSWOODS:** But the other thing I was going to ask, before the witness continues, is that, assuming that he has brought it with him, or assuming that Mr Mark Ryan has a—Mr John Ryan, I'm sorry, has a copy, I would like to see his stat dec of the 10<sup>th</sup> of July, which was referred to extensively by Mr D'Agostino on the last hearing.

**The Hon. JOHN RYAN:** I'm sorry, I missed that. Whose stat dec?

**Mr GAZAL SNR:** Before I submit it, I want to check it with another copy, because I have the copy which is not dated, the copy I haven't read.

**The Hon. JAN BURNSWOODS:** Is this the stat dec of the 10<sup>th</sup> of July?

**Mr GAZAL SNR:** No, no. The 10<sup>th</sup> of July I have here. It's different.

**CHAIR:** We will get back to that in a sec. It has been taken to be copied. So we will bring it back to you soon.

**Mr GAZAL SNR:** Yes, before you copy it, because—

**The Hon. JAN BURNSWOODS:** Yes. But I'm talking about another stat dec which was referred to extensively by Mr D'agostino, but which certainly some members of the Committee have never seen, the one when they got together on the 10<sup>th</sup> of July and Mr Gazal, amongst others, made a stat dec which was witnessed, we understand, by Mr D'Agostino. We found at our last hearing, after an hour or so of confusion, that Mr Ryan had a copy of Mr D'Agostino's stat dec. I don't want to be in a situation of ambush again today. So I'm asking at this stage that Mr Gazal's stat dec be tabled. He can look at it before we start having questions based on it.

**Mr GAZAL SNR:** She had the same. I submitted them with my submission. You all have the four stat decs, all the members of the Committee. It was with my first submission.

**The Hon. JAN BURNSWOODS:** Madam Chair, perhaps the clerks could advise us, given that this was checked on Monday.

**Mr GAZAL SNR:** I submitted four stat decs with my submission.

**CHAIR:** We will have to check that, Mr Gazal. The clerks say that there are two stat decs attached to your submission.

**Mr GAZAL SNR:** No, four.

**CHAIR:** I can get them to check that.

**Mr GAZAL SNR:** I have a copy of the four of them.

**The Hon. JAN BURNSWOODS:** Madam Chair, my concern is that these documents be sighted at the very least before we have statements or questions based on them.

**CHAIR:** Mr Gazal is saying he has got all four with him.

**Mr GAZAL SNR:** I submitted four, and this is the same.

**CHAIR:** Are you happy to table those?

**Mr GAZAL SNR:** Yes.

**CHAIR:** Okay. They can be made available to the Committee.

**The Hon. JAN BURNSWOODS:** Could I have a copy?

**The Hon. JOHN RYAN:** Have we finished satisfying—

**The Hon. DAVID OLDFIELD:** Yes, I think so, because he has just given out more copies to be done. So can we get on with it?

**The Hon. JAN BURNSWOODS:** Amanda has got a copy, but—

**Ms SYLVIA HALE:** No-one else has. Because they are being checked, I don't think Ms Fazio should have hers.

**The Hon. AMANDA FAZIO:** Why not?

**The Hon. JOHN RYAN:** I can ask Mr Gazal some questions—

**Ms SYLVIA HALE:** Because no-one else has them. They are being checked with Mr Gazal.

**CHAIR:** Okay. Mr Ryan.

**The Hon. JOHN RYAN:** We're sorted?

**The Hon. JAN BURNSWOODS:** Madam President, Madam Chair, I don't know whether other people have had a chance to see this stat dec yet.

**The Hon. JOHN RYAN:** Well, I'm am asking questions that've got nothing to do with it, so why don't you do that and I will ask the questions?

**The Hon. JAN BURNSWOODS:** I'm sorry, Mr Ryan, but my question is to the Chair as to the status of this document. We've been—the witness has given us a stat dec prepared by a person whom I, for one, have not heard of. We have no knowledge as to whether Mr Gazal has either the capacity or the person's approval to submit this document to the Committee. I'm not sure that it has any relevance to our terms of reference. I'm not sure that anyone can vouch for the genuineness of signatures and so on. The Clerks can probably advise us—

**Mr GAZAL SNR:** The person is here.

**The Hon. JAN BURNSWOODS:** —on a situation in which a witness—

**The Hon. JOHN RYAN:** He's here, is he?

**The Hon. JAN BURNSWOODS:** Mr Ryan, can I—

**The Hon. JOHN RYAN:** The person who made the stat dec is in the room—

**The Hon. JAN BURNSWOODS:** Madam Chair, can I—

**The Hon. JOHN RYAN:** —so that will save you all the trouble.

**The Hon. JAN BURNSWOODS:** —continue without being interrupted by Mr Ryan?

**The Hon. JOHN RYAN:** Well, I'm just worried that—

**The Hon. JAN BURNSWOODS:** Madam Chair, you are the chair.

**The Hon. JOHN RYAN:** —we're eating into our time asking irrelevant and dopey questions.

**The Hon. JAN BURNSWOODS:** Can I finish?

**CHAIR:** Yes.

**The Hon. JAN BURNSWOODS:** Thank you. To continue, we have no knowledge of the genuineness of this stat dec. We have Mr Gazal before us at his request claiming an adverse mention. You said to him when he started something about the parameters of his evidence. My concern is that this Committee needs advice as to whether this document should be before us in any way before this Committee. As to whether someone is in the room or not is quite irrelevant. This is a committee hearing. We call witnesses. We do things under proper procedure.

**CHAIR:** Okay. What I'm going to do is—as I understand it, Mr Ryan doesn't have any questions at this point, anyway, in relation to this document. I haven't had time to read it, so we'll just proceed and we'll go by the advice—

**The Hon. PETER PRIMROSE:** But we haven't received this document yet.

**CHAIR:** It's just been circulated, hasn't it, so it's been tabled.

**Ms SYLVIA HALE:** Hasn't been circulated round here.

**The Hon. DAVID OLDFIELD:** No, we haven't seen it.

**CHAIR:** Okay, I'll get advice.

**The Hon. JAN BURNSWOODS:** But my concern is that if Mr Gazal continues to make comments about this document—

**The Hon. JOHN RYAN:** Well, he won't.

**The Hon. JAN BURNSWOODS:** My concern is whether it is appropriate or proper and that is why I am seeking some guidance from the Clerks. For Mr Gazal to make any references to this document—

**The Hon. JOHN RYAN:** Defer it.

**The Hon. JAN BURNSWOODS:** —prepared by a third person—

**CHAIR:** I intend to defer any questions and answers in relation to this document—

**The Hon. JAN BURNSWOODS:** Answers, fine. Thank you.

**CHAIR:** —until I've got advice from the Clerks as to its stance

**The Hon. JAN BURNSWOODS:** Okay. Well, now you've added answers, that's fine.

**The Hon. JOHN RYAN:** Right.

**CHAIR:** Mr Ryan, your clock starts now.

**The Hon. JOHN RYAN:** Right. First of all, can I ask you about your relationship with Mr Tripodi? Do you recall Mr Tripodi asking you to make a donation to the Australian Labor Party?

**Mr GAZAL SNR:** Yes, he did.

**The Hon. JOHN RYAN:** And what were the circumstances under which he asked you to make that donation?

**Mr GAZAL SNR:** He came to my office sometime in 96 or 97, I can't recall exactly, with another person. I don't know if there're one or two person, but he told me that the Left are going to get Alex Sanchez to run in Fowler—I didn't know what the whole situation—and he knew that I had a problem with the cinema with Alex Sanchez. And he said, "The Left has been staking the seat, the branch." He ask me if I will donate some

money for them, his people, to stack the branch. I said, "What the amount you need?" He said, "\$10,000". I said, "I wasn't planning to donate so much to, you know, because I'm fed up with the Labor Party. They never help me and all what I hear talk and talk and every time they want a donation, but they don't want to do anything." He said he wanted it in cash. I said, "Look, Joe, I never give money in cash, ever, or if I want to give a donation and if it is for election campaign I will give you a cheque, but it will be two, three or 4,000, basically. Not more than that." He told me that it doesn't help him to have a cheque because they have to stack the branch and they need to pay for the members. I said, "I won't do that." And I think since then our relation got very cold. I never gave him any money.

**The Hon. JOHN RYAN:** You didn't give him any money or you didn't give him any cash?

**Mr GAZAL SNR:** Never give him any cash or I can't recall giving him any cheque. I can't recall. Because I don't think he was pleasant when I refuse to give.

**The Hon. JOHN RYAN:** Do you recall seeing an item in the newspaper referring to a receipt for an amount of close to \$7,000 that had been presented by Joe Tripodi to the ALP in the media recently?

**Mr GAZAL SNR:** Yeah, I read about that.

**The Hon. JOHN RYAN:** Did you have anything to do with giving Mr Tripodi that money?

**Mr GAZAL SNR:** No, never.

**The Hon. JOHN RYAN:** Have you ever funded any person in the Labor Party to assist them in, I suppose what we might call, branch stacking?

**Mr GAZAL SNR:** I give some donation, which I give a list to the Committee. That's extent of the money I give to anybody in the Labor Party and outside the Labor Party. I'm not a member of the Labor Party and I'm not interested in their stacking.

**The Hon. JOHN RYAN:** So, you've never had anything to do with manipulating—

**Mr GAZAL SNR:** Never.

**The Hon. JOHN RYAN:** —the Labor Party branches?

**Mr GAZAL SNR:** Never have anything to do with stacking or branches.

**The Hon. JOHN RYAN:** Okay. You referred earlier to Mr Frank Mosca being your architect. Are you aware of the fact that he has also acted as an architect for Mr Knowles?

**Mr GAZAL SNR:** Yeah, I heard from him that he did some work for Mr Knowles.

**The Hon. JOHN RYAN:** Did you know what the nature of that work was?

**Mr GAZAL SNR:** He did some plan for the addition of Mr Knowles' house in Chipping Norton.

**The Hon. JOHN RYAN:** Did Mr Mosca ever consult you about something in relation to that?

**Mr GAZAL SNR:** What you mean? I'm not an architect.

**The Hon. JOHN RYAN:** No. Did he ask you about where Mr Knowles might find finance for that project?

**Mr GAZAL SNR:** Yes. I can't recall the date. I don't know if it in 95, 96 or something around this date. Frank rang me and he said, "Craig is looking at buying a house. Who shall we recommend him to? He need to borrow some money." I said, "Paul Dwyer from the St George commercial bank. We know him well, and he will help him." He knows Paul, Frank. I don't know if I gave him the number of Paul Dwyer or not, but he said,

"Would you ring Paul and put a good word?" I said, "Of course I'll do that." I rang Paul and I told him, "I know Craig." I told him about Craig, what I knew at that time and it is the end of it.

**The Hon. JOHN RYAN:** Do you know whether or not a loan was ever taken?

**Mr GAZAL SNR:** I heard lately that the loan was taken and it was repaid and everything went smoothly.

**The Hon. JOHN RYAN:** Do you know whether the plans that Mr Mosca drew for Mr Knowles, do you know whether they ever came to any—were they, was the—?

**The Hon. JOHN RYAN:** Yes, they were put to the same council that Mr Knowles is talking about in Parliament and they were passed.

**The Hon. JOHN RYAN:** Do you know what the plans were for?

**Mr GAZAL SNR:** And the plans were submitted by Frank Mosca. I mean, they should be on the record. Anybody could find them.

**The Hon. JOHN RYAN:** Do you know whether they were for anything more substantial than a fence?

**Mr GAZAL SNR:** I understood at that time they were for an addition to the house.

**The Hon. JOHN RYAN:** But you don't know?

**Mr GAZAL SNR:** I haven't sighted them, no.

**The Hon. JOHN RYAN:** Do you recall meeting, at the times at which you met Mr Knowles, do you recall being asked by Mr Knowles to attend his office early in the morning for any meetings?

**Mr GAZAL SNR:** Yes. There were few occasion I think I went to his electorate—we used to meet with Mr Knowles in his electorate office. I maybe went to two, three or four meetings at the most in the last—one of them when I invited him to open the megacentre it was also, I remember, very early in the morning. He's a hard-working man. He wake up very early and he comes very late. I know that for a fact.

**The Hon. JOHN RYAN:** Did you personally invite Mr Knowles to open the megacentre?

**Mr GAZAL SNR:** Yes, personally.

**The Hon. JOHN RYAN:** Now, the megacentre is a bulky goods—

**Mr GAZAL SNR:** The bulky goods site. He opened it in 1999 on 12 March.

**The Hon. JOHN RYAN:** And why did you ask Mr Knowles to do that?

**Mr GAZAL SNR:** Because he used to be the mayor of Liverpool and we were friendly with Mr Knowles. We socialised between Knowles and Frank a couple of time and I wasn't very happy with George Paciullo because he voted against me in the cinema. I didn't want to invite George and I wanted to invite an identity from the Liverpool area because it's fair to have somebody from the area who knows what we doing and this why—the plaque's still there—I invited Craig. And he's done the right thing. He always does the right thing, except this time.

**The Hon. JOHN RYAN:** And when did you invite Mr Knowles to open the designer outlets?

**Mr GAZAL SNR:** In—we got the DA, I think, on the, in November I invited him, or December or late—late December or early—I'll have to check. You know, we had an appointment with him and they told us to come 6. 30. I was there 6. 30 in Ingleburn. I know I left home at around 5. 30 because I live in eastern suburbs.



**The Hon. JOHN RYAN:** When you invited Mr Knowles to open the designer outlets—

**Mr GAZAL SNR:** Mm.

**The Hon. JOHN RYAN:** —you met him sometime around December. You met him at 6.30—

**Mr GAZAL SNR:** After we got the DA.

**The Hon. JOHN RYAN:** Yep. After you got the DA.

**Mr GAZAL SNR:** Yes.

**The Hon. JOHN RYAN:** You met him at 6.30 in the morning?

**Mr GAZAL SNR:** Yes.

**The Hon. JOHN RYAN:** At his Ingleburn office?

**Mr GAZAL SNR:** Yes.

**The Hon. JOHN RYAN:** By appointment?

**Mr GAZAL SNR:** Yes.

**The Hon. JOHN RYAN:** By his appointment?

**Mr GAZAL SNR:** By—

**The Hon. JOHN RYAN:** He asked you to come at that time?

**Mr GAZAL SNR:** Yeah.

**The Hon. JOHN RYAN:** Do you know—

**Mr GAZAL SNR:** We had an appointment.

**The Hon. JOHN RYAN:** Is that possibly an explanation as to why you didn't think it unusual to attend Mr Knowles' house at an early time in the morning?

**Mr GAZAL SNR:** Most of my meeting with Mr Knowles were 6.30 or early in the morning. Maybe I met him, as I said, four or five time during all this period and they were all early in the morning.

**The Hon. JOHN RYAN:** Do you know Mr Tony Beuk?

**Mr GAZAL SNR:** Yes, I know Tony Beuk.

**The Hon. JOHN RYAN:** Have you ever asked Mr Beuk to do anything for you?

**Mr GAZAL SNR:** Yes.

**The Hon. JOHN RYAN:** What have you asked him?

**Mr GAZAL SNR:** I ask him to—I ask him if he knows Diane Beamer. He said, "Yes", he knows her and he helped her once in her campaign. You see, we were tight for time and we want her do the LEP amendment in a short period. I ask if he would, if he's willing to talk to her. He said he will. This the extent I ask him.

**The Hon. JOHN RYAN:** Were you aware that he'd rung Ms Beamer's office a number of times?

**Mr GAZAL SNR:** He told me he rang her chief of staff, yes, but he told me he knows her well. He knows her well.

**The Hon. JOHN RYAN:** Did you ask him to keep ringing?

**Mr GAZAL SNR:** Yes.

**The Hon. JOHN RYAN:** Were you asking him to be forceful—

**Mr GAZAL SNR:** No.

**The Hon. JOHN RYAN:** and to ring and make a pest of himself, or—

**Mr GAZAL SNR:** No. No. What came out when Joe Tripodi came back and told us that he spoke to Diane Beamer and she understood and she's aware because they been in contact with the council and the council have explained to them the urgency and the whole situation. I mean, Diane Beamer and her department knew about this in October 2003 when Westfield wrote a letter to them and the council contacted DIPNR in December 2003. I mean, they knew about it for six, seven months. It wasn't new and I think they have an idea of what's going on.

**The Hon. JOHN RYAN:** How do you know that?

**Mr GAZAL SNR:** Because we have a letter from Westfield to Ms Westacott in October 2003 asking her to join the action against us in the court. They did that for the cinema—

**The Hon. JOHN RYAN:** Yeah.

**Mr GAZAL SNR:** —and the Planning Department joined them and we lost in the Land and Environment. They ask her, they ask that department to join with them. It's on record. I think I submitted it.

**The Hon. JAN BURNSWOODS:** Mm, you did.

**Mr GAZAL SNR:** And Ms Westacott wrote back saying no, she's not interested.

**The Hon. JOHN RYAN:** Were you aware of anything else that caused you to know that Westfield knew about this matter at an early stage?

**Mr GAZAL SNR:** Yes. We have seen in the course of the legal action, in the discovery, that Westfield knew about the DA in January 2003. Mr Knowles in the Parliament said that nobody knew till June, which is a lie. They knew in January. It is in black and white.

**The Hon. JOHN RYAN:** In what way is it in black and white?

**Mr GAZAL SNR:** It is in the discovery paper which we—when Westfield sued us in the Land and Environment Court.

**The Hon. JOHN RYAN:** So you have a document?

**Mr GAZAL SNR:** We have a document but it is privileged document. We have to call it from my lawyer.

**The Hon. JOHN RYAN:** Are you able to supply that document to the Committee if asked?

**Mr GAZAL SNR:** They have to waive the privilege otherwise I will be in contempt of court. That is what my lawyer told me. I have seen the document.

**The Hon. JOHN RYAN:** Are you able to describe the document to the Committee so that we can ask Westfield for it?

**Mr GAZAL SNR:** The document is a fax from AMP, who owns half Westfield Liverpool, to Westfield Management, the company who sued us, telling them that there was the DA for a factory outlet.

**The Hon. JAN BURNSWOODS:** Point of order: Madam Chair, I am not sure that the witness, having said that this is a privileged document and that he does not think he could get permission to give it to this Committee, is then in a position to give the kind of evidence that he is now giving. I do not know whether the Clerks have an opinion on this.

**The Hon. DAVID OLDFIELD:** That's a problem for him, not for you.

**The Hon. JOHN RYAN:** It is not a document that the Parliament has under privilege. It is a document—

**The Hon. JAN BURNSWOODS:** No, it is privileged to the Supreme Court.

**The Hon. JOHN RYAN:** It is a document he has obtained from Westfield.

**Mr GAZAL SNR:** Under subpoena.

**The Hon. JOHN RYAN:** I am asking for a description of the document, not what is in it. I just want to be able to describe it adequately so that—

**The Hon. PETER PRIMROSE:** Presumably it is on paper and it is typed. Beyond that, what other description can you give without breaching legal privilege?

**The Hon. JOHN RYAN:** So we could possibly ask Westfield for it.

**Mr GAZAL SNR:** You could ask Westfield for it, it's—

**The Hon. JAN BURNSWOODS:** Mr Acting Chair, could you let the Chair and the Clerks consider this matter, please, rather than continually trying to take over the running of this Committee?

**The Hon. JOHN RYAN:** You are not one to talk.

**The Hon. DAVID OLDFIELD:** He has probably told us enough any way.

**The Hon. AMANDA FAZIO:** To the point of order: I support the point of order raised by the Hon. Jan Burnswoods and I am concerned that Mr Ryan's leading questions could possibly have some adverse legal implications for Mr Gazal. So I would like you to—

**The Hon. JOHN RYAN:** It might reveal the fact that Westfield knew it all.

**The Hon. AMANDA FAZIO:** You can just be quiet, you fool.

**The Hon. JAN BURNSWOODS:** He is the Acting Chair.

**The Hon. JOHN RYAN:** Thanks.

**The Hon. AMANDA FAZIO:** I would like you to rule in this way because it is a very serious matter, despite what that clown is carrying on about.

**The Hon. DAVID OLDFIELD:** To the point of order: In a practical sense, Mr Ryan will probably agree that enough has probably been described and there is no need to continue with it.

**CHAIR:** Yes, that is probably the case. If we need any further description of the document we will deal with it later.

**The Hon. JAN BURNSWOODS:** It's a great role for a Chair, isn't it?

**CHAIR:** We could deal with it in camera if we need to do that later on. Mr Ryan.

**The Hon. JOHN RYAN:** Sorry, we were asking about what Mr Beuk did for you. I was not sure that we had completed that question.

**Mr GAZAL SNR:** Telling you what happened, Joe Tripodi spoke and told us—I have to say what Joe told me. He said he spoke to Diane Beamer, and she gave him the number of Michael Meagher, the Chief of Staff. She told him that we can call him every other day to pass it to us.

**The Hon. JOHN RYAN:** Sorry, what was that?

**Mr GAZAL SNR:** She told Joe that we can call her department and Mr Meagher every other day because we wanted the LEP out by 27 April—they gave us a letter, 27 April. I do not know how Tony Beuk—Tony represented to me that he knew her well. It seems he got from her, or from her office, the number of Michael Meagher. I thought he is closer because he used to be a councillor in the council and of his relation with Diane Beamer that he could tell us what is happening. We really used him more when Joe Tripodi—after 22 May when Joe told us that Diane got the instruction from Bob Carr to screw the thing—said, "I don't want to call her any more." That is why we relied on Tony Beuk—he was our only chance to talk to them.

Then we got the number and Frank Mosca started calling. Then we used the lawyer to approach the department and subpoena the document—I thought the only way. They would not meet with us, they would not talk to us. We said we had to divert to the law and get my lawyer to get the document. When we subpoenaed the document I found out they did not give us all the document they gave you. We did not see all the paper, like the fax where they mentioned Frank Lowy and Bob Carr and all this. They really kept document away from us. I think it is illegal what they have done and we are trying to check with our lawyer about that.

**The Hon. JOHN RYAN:** When you say that you used Mr Beuk, you did not use him before 22 May with regard to this project?

**Mr GAZAL SNR:** No, I ask him before but I did not ask him to ring or to ask because Joe Tripodi was supposed to lobby for us.

**The Hon. JOHN RYAN:** Did you pay Mr Beuk for his lobbying services?

**Mr GAZAL SNR:** No, never paid anybody; never paid anybody for the lobbying.

**The Hon. JOHN RYAN:** Did you ask Mr Beuk to do anything about this matter whilst it was before Liverpool council, of which he was a councillor?

**Mr GAZAL SNR:** No, never.

**The Hon. JOHN RYAN:** Did you in regard to obtaining the original development consent?

**Mr GAZAL SNR:** No, no.

**The Hon. JOHN RYAN:** Were you aware as to whether he had done anything?

**Mr GAZAL SNR:** I am not aware.

**The Hon. JOHN RYAN:** If you did he did not do so because he was asked by you.

**Mr GAZAL SNR:** I never asked him anything.

**The Hon. JOHN RYAN:** Did he report back to you that he had made representations in that matter?

**Mr GAZAL SNR:** Which matter?

**The Hon. JOHN RYAN:** When it was before Liverpool council did he tell you that he had made representations to staff of the council—

**Mr GAZAL SNR:** No, we used to know through Frank Mosca. Frank used to ring the council and get the information. We did not need anybody because the council proposed the rezoning. I did not apply for the rezoning. I mean, there is a misconception here. The council, when Westfield sued us, they suggested the rezoning. They did not even want to fight the case: They let me fight it myself. All what they gave us affidavit and they tried to help us in the court. But they were never represented—also they were party to the action. Because they decided they wanted to rezone the land or amend the LEP. I did not have to even talk to them—this was their suggestion.

**The Hon. JOHN RYAN:** Okay. Thanks.

**CHAIR:** Sylvia.

**Ms SYLVIA HALE:** Mr Gazal, could I clarify something that you said earlier? Do I understand that you gave a verbal reference to Mr Dwyer of the St George Bank in order to assist Mr Knowles, the Minister for Planning, to secure a loan?

**Mr GAZAL SNR:** No, I rang Mr Paul Dwyer and I told him—he is not very well known to me; at that time I used to be one of their biggest customer in the branch and I know them well. We referred Mr Knowles, because he was looking for a loan.

**Ms SYLVIA HALE:** And you said Mr Knowles—implied or did you say—that they should consider giving Mr Knowles—

**Mr GAZAL SNR:** No, he asked me who he was and I explained to him.

**Ms SYLVIA HALE:** So you think that your assistance there may have enabled Mr Knowles to get the loan?

**Mr GAZAL SNR:** I don't know, you have to ask the bank. I really don't know.

**Ms SYLVIA HALE:** Thank you. You said earlier today and on previous occasions that you and Mr Frank Lowy of Westfield would play cards.

**Mr GAZAL SNR:** Yes.

**Ms SYLVIA HALE:** You did this over a period?

**Mr GAZAL SNR:** For the last maybe eight or nine years.

**Ms SYLVIA HALE:** Presumably you and Mr Lowy would have a lot in common insofar as you were dealing with various instrumentalities at the local and the State level, in particular—government Ministers and individuals?

**Mr GAZAL SNR:** No, he is at a different level.

**Ms SYLVIA HALE:** Yes. But you are both developers.

**Mr GAZAL SNR:** No, I am not a developer. I started as an investor. I had a manufacturing company and I became a developer because the business went bad in manufacturing. I am a civil engineer. I am a de facto developer. I am an investor really; I am not a developer.

**Ms SYLVIA HALE:** Well, as a businessman, you presumably had something in common.

**Mr GAZAL SNR:** Businessman, yes.

**Ms SYLVIA HALE:** Right. Did Mr Lowy at any stage ever express any view about the State Government, about the Premier or any Ministers?

**Mr GAZAL SNR:** I mean, during eight years of playing cards—and we play for four, five, six hours sometimes—there is always mention and observation and word which you gather from it. It is not a direct mention. I knew basically; I was very aware that he is a very, very good close relation to Bob Carr. I know that through the conversations, through words said and through functions attended. We are socialising and through socialising they drop words.

**Ms SYLVIA HALE:** So you are saying that over this long period of time you gained the impression and you knew that there was a close association between the Premier and Mr Lowy.

**Mr GAZAL SNR:** Yeah, this is why I did not mention this Orange Grove designer outlet ever at the game. I was really very, very upset when the friends who wrote the stat dec mentioned it. I was not there. I meant on purpose not to really open this conversation with Frank about the designer outlet. I did not want him to know about it if he does not know. If he knew and he started it I would have answered. But I was on purpose not mentioning it to him.

**Ms SYLVIA HALE:** Did you get any impression from your conversations with Mr Lowy over the years that in fact the Premier or the Government would be anxious to accommodate him in any way to—

**Mr GAZAL SNR:** You have to—I mean, I'll be stupid if I did not know that. Mr Lowy, when they rezoned Eastgardens, everybody knew. Mr Carr was a Minister in Neville Wran's ministry. They rezoned it from bus depot to a shopping centre. I mean, there was a very long-term relation. The paper talked about it. He attended his fiftieth birthday. They go on trips together sometimes. I mean, you hear stories and you hear words, you drop names. Look at the matter of the Palestinian woman Ashrawi—unless you really know Bob Carr well you think you criticise him the way Frank Lowy did?

**Ms SYLVIA HALE:** Mmm.

**Mr GAZAL SNR:** You have to be a good friend or a good relation—a subservient relation or a favourable relation. There should be something.

**Ms SYLVIA HALE:** Did you or Mr Lowy in the course of your conversations over six or eight years ever discuss the effectiveness of donating to political parties?

**Mr GAZAL SNR:** I don't think I ever really spoke about that.

**Ms SYLVIA HALE:** So there was never any comparison between the \$10,000 you gave or the 850,000 that Westfield gave.

**Mr GAZAL SNR:** No, definitely not. You see, it's not in my interests to discuss business with Mr Frank Lowy when, you know, the cinema action went against me and I went and spoke to him. He brought the subject. I knew, I preferred, if he doesn't know about the designer outlet it is better that he doesn't know because, if he knows, the connection to Bob Carr will be used. If he doesn't know maybe his staff doesn't know they know me.

**Ms SYLVIA HALE:** But despite your not mentioning it to Mr Lowy—

**Mr GAZAL SNR:** Somebody mentioned it.

**Ms SYLVIA HALE:** Westfield obviously became aware of what was happening.

**Mr GAZAL SNR:** No, no, Westfield were aware since January but I don't think Mr Lowy was aware—if you read this affidavit—until February. That's what I have been told in the last month—

**The Hon. JAN BURNSWOODS:** Point of order: Madam Chair, this is the statement that you have agreed will not be referred to in questions or answers.

**Mr GAZAL SNR:** Sorry about that.

**CHAIR:** Yes. I will make a ruling on that matter. Mr Gazal has tendered a stat dec and I would suggest that it not be tabled. If the gentleman who provided the stat dec wishes to make a submission to Committee that will be fine. If he wished to do that the Committee could consider it in that context. But I ask that we do not go to that document unless it is provided by the actual signatory to the stat dec.

**Ms SYLVIA HALE:** Mr Gazal, did you ever gain the impression that Mr Lowy believed that somehow Mr Carr was subservient to him?

**Mr GAZAL SNR:** No, I don't think he gave the impression but I don't know why I got this impression.

**Ms SYLVIA HALE:** That was the impression you had?

**Mr GAZAL SNR:** Yes.

**Ms SYLVIA HALE:** Therefore, you think it would be useful to ask Mr Lowy his impressions of your conversations?

**Mr GAZAL SNR:** No. Through history and through action you see things. I mean, it is not always a coincidence that when Mr Carr is present Mr Lowy gets what he wants. It might be nothing, it might be a friendship, but I am not doing any allegation or saying anything. But I believe—I do not know, I heard something that Mr Lowy does not want to come to the Committee because it is beneath him.

**Ms SYLVIA HALE:** I am sorry?

**Mr GAZAL SNR:** I just heard a rumour that Mr Lowy did not want to come to the Committee or to witness because it is beneath him. That is what I heard.

**The Hon. AMANDA FAZIO:** Point of order: You cautioned the witness at the beginning of the hearing about being careful about what he said under privilege. To accept evidence that he had heard from somebody that somebody had been reputed to say that they were not going to appear before this Committee because it was beneath them is drawing a very long bow in terms of evidence we are receiving, and I do not believe that is an appropriate remark to be recorded as part of the Committee proceedings.

**CHAIR:** I suggest that we try to veer away from hearsay evidence.

**The Hon. JAN BURNSWOODS:** To the point of order or a new point of order: Could I also point out that the gentleman who is being talked about has never been asked to appear before the Committee.

**Ms SYLVIA HALE:** He will be.

**The Hon. AMANDA FAZIO:** Is that a threat?

**The Hon. JAN BURNSWOODS:** Ms Hale moved that he appear, but she was overwhelmingly defeated, and Mr Ryan was the one who spoke most against it.

**The Hon. JOHN RYAN:** I do not know what that was but Westfield has been able to send whatever representatives it wants, and if Mr Lowy wanted to come and represent Westfield it has always been open to him.

**The Hon. JAN BURNSWOODS:** The issue was whether he had been asked or invited.

**The Hon. JOHN RYAN:** Personally, that is true, but he has certainly been invited.

**The Hon. JAN BURNSWOODS:** He has not been invited. Tell the true for a change.

**Ms SYLVIA HALE:** From your dealings on a friendly basis with Mr Lowy, would you believe that that could well be Mr Lowy's view, that it was beneath him to appear to give evidence?

**Mr GAZAL SNR:** No.

**The Hon. JAN BURNSWOODS:** Can I repeat the point of order?

**Mr GAZAL SNR:** I did not say that.

**The Hon. JAN BURNSWOODS:** The question is out of order.

**CHAIR:** I ask members not to put words into the mouths of people who are not here.

**The Hon. AMANDA FAZIO:** Also, Madam Chair, I would like you to advise Ms Hale not to flout your rulings, because that is clearly what she did by asking the question.

**Ms SYLVIA HALE:** Mr Gazal, would you welcome Mr Lowy coming to this hearing to—

**The Hon. JAN BURNSWOODS:** Can we repeat the point of order. The whole line of questioning about a third party who has never been asked to come to this Committee is totally discourteous and totally out of order, as you have ruled. Can you please, again, ask the member to desist from this line of questioning?

**CHAIR:** I would like to hear the end of Ms Hale's question.

**Ms SYLVIA HALE:** My question was whether Mr Gazal would welcome as Mr Lowy appearing before this Committee and giving evidence on this matter.

**CHAIR:** That question is in order.

**Mr GAZAL SNR:** I made serious allegation based on what Joe Tripodi told me on 22 May. I put in my statutory declaration the name of Frank Lowy because this is what he told me. I appeared in front of this Committee four times. I am telling you things under oath. I welcome—I not welcome, I challenge even—Mr Carr, Mrs Beamer, Mr Tripodi, and I definitely welcome Mr Frank Lowy, because the allegation made to me by Joe Tripodi mentioned the name of Frank Lowy, whom it happened that I know quite well. I would like to hear what Mr Lowy has to say definitely. Mr Lowy is a very credible businessman. He has a very high reputation. I am not alleging anything against Mr Lowy but I would like to hear his side of the story.

**The Hon. DAVID OLDFIELD:** Mr Gazal, do I gather that you have the impression from your knowledge of Mr Lowy and his relationship with Mr Carr that you believe Mr Lowy has an expectation that Mr Carr would be helpful?

**Mr GAZAL SNR:** Yes.

**The Hon. JAN BURNSWOODS:** Point of order—

**Mr GAZAL SNR:** If you put it this way.

**The Hon. JAN BURNSWOODS:** Excuse me, witness. It is not in order for Mr Oldfield to ask the witness a question about what he thinks someone might think about someone else thinking something. The questions are not only way beyond the terms of reference, the whole line of questioning Mr Oldfield has now picked up from Ms Hale is not about Mr Gazal or any evidence Mr Gazal has to submit to us. We are asking Mr Gazal's opinion about other people's opinions about other people and other matters. Again, I urge you to seek some advice from the Clerks and deal with this line of questioning.

**Ms SYLVIA HALE:** To the point of order: The thrust of this inquiry has been to examine varying webs of influence and influence exerted which may possibly have corrupted the planning process. It seems to me that any light the witness can shed on that issue is perfectly germane to the terms of reference of the inquiry.

**The Hon. DAVID OLDFIELD:** To the point of order: I was merely clarifying the line of questioning that came through from Ms Sylvia Hale, as I felt that most of those questions had been interrupted by the jumping up and down of the Hon. Jan Burnswoods. I am certainly not pursuing a line of questioning. It is the



only question I have regarding Mr Lowy. I have no other questions relating to Mr Lowy so there is no line of questioning from me.

**CHAIR:** So, you are finished?

**The Hon. DAVID OLDFIELD:** Yes, that is right. Mr Gazal, have you at any stage sought legal advice about attending these hearings? Have you spoken to lawyers at all about what you should or should not say?

**Mr GAZAL SNR:** No.

**The Hon. DAVID OLDFIELD:** So, it never occurred to you there was a need for you to find some advice as to what you may be up for here or what you should be saying or what you should not be saying?

**Mr GAZAL SNR:** No.

**The Hon. DAVID OLDFIELD:** I should further ask—to make sure we cover all bases—your son Nabil Junior also has addressed the inquiry. Have you organised at any stage or has he organised to seek any advice legally as to what he should or should not say here?

**Mr GAZAL SNR:** No. We never took any legal advice about attending this Committee, ever.

**The Hon. DAVID OLDFIELD:** Not even in relation to any opening statements or anything else?

**Mr GAZAL SNR:** Not in relation to anything. It is all prepared by—

**The Hon. DAVID OLDFIELD:** Could I presume you have never felt the need to seek legal advice because you did not have anything to hide?

**Mr GAZAL SNR:** This is it. What I am saying is what you ask me, and I am saying the truth.

**The Hon. DAVID OLDFIELD:** You have always been comfortable to appear before the hearing and answer questions?

**Mr GAZAL SNR:** Very comfortable.

**The Hon. DAVID OLDFIELD:** I am of the understanding—and forgive me, because I am not sure where I got this from—I have in the back of my mind that Mr Latham had been approached a number of times to assist with regard to Orange Grove. Were you surprised when Mr Latham, about a week ago, suddenly said the centre should be rezoned?

**Mr GAZAL SNR:** No, but he did that after the election was declared. It is in his own interests to say that. He like to be on the record saying he is for the people of the area. It is in his advantage. If I was running for Prime Minister, I would do the same.

**The Hon. DAVID OLDFIELD:** Am I right that I have something in my head that there was some attempt to contact Mr Latham a number of times?

**Mr GAZAL SNR:** Yes, there were some attempts from people of the area—and people I know and people I do not know—but he always maintained it was a State issue.

**The Hon. DAVID OLDFIELD:** So he was unwilling to say anything about it until the election was called?

**Mr GAZAL SNR:** That is what I noticed, yes.

**The Hon. DAVID OLDFIELD:** Do I gather that in your opening statement today you were talking about the background of how you had a friendly relationship with Joe Tripodi and then there was a falling out, and in a later question you seemed to clarify what that falling out was. Do I gather the falling out initially with Joe Tripodi a few years back was because you refused to give him cash?

**Mr GAZAL SNR:** Definitely.

**The Hon. DAVID OLDFIELD:** We now understand this cash was in relation to stacking branches?

**Mr GAZAL SNR:** In Fowler branch, yes, to stop Alex Sanchez getting the seat of Fowler.

**The Hon. DAVID OLDFIELD:** To stop Alex Sanchez from being preselected? So, was Julia Irwin preselected instead?

**Mr GAZAL SNR:** I do not know what happened at that time. I think the head office did something it called M40, L40, something like that.

**The Hon. DAVID OLDFIELD:** But the idea was to get cash from you to pay the memberships and stack branches to manipulate the outcome of the preselection for Fowler?

**Mr GAZAL SNR:** Yes. Joe Tripodi and these people have another member, and the left had Alex Sanchez, but it seems the left at that time were ahead of the right and they already stacked the branch. Something of this kind. This is what they explained to me. They knew I do not like Alex Sanchez because what he did to me at the cinema. They thought I would be a willing giver, donor, to stack the branch, but I definitely did not give any money.

**The Hon. DAVID OLDFIELD:** So, if I can get this in a nutshell, Joe Tripodi is of the impression he has a friendly relationship with you as a local businessman. He comes to you and asks you for \$10,000 in cash and you say no, and the relationship sours?

**Mr GAZAL SNR:** Exactly right.

**The Hon. DAVID OLDFIELD:** Are you aware that all of the Government's witnesses have all had legal advice prior to coming here, and during these hearings?

**Mr GAZAL SNR:** Because they were cooking the story. I mean, it is very easy.

**The Hon. DAVID OLDFIELD:** You still maintain a position of being comfortable not having had legal advice even though they have all had advice?

**Mr GAZAL SNR:** Anytime. I am very comfortable to enter any questions regarding this matter.

**The Hon. PETER PRIMROSE:** I just point out that later we are interviewing, again, your lawyer, Mr D'Agostino.

**The Hon. DAVID OLDFIELD:** You mean Joe Tripodi's lawyer.

**The Hon. JAN BURNSWOODS:** Mr Gazal, you are aware that certain allegations were made earlier today by John Ryan—

**The Hon. JOHN RYAN:** I did not make any allegations, I asked some questions. There is a big difference.

**The Hon. JAN BURNSWOODS:** Have you heard a statement denying the assertions that were made by Mr Ryan, a statement of Mr Knowles read just at the beginning of your evidence?

**Mr GAZAL SNR:** What did Mr Ryan say? I really was not aware of the statement of what Mr Ryan said.

**The Hon. JAN BURNSWOODS:** The statements made by Mr Ryan earlier were to some extent referred to also by Ms Hale, and I am sure you have given your answers to those about an alleged financial relationship between you and Mr Knowles, which Mr Knowles has flatly denied in his statement that was read at the start of your evidence this afternoon. You were in the room when the statement was read?

**Mr GAZAL SNR:** Correct.

**The Hon. JAN BURNSWOODS:** My question is, is it not true that you told Mr Ryan or one of the Opposition staff about this alleged relationship?

**Mr GAZAL SNR:** I really cannot recall but I might have, yes.

**The Hon. JAN BURNSWOODS:** So, you had a conversation with Mr Ryan prior to coming here?

**Mr GAZAL SNR:** Not today, no.

**The Hon. JAN BURNSWOODS:** Can you tell us when?

**Mr GAZAL SNR:** I really do not remember.

**The Hon. JAN BURNSWOODS:** This week?

**Mr GAZAL SNR:** I honestly do not remember. It came through conversations.

**The Hon. JOHN RYAN:** Dozens of conversations. There is no conspiracy.

**Mr GAZAL SNR:** I have a lot of conversations with Mr Ryan. It definitely came from me but I do not know when. I cannot tell you when.

**The Hon. JAN BURNSWOODS:** Are you prepared to repeat the assertions you made about your alleged financial arrangement with Mr Knowles outside this building and outside parliamentary privilege?

**Mr GAZAL SNR:** No, I am ready to repeat what I said, not alleged. I did not allege any financial relation. If you read my answer, Frank Mosca rang me and asked me the question. It is exactly what I said. I am ready to repeat it anywhere you like.

**The Hon. JAN BURNSWOODS:** You did not refer to a written reference from you or Mr Mosca?

**Mr GAZAL SNR:** I never gave a written reference. I never made a written reference.

**The Hon. JAN BURNSWOODS:** I did not ask you whether you made one; I asked you whether you referred to the making of one.

**The Hon. JOHN RYAN:** Nobody did. Where did this fiction come from?

**The Hon. JAN BURNSWOODS:** If the Hon. John Ryan wants to be called as a witness, I will happily ask him questions. But at this stage I am asking Mr Gazal questions.

I will ask the question again. Mr Gazal, did you talk to Mr Ryan about a written reference made by either yourself or Mr Mosca or Mr Mullins?

**Mr GAZAL SNR:** A written reference?

**The Hon. JAN BURNSWOODS:** Did you talk to him about the existence of a written reference?

**Mr GAZAL SNR:** No. There was no written reference—never.

**The Hon. JAN BURNSWOODS:** I did not ask you that. It is lovely the way you always answer a question differently—

**The Hon. JOHN RYAN:** He also did not make that allegation to me.

**The Hon. JAN BURNSWOODS:** Did you talk to Mr Ryan about anyone being guarantor in any financial dealings?

**Mr GAZAL SNR:** No.

**The Hon. JOHN RYAN:** Try again.

**The Hon. JAN BURNSWOODS:** Madam Chair, I ask that you—

**The Hon. JOHN RYAN:** Why do you not ask me, instead of getting it as hearsay?

**The Hon. JAN BURNSWOODS:** Mr Gazal, do you now repeat the assertions you made to Mr Ryan about Mr Knowles? Do you stand by them?

**Mr GAZAL SNR:** No. I repeat what I said here. I am ready to repeat what I said here, anywhere you like.

**The Hon. JOHN RYAN:** Where were you? Were you asleep at the time?

**The Hon. JAN BURNSWOODS:** It is wonderful to see the Hon. John Ryan trying to prevent this line of questioning and helping you out and putting words in your mouth—

**The Hon. JOHN RYAN:** I am not preventing anything. I am trying to prevent you saying something about me that is not true.

**The Hon. JAN BURNSWOODS:** It is wonderful that you two have such a close and friendly relationship. When we talked about inviting you here at 12 o'clock today, the Hon. John Ryan already knew that you are available to come at 2 o'clock.

**The Hon. JOHN RYAN:** Point of order, Madam Chair—

**The Hon. JAN BURNSWOODS:** The whole thing is beautifully worked out. Now, when I look at you and ask you questions, the Hon. John Ryan keeps answering them, and the Chair continues to let him answer the questions.

**The Hon. JOHN RYAN:** Point of order, Madam Chair—

**CHAIR:** Order! There is a point of order.

**The Hon. JAN BURNSWOODS:** Why does Mr Ryan feel the need to protect you all the time?

**CHAIR:** Order! There is a point of order.

**The Hon. JAN BURNSWOODS:** Why does he feel the need to prevent you answering the questions I am asking you? What is it that gives Mr Ryan the need to protect you all the time?

**The Hon. JOHN RYAN:** Point of order—

**The Hon. PETER PRIMROSE:** Some things are parliamentary and some are not. In this Committee it does not seem to matter. There are no rules operating in this inquiry. The Hon. John Ryan is just as bad as the other two members. This is purely numbers here: four to three. There are no rules. Unparliamentary behaviour constantly occurs, and you, Madam Chair, allow it to happen. The reason we have problems in this Committee is that you allow this behaviour to happen.

**CHAIR:** The Hon. John Ryan on a point of order.

**The Hon. PETER PRIMROSE:** Let the Hon. John Ryan have his point of order. It will then be ruled in relation to four members against three, because there are no rules in this Committee.

**Mr GAZAL SNR:** Please, can I say something? I have a meeting at 4.30 p.m. I have to leave here at 4.15 p.m. I want to answer your questions. Please ask me the questions.

**The Hon. JAN BURNSWOODS:** I had stopped asking questions temporarily because you told me, Madam Chair, that the Hon. John Ryan had a point of order. You seem more than willing to let him speak—

**CHAIR:** When he has the time to make his point of order, he may proceed.

**The Hon. JAN BURNSWOODS:** You are the Chair, Madam Chair.

**CHAIR:** The Hon. John Ryan has the call.

**The Hon. PETER PRIMROSE:** Is this an apology, a point of order, or a personal explanation?

**The Hon. AMANDA FAZIO:** It is just time wasting.

**The Hon. PETER PRIMROSE:** Then we can continue with the question.

**The Hon. JAN BURNSWOODS:** Mr Gazal, what is your relationship with Mr Ryan?

**The Hon. JOHN RYAN:** Point of order—

**Mr GAZAL SNR:** I saw him, as a matter of fact. I did not meet him. I saw him making a speech when they had the rally outside the designer factory outlets. Then I met him when they told me he is a member of the Committee.

**The Hon. JAN BURNSWOODS:** How often would you discuss tactics with Mr Ryan before this Committee?

**Mr GAZAL SNR:** I do not discuss tactics. I ring him asking questions sometimes. He rings me asking questions. I never discuss tactics.

**The Hon. JAN BURNSWOODS:** So you discuss the questions to be asked of you, or of Mr Mosca, or of other witnesses?

**Mr GAZAL SNR:** No. I ask what is happening—just social talk. Sometimes I ask, if I have a question, which way shall I do it.

**The Hon. JAN BURNSWOODS:** So when you come along to this hearing, you have often been coached by Mr Ryan before giving evidence?

**Mr GAZAL SNR:** No, definitely not. Ms Burnswoods, I am a big boy; I do not need to be coached.

**The Hon. JAN BURNSWOODS:** Can you tell us about the relationship that your sons have with Mr Ryan?

**Mr GAZAL SNR:** We met him through the Committee. We have no relationship.

**The Hon. JAN BURNSWOODS:** Have they discussed questions and procedures before the Committee with Mr Ryan?

**Mr GAZAL SNR:** I really do not know. I cannot answer you. Ask my sons.

**The Hon. JAN BURNSWOODS:** When we had your lawyer, Mr D'Agostino, here on Monday we asked him a question about whether he had spoken to any members of Parliament, and he said no. But then Mr Ryan had to give a personal explanation and admit that he had in fact had a conversation with Mr D'Agostino. Were you aware of that conversation?

**Mr GAZAL SNR:** No.

**The Hon. JAN BURNSWOODS:** What do you think about the propriety of Mr Ryan and Mr D'Agostino having this conversation?

**The Hon. JOHN RYAN:** Point of order: The Hon. Jan Burnswoods is making imputations against my character and motives, which is unparliamentary. I do not mind her making remarks about me, but I wish she would not tell half-truths. Most of what she has said so far are half-truths.

**The Hon. PETER PRIMROSE:** This is a debating point.

**The Hon. JOHN RYAN:** It is not a debating point. My point of order is that it is not parliamentary for the Hon. Jan Burnswoods to make imputations about my character. She has done it many times, and I ask her to desist from it and stick to the facts.

**The Hon. PETER PRIMROSE:** To the point of order: Constantly I and others have raised the fact that we have leading questions, imputations, and unparliamentary behaviour from members opposite, and we have taken points of order, and you, Madam Chair, have not ruled on them. In this case, as we are constantly advised by the Clerks, the rules regarding questions that apply in the House do not apply here. Accordingly, how can you possibly rule that something is unparliamentary when there are no rules applying to those questions? Members opposite are allowed unruly questions, which are full of imputations against members of both Houses and members of the public, but there is no intervention by you.

**CHAIR:** I rule that the Hon. John Ryan has taken exception to the imputation. Unlike members of the Government from time to time, they have been allowed to stand on the record. I rule that the Hon. Jan Burnswoods will desist from making imputations about other members of the Committee, and I ask all members of the Committee to do the same.

**The Hon. PETER PRIMROSE:** I ask the Chair to apologise for making an imputation that we have not raised these matters in the past. I find that offensive.

**CHAIR:** It is on the public record.

**The Hon. PETER PRIMROSE:** Of course it is on the public record, and I have raised it, and I have been told he that there are no rules applying to the asking of questions. Now we suddenly find, because the Hon. John Ryan is upset because he is caught on this matter—

**CHAIR:** I have given my ruling.

**The Hon. AMANDA FAZIO:** Mr Gazal, I would like to read to you an excerpt from *Hansard* of 1 September 2004. In the debate on the Save Orange Grove Bill the Hon. Dr Arthur Chesterfield-Evans told the Parliament about a discussion he had with you regarding the designer factory outlets.

**Mr GAZAL SNR:** Can I have a copy to read, because I do not understand you.

**The Hon. AMANDA FAZIO:** I will provide you with a copy. This is what the Hon. Dr Arthur Chesterfield-Evans said:

I spoke to Nabil Gazal, who said he knew [the original DA] was against planning regulations but he was not going to make any money from a bulky goods store. [Mr Gazal also said] he had been knocked back in his attempt to include a cinema complex there ... so he gave it a whirl [he put in the application and] the project was approved.

**Mr GAZAL SNR:** What are you talking about?

**The Hon. AMANDA FAZIO:** This is a conversation that the Hon. Dr Arthur Chesterfield-Evans, a member of the Legislative Council, reported to the Legislative Council last week that he had had with you in relation to the Orange Grove complex.

**Mr GAZAL SNR:** In Gloria Jean's, yes.

**The Hon. AMANDA FAZIO:** It is noted in *Hansard*. Do you deny saying this to the Hon. Dr Arthur Chesterfield-Evans—

**Mr GAZAL SNR:** I deny, and I say he is a liar. I did not say it was against planning regulations.

**The Hon. AMANDA FAZIO:** Are you calling the Hon. Dr Arthur Chesterfield-Evans a liar?

**Mr GAZAL SNR:** Yes. If he said I said so, he is a liar.

**The Hon. AMANDA FAZIO:** The Hon. Dr Arthur Chesterfield-Evans continued, as shown in *Hansard*:

Mr Gazal, who is a Lebanese Christian, said to me, 'Look, when I was in Lebanon I knew the system was corrupt: If you wanted something done you had to put in your bribes and whoever offered the most money won the day.'

Mr Gazal, in Lebanon did you pay bribes to get what you wanted, and is that what you told a member of the New South Wales Parliament?

**Mr GAZAL SNR:** I never worked in Lebanon.

**The Hon. AMANDA FAZIO:** You did not do any work in Lebanon?

**Mr GAZAL SNR:** No. I worked in the Middle East, in Dubai, and in Australia.

**The Hon. AMANDA FAZIO:** In Dubai, what were your business practices there? Did you expect to bribe people to get what you wanted?

**Mr GAZAL SNR:** No. I worked within the system.

**The Hon. AMANDA FAZIO:** What system—?

**Mr GAZAL SNR:** Within the law. I lived there for 11 years. You can go and check my record. I have no conviction; I have never been to court there.

**The Hon. AMANDA FAZIO:** The Hon. Dr Arthur Chesterfield-Evans also said that you told him—

**Mr GAZAL SNR:** He told me he knows the Lebanese system—not me. He was telling me about the Lebanese system.

**The Hon. AMANDA FAZIO:** The Hon. Dr Arthur Chesterfield-Evans also told the Parliament that you said to him:

I knew my application wasn't within the LEP but I put it in and ... I was quite happy to go ahead and sign up tenants—what else would you do if you'd built a shopping centre?

**Mr GAZAL SNR:** He is a liar. Bring him here to say these things. He is a liar. Why are you reading these questions?

**The Hon. AMANDA FAZIO:** I am asking you a question. Through this statement, you have admitted that you knew the DA lodged by you in June 2002 "wasn't within the LEP but I put it in"—

**Mr GAZAL SNR:** I am not going to hear your question. Before you continue, tell me where I admitted that I knew the DA was illegal? Show me.

**The Hon. AMANDA FAZIO:** In a conversation, the Hon. Dr Arthur Chesterfield-Evans—

**Mr GAZAL SNR:** I am telling you, he is a liar.

**The Hon. AMANDA FAZIO:** It is there in *Hansard*. There are remedies available to you if you are not happy—

**Mr GAZAL SNR:** Bring him here.

**The Hon. AMANDA FAZIO:** I do not have to bring him here. I am asking you questions about a conversation you had with a member of Parliament that have been placed on the public record.

**Mr GAZAL SNR:** I had a conversation, and I did not tell him what he is saying. Or he misunderstood me, or he is a liar.

**The Hon. AMANDA FAZIO:** I have a few other questions I want to ask you.

**Mr GAZAL SNR:** You can ask me any questions.

**The Hon. AMANDA FAZIO:** Fine. Just be quiet until I ask you the questions.

**Mr GAZAL SNR:** No, because I forget if you go through the whole—

**The Hon. AMANDA FAZIO:** You knew in June 2003, when legal action was initiated against Gazcorp, that the approval was outside the LEP, and you knew you would lose in court, did you not?

**Mr GAZAL SNR:** No, I did not.

**The Hon. AMANDA FAZIO:** You did not?

**Mr GAZAL SNR:** No, I did not know.

**The Hon. AMANDA FAZIO:** But you went ahead anyway, and you signed up tenants knowing that the centre had an approval from council that the court would rule unlawful, did you not?

**Mr GAZAL SNR:** You are a genius; you are God.

**The Hon. AMANDA FAZIO:** The council had never properly approved the centre.

**Mr GAZAL SNR:** You are saying so. You are lying, too.

**The Hon. AMANDA FAZIO:** Do not call me a liar, Mr Gazal.

**Mr GAZAL SNR:** I am telling you in your face. How would I know until the court—

**The Hon. AMANDA FAZIO:** I am asking you questions—

**Mr GAZAL SNR:** I am telling you I did not know, and you are saying you knew.

**The Hon. AMANDA FAZIO:** At the time you put in the development application, the zoning did not permit retail activities. You said you would give it a whirl—

**Mr GAZAL SNR:** Did I say that?

**The Hon. AMANDA FAZIO:** That is what the Hon. Dr Arthur Chesterfield-Evans has said.

**Mr GAZAL SNR:** He is a liar.

**The Hon. AMANDA FAZIO:** Everybody is a liar but you, is that the case?

**Mr GAZAL SNR:** No. But he is a liar. You asked me about him, and I am telling you. If I knew I would spend the \$22 million, I am a stupid man. I would be in a different business if I knew that.

**CHAIR:** Just cool it.



**The Hon. JAN BURNSWOODS:** You are now ruling that there are no rules for questions again, Madam Chair, are you?

**The Hon. AMANDA FAZIO:** I have got questions that I want to ask Mr Gazal, if he will be quiet and listen.

**CHAIR:** You can ask the questions but do not harangue the witness.

**The Hon. AMANDA FAZIO:** I am not haranguing him, I am trying to get him to be quiet so I can ask him a question.

**Mr GAZAL SNR:** But I want to know something before you continue.

**The Hon. AMANDA FAZIO:** You do not ask me questions. It is not how these committees work. You have been here four times.

**Mr GAZAL SNR:** I do not understand you. Is it you telling me I did not know or Mr Chesterfield?

**CHAIR:** Mr Gazal, I notice—

**The Hon. JAN BURNSWOODS:** You notice when Mr Ryan holds up his hand. You shut him up immediately. This is such a rort. Go on, hold your hand up again and control him. He is like a puppet. This is just the greatest political rort of all time. Every part of it is so choreographed and rorted, and the relationship between you and Mr Gazal should be investigated by the Privileges Committee.

**CHAIR:** You can move that way if you like, Ms Burnswoods.

**The Hon. JAN BURNSWOODS:** Given the number of motions I have put on notice so far that have not yet been dealt with, I may well add that one to Mr Ryan's litany of dishonesty and deceit in this inquiry.

**CHAIR:** Order! You will not make adverse comments about members of this Committee.

**The Hon. JAN BURNSWOODS:** Yes but, Madam Chair, as you have often admitted, we have no rules.

**The Hon. JOHN RYAN:** No, you have no rules.

**The Hon. AMANDA FAZIO:** Mr Gazal, are you aware that a lawyer for one of your tenants, Rima Collections, told the New South Wales Court of Appeal on 25 August this year that Gazcorp offered leases to tenants after legal action was commenced in June 2003, without providing any mention of the pending court action in disclosure statements provided to tenants? Are you aware of that?

**Mr GAZAL SNR:** Can I answer?

**The Hon. AMANDA FAZIO:** Yes, and simply too please, without a diatribe.

**Mr GAZAL SNR:** I am aware he said that, but I am aware he is not saying the truth because there is a letter.

**The Hon. AMANDA FAZIO:** Somebody else telling lies, is there?

**Mr GAZAL SNR:** No, he did not know there was a letter sent to the people telling them about the court case. We can prove it in black and white.

**The Hon. AMANDA FAZIO:** Mr Abboud, for Rima Collections, told the New South Wales Court of Appeal on 25 August 2003, when he was under oath:

I act for Rima Collections .. there has been communication between Westfield and Gazcorp but no evidence to suggest the tenants have been informed. You have a landlord who is receiving rent and who is proceeding with legal action. I do not think there is any evidence before your Honour to suggest that he, Gazal, has been sharing advice with these tenants or explaining consequences and ramifications. For all we know the landlord might be saying "everything will be fine". We do not come up here

in support of the landlord because it is quite clear all the tenants will end up suing the landlord. We are not on the side of the landlord.

What do you say about the submission made by the lawyer on behalf of one of your tenants? He said you did not provide disclosure statements that had any mention of the court action when you were in a position to know. Is it not a fact that you deceived tenants and that you did this deliberately? What is your answer to that?

**Mr GAZAL SNR:** Are you asking me or are you answering? Do you want to answer or do you want me to answer it?

**The Hon. AMANDA FAZIO:** Is it not a fact that you deceived the tenants—

**Mr GAZAL SNR:** Ask me a question and ask me if I want to answer it or you want to answer it?

**The Hon. AMANDA FAZIO:** I have asked you a question.

**Mr GAZAL SNR:** You are answering it. If you know better—

**The Hon. AMANDA FAZIO:** You are not prepared to answer it?

**Mr GAZAL SNR:** You answered it. You are not waiting for me to answer it.

**The Hon. AMANDA FAZIO:** No, I asked you the question.

**Mr GAZAL SNR:** Mr Abboud is misinformed.

**The Hon. AMANDA FAZIO:** Thank you very much.

**Mr GAZAL SNR:** Okay, are you happy with the answer?

**The Hon. AMANDA FAZIO:** No, I am not happy with your answer because basically, according to you, everybody else in this place is a liar except you.

**Mr GAZAL SNR:** Mr Abboud can go to the court and sue Gazcorp any time he likes.

**CHAIR:** I thank Mr Gazal.

**The Hon. AMANDA FAZIO:** I want to ask Mr Gazal another question. Mr Gazal, you said that Dr Arthur Chesterfield-Evans is lying. This is a very serious allegation punishable by five years in gaol. This Committee demands a statement from Dr Arthur Chesterfield-Evans about who is lying. It is either you or him.

**The Hon. JOHN RYAN:** Point of order: What is the member talking about, threatening the witness with up to five years gaol? There is no offence for making that comment.

**Mr GAZAL SNR:** If she think she scares me she is too far away.

**The Hon. DAVID OLDFIELD:** We have an unfortunate situation where the aggressiveness of the Labor members has obviously caused Mr Gazal to inappropriately respond. But, listening to what Dr Arthur Chesterfield-Evans said, according to the transcript, it sounds like a typical Arthur-in-Parliament, adlibbing.

**The Hon. AMANDA FAZIO:** So you are going to besmirch his reputation as well, are you?

**The Hon. DAVID OLDFIELD:** Given the four times we have seen Mr Gazal here, for example, I would suggest to you that phrases such as attributed to him by Dr Arthur Chesterfield-Evans are not even in his vocabulary. "Give it a whirl"—they are Arthurisms.

**CHAIR:** That brings us to the conclusion of that part of the hearing today. Mr Gazal, thank you again.

**The Hon. JAN BURNSWOODS:** Usually you want to keep people here for ever, but you are desperate to get rid of him.

**The Hon. JOHN RYAN:** We want him back. Invite him back.

**The Hon. JAN BURNSWOODS:** We will certainly be inviting Mr Gazal back again.

**Mr GAZAL SNR:** I am at your service any time.

**The Hon. JOHN RYAN:** The difference between him and members of the Labor Party is he has been willing to come and answer questions.

**The Hon. PETER PRIMROSE:** Who has not been?

**The Hon. JOHN RYAN:** Mr Tripodi, Minister Beamer, Mr Knowles, Mr Carr. Need I go on?

**The Hon. JAN BURNSWOODS:** Tell us about Mr Bargshoon now too, now he has got cold feet.

**The Hon. JOHN RYAN:** I do not think he has got cold feet, he has got a cold.

**The Hon. JAN BURNSWOODS:** We only have your word for that.

**The Hon. AMANDA FAZIO:** Madam Chair, before we proceed any further, and while Mr Gazal is present here, he stated earlier—

**CHAIR:** Order! Mr Gazal has been excused.

**The Hon. AMANDA FAZIO:** I am asking you a question. I have not even asked it yet. I want to ask that Mr Gazal be asked to come again to present evidence to us.

**The Hon. JOHN RYAN:** That is a deliberative matter.

**CHAIR:** You are in order to raise that matter in a deliberative meeting. You are excused, Mr Gazal.

**(The witness withdrew)**

**MICHAEL ASTILL**, Corporate Counsel, Department of Infrastructure, Planning and Natural Resources, 22-33 Bridge Street, Sydney,

**JENNIFER WESTACOTT**, Director General, Department of Infrastructure, Planning and Natural Resources, 22-33 Bridge Street, Sydney, and

**STEPHEN DRISCOLL**, Former Regional Planning Co-ordinator, Sydney Region West, Department of Infrastructure, Planning and Natural Resources, Level 4, 10 Valentine Avenue, Parramatta, on former oath:

**The Hon. JOHN RYAN:** Ms Westacott, can you explain to the Committee the centre's policy, as largely outlined by what I understand is draft SEPP66? Can you explain to the Committee why the SEPP is still a draft, and what is its significance in that it is a draft and not a gazetted SEPP?

**Ms WESTACOTT:** It is not the only aspect of the centres policy. The centres policy exists in a number of metropolitan planning instruments, the most notable of which is Cities for the 21st Century. So most of the metropolitan plan, since the County of Cumberland Plan and the Sydney Regional Outline Plan, have had explicit clauses and provisions which promote the centres policy, that is, which encourage retail and other activity to be concentrated around centres and CBD. Its draft—which was a decision of the previous administration to put it out as a draft—still has status in terms of that it is a matter that people should take into consideration. It is still draft because you would be aware that as part of the planning reform we are looking at all of the State environmental planning policies with a view to rationalising the number of State environmental planning policies that exist and trying to reduce indeed the numbers of those policies and we will, as part of the metropolitan plan, be reinforcing the centres policy, and it will be a matter for the Minister to determine whether that should be expressed as a statement of environmental planning policy or another statutory instrument as coming out of the metropolitan plan.

**The Hon. JOHN RYAN:** Does not the fact that it is a draft mean it does not have quite the same strength as things that are not draft in terms of its legal status?

**Ms WESTACOTT:** Mr Astill might want to comment on that. It is my advice that it is still used in court proceedings, and I am happy to go through the court cases where it has been used by the Land and Environment Court to make decisions on development applications and I am not sure it is fair to say that because it is draft it does not have the same status as other State environmental planning policies.

**The Hon. JOHN RYAN:** Surely there must be some purpose in gazetting these plans. As I understand it, and I might be wrong, one of the reasons that SEPP66 has not been gazetted is because there is a need to have some flexibility, particularly in terms of the names and number of suburbs, for example, which may not necessarily wish to be entrenched as part of the metropolitan plan, and if it did it would create some difficulty; it would reduce the level of flexibility that government currently has.

**Ms WESTACOTT:** That is certainly something we will look at in our review of not just SEPP66 but all of the SEPPs which we are reviewing as part of the planning reform, and certainly will be taking that view into consideration.

**The Hon. JOHN RYAN:** What SEPP are we up to now? We are up to a fair number, are we not?

**Ms WESTACOTT:** I would have to take that on notice. There are over 60 or 70 SEPPs. Some of them are now redundant because we recently introduced some changes to ministerial consents, powers to remove a lot of consents in State environmental planning policies and State regional environmental plans, so I will take that on notice and give you an answer on that.

**The Hon. JOHN RYAN:** How many spot rezonings does the department do in the course of a year?

**Ms WESTACOTT:** I do not know. I will have to take that on notice.

**The Hon. JOHN RYAN:** Would it be tens or hundreds?

**Ms WESTACOTT:** I do not know.

**The Hon. JOHN RYAN:** You would not have any idea?

**Ms WESTACOTT:** I said I will take it on notice. It is a reasonably frequent thing—too frequent, in my view, which is one of the reasons that I took my view on the Orange Grove matter; I am not particularly supportive of the proliferation of spot rezonings, and part of the planning reform, in my view, has to address getting the provisions in local environmental plans so the community can participate in the planning system. But I am happy to take that on notice and give you the precise number rather than speculating on something I simply do not know.

**The Hon. JOHN RYAN:** As I understand it, it happens hundreds of times in the course of a year. The point that I am making is that, given that it is something that happens hundreds of times, it gets a bit difficult when you are talking about sticking to the rules. It gets a bit hard to say what the rules are when obviously there are numerous occasions on which LEPs have to be amended by spot rezoning.

**Ms WESTACOTT:** Do not forget that spot rezonings are initiated by local government, and normally in response to a development application. So the State Government does not actually run around looking at places that it can spot rezone. But it is my opinion that there are too many of them. It is my opinion that the proliferation of spot rezoning reduces the public's capacity effectively to participate in the planning system. I have instructed my department to work harder with local government to make sure that the mandatory provisions and the strategic direction of local government is in their local environmental plan. Through a proper local environmental planning process the community can participate. If I can just go on there, I would like to see a major overhaul of a number of local environmental plans. There are 5,500 local environmental plans. Perhaps it is 550. I will take that question on notice. I am just making the point that it is not something that is necessarily desirable in the planning system. It may well happen frequently. It is something I am very concerned about.

**The Hon. JOHN RYAN:** However concerned you might be about it, nevertheless it is part of the planning environment in which this decision was made. It is not fair to make this decision in an environment that you would be planning for in the future. This decision is one that was made involving 400 people's working lives. Hundreds of spot rezonings are considered by the Government all the time and according to a SEPP that is only a draft.

**Ms WESTACOTT:** But it does not take away from the fact that, irrespective of whether there are a lot of spot rezonings, they still must be considered on their planning merit. They still must be considered against the State's relevant planning policies. Irrespective of whether that State environmental planning policy is a draft, it still was the matter against which the department had to consider that spot rezoning application. So it does not take away from the fact that, irrespective of how many there are, they still must be considered on planning merit, and they still must be considered against the relevant State policy.

**The Hon. JOHN RYAN:** Are you also saying that the only place where you should be able to buy handbags and apparel in Liverpool is within the half a dozen streets of the central business district?

**Ms WESTACOTT:** No. I am saying that the Government has a longstanding policy—a policy that is expressed in SEPP 66—that retail activity should be concentrated in CBDs to maximise public transport and to strengthen and revitalise central business districts as parts of the Government's census policy.

**The Hon. JOHN RYAN:** But "concentrated" does not mean "located exclusively", does it?

**Ms WESTACOTT:** The zoning for that area at the moment explicitly prohibits retail activity in industrial zones. Our emerging retail trends that we talked about at our first meeting also recommends to the Government—notwithstanding that that is not the policy and I want to make that clear—that retail should still be prohibited in industrial zones. It is a longstanding policy of the State Government to concentrate retail activity. The policy is very clear. Retail activity should be concentrated in CBD locations.

**The Hon. JOHN RYAN:** But it will not be "exclusively" located in CBD locations, will it?

**Ms WESTACOTT:** It is a moot point. It says that in order to change the zoning a net community benefit must be established, which I have gone through in my previous evidence. I do not believe that a net community benefit was established. It also says that it must comply with our requirements in SEPP 66 and the integrated

land use and transport policy in respect of public transport, and that these types of shops should not be—and it is quite explicit—simply relocating to get cheaper rents. They should be in retail CBDs so that they can contribute to the revitalisation of those areas.

**The Hon. JOHN RYAN:** You do not think there are any circumstances in which it might be reasonable to be flexible about some of those rules, particularly when they involve 400 jobs?

**Ms WESTACOTT:** That is a matter for the Minister to consider when she makes her determination under section 70. Social and economic reasons are one thing that she can take into account, but she must consider the planning merit. In my view, as I have said before to this Committee, the planning merit in respect of the Government's stated policy in respect of transport and in respect of this development's impact on the CBD was not strong.

**The Hon. JOHN RYAN:** Why did you not advise the Minister that it is appropriate to take social and economic situations into consideration?

**Ms WESTACOTT:** She is aware of that, in terms of her obligations under the Act.

**The Hon. JOHN RYAN:** Sorry, how do you know that?

**Ms WESTACOTT:** I would assume that she is aware of her obligations. I am sure that she is.

**The Hon. JOHN RYAN:** Why would you provide her with any advice if you can assume as to what she is aware of? Are you not supposed to document all the issues that the Minister might take into consideration?

**Ms WESTACOTT:** The Minister can take a range of things into consideration under section 70, including broader government policy. I am simply saying that, in my view, she would be aware of the matters that she can take into consideration. It was really a matter for her to weigh up the planning merit and the social and economic factors.

**The Hon. JOHN RYAN:** I do not think that is the way your documentation suggested. Your documentation suggested that there was good reason for the plan not to be made. In fact, I think you characterised your recommendation as saying that you recommended that the plan not be made?

**Ms WESTACOTT:** No, I never recommend that the plan not be made. I say to her that there are compelling planning reasons why the plan should not be made but, fundamentally, that is a matter for her.

**The Hon. JOHN RYAN:** But you did not supply her with advice she could have nevertheless made the plan based on social and economic reasons, which obviously could have included the working lives of 400 people?

**Ms WESTACOTT:** In my view, social and economic reasons are things that arise out of planning decisions. There are a number of legal cases, which I am happy to provide you on notice, where the issue of social and economic benefit has been considered. It is not a fundamental matter in determining the planning merit of a rezoning or a development application. I refer you to Justice Lloyd's own judgment in relation to this matter where he said—and I am happy to quote it for you—if economic considerations were to override sound planning law—

**The Hon. JOHN RYAN:** That is different from what we are talking about.

**The Hon. JAN BURNSWOODS:** Let the witness finish the answer.

**The Hon. AMANDA FAZIO:** Are you an expert on this too?

**Ms WESTACOTT:** I am simply saying that in his own judgment he says—and I am happy to quote it for you; I will get the papers—in his view, economic considerations should not override the sound administration of planning law.

**The Hon. JOHN RYAN:** What is your relationship with the Minister, Craig Knowles? Is it only professional?

**Ms WESTACOTT:** I am his director-general.

**The Hon. JOHN RYAN:** Do you have any other personal relationship with Mr Knowles, as a friend, as a babysitter of his children, or whatever?

**The Hon. AMANDA FAZIO:** What a demeaning comment to make to the director-general of a department!

**The Hon. JOHN RYAN:** Not at all.

**The Hon. AMANDA FAZIO:** Because she is female you ask her whether she been a babysitter to the Minister. You sexist grub!

**The Hon. JOHN RYAN:** Thank you.

**CHAIR:** Order!

**The Hon. JOHN RYAN:** Would you tell the Committee whether you have anything other than a professional relationship with the Minister?

**Ms WESTACOTT:** I do not understand the relevance of the question to the terms of reference of this inquiry. I am happy to answer it, but I have to say that it is an offensive question. I want to understand how it is relevant to this inquiry.

**The Hon. JOHN RYAN:** The relevance of the question—

**The Hon. JAN BURNSWOODS:** Point of order: Madam Chair, could you inform us all how Mr Ryan's question is relevant to the inquiry or to its terms of reference?

**The Hon. JOHN RYAN:** The first term of reference relates to the circumstances surrounding the approval. Then it goes on to explain the role—

**The Hon. JAN BURNSWOODS:** So this is your ruling, Madam Chair? Is that why you handed over that piece of paper to Mr Ryan?

**The Hon. JOHN RYAN:** The second term of reference is the role of the Minister for Infrastructure, Planning and Natural Resources, and the Minister Assisting; in other words, the Minister for Planning and Natural Resources, that is, Mr Knowles. It refers then to the role of the Premier, the Premier's office, the member for Fairfield and any other member of the Government or any other party and other relevant matters arising from the Government's planning policies and decisions. I regard the role of a Minister and his capacity to direct you as being a relevant matter. So I want to know whether there was a personal relationship between you and Mr Knowles?

**Ms WESTACOTT:** How does that—

**The Hon. DAVID OLDFIELD:** To the point of order: Quite clearly, any relationships that are beyond those that are entirely professional go to the potential influence that otherwise would not be understood by the Committee.

**The Hon. JOHN RYAN:** I want to find out whether you are a friend or only a personal—

**The Hon. PETER PRIMROSE:** That can involve also current relationships between members of the Opposition.

**The Hon. AMANDA FAZIO:** Madam Chair, you have not ruled on the point of order. The Hon. John Ryan keeps reiterating his question and he keeps asking Ms Westacott to answer it. Can you rule on the point of order and ask Mr Ryan to stop badgering the witness?

**The Hon. JAN BURNSWOODS:** To the point of order. Before the Chair rules could I ask whether this is along the same lines as asking Mr Ferrer this morning about his star sign?

**The Hon. JOHN RYAN:** I did not ask him about his star sign.

**The Hon. DAVID OLDFIELD:** Mr Primrose asked about the star sign.

**CHAIR:** A Government member raised that matter.

**The Hon. JAN BURNSWOODS:** I am aware of that. However, my point of order remains. Given the decisions that we made this morning in relation to those questions, I thought you might have forgotten that we had already discussed this once today.

**CHAIR:** Order! Given the fact that part of this inquiry is about webs of influence I rule the question in order.

**The Hon. AMANDA FAZIO:** Before we proceed, we were advised earlier by Mr Nabil Gazal that he had a meeting at 4.30 that he had to attend, which meant that he had to leave here by 3.45 at the very latest, yet he is still sitting in the public gallery and he is interjecting. If he had time available we should have been able to continue our questioning.

**CHAIR:** Order!

**The Hon. AMANDA FAZIO:** Or is this yet another case of Mr Gazal toying with the truth when he is dealing with this Committee?

**CHAIR:** Order! Mr Ryan is asking questions of Ms Westacott.

**The Hon. JAN BURNSWOODS:** Madam Chair, I point out that you had a number of problems in relation to my questions about the relationship between Mr Ryan and Mr Gazal. Your rulings suddenly apply depending on what suits your party.

**The Hon. DAVID OLDFIELD:** Madam Chair, I think it is fair to add that my understanding of what Mr Gazal said was that he had an appointment at 4.30. He was indicating that there was a time when he would have to leave.

**The Hon. AMANDA FAZIO:** He said it was at 3.45.

**CHAIR:** Order! Can we concentrate on the witnesses who are before us now? Mr Ryan has the call.

**The Hon. JOHN RYAN:** The question is in order. I ask the witness: Do you have anything other than a professional relationship with Mr Knowles? Have you been his friend? Have you done the sorts of things that friends might do for other friends?

**The Hon. JAN BURNSWOODS:** The innuendo and imputation in these questions are outrageous!

**The Hon. JOHN RYAN:** There is no innuendo at all. Do you know him on a personal level? Have you met members of his family?

**Ms WESTACOTT:** Please explain what you "do for other friends"?

**The Hon. JOHN RYAN:** Have you met members of his family?

**Ms WESTACOTT:** No.



**The Hon. JOHN RYAN:** No members of his family?

**Ms WESTACOTT:** No.

**The Hon. JOHN RYAN:** Okay, fine. That was simple enough.

**Ms WESTACOTT:** I want to understand what is the intent behind that question.

**The Hon. JOHN RYAN:** I explained to you the intent behind the question.

**The Hon. PETER PRIMROSE:** It is just a general smear.

**The Hon. JOHN RYAN:** It is not a smear at all.

**The Hon. AMANDA FAZIO:** It is typical of the muckraking that the Hon. John Ryan specialises in during inquiries.

**The Hon. JOHN RYAN:** I do not think the Government ought to—

**The Hon. AMANDA FAZIO:** Do not tell me what I ought to do.

**The Hon. JOHN RYAN:** I do not think there is a special sanctimony about—

**The Hon. AMANDA FAZIO:** Sanctimony! You do not like being called a sanctimonious little twerp in Parliament, do you? But you are happy to throw in sanctimonies to other people.

**The Hon. JOHN RYAN:** The member needs some more sleep. She clearly needs some more sleep.

**CHAIR:** Order! The witnesses have been asked to be here. Are there any questions for them?

**The Hon. JOHN RYAN:** Are you aware of a document called an internal audit bureau report on your department relating to some appointments that you made?

**Ms WESTACOTT:** Yes.

**The Hon. JOHN RYAN:** Do you know Sharon Kennedy?

**Ms WESTACOTT:** Sharon Kennedy? I again ask: How is this relevant to the terms of reference of this inquiry?

**The Hon. JOHN RYAN:** It relates to webs of influence.

**Ms WESTACOTT:** Demonstrate that Sharon Kennedy has been involved in this decision.

**The Hon. JOHN RYAN:** I persist with my question. Do you know Sharon Kennedy?

**The Hon. JAN BURNSWOODS:** Point of order: Could we be enlightened as to how this line of questioning is within the terms of reference of the Committee? I do not believe that it is.

**CHAIR:** Perhaps if Mr Ryan is able to ask—

**The Hon. JAN BURNSWOODS:** Perhaps Mr Ryan could inform the Committee about the relevance of his question.

**The Hon. JOHN RYAN:** I am not sure that I have to.

**The Hon. JAN BURNSWOODS:** Following the question about knowledge of the Minister's family, you could forgive us if we are a little dubious about whether it has anything to do with anything.

**The Hon. DAVID OLDFIELD:** To the point of order: A number of questions have been raised about the testimony that was previously given by Ms Westacott. A number of questions have been raised with regard to appointments with members of the Labor Party and so on throughout the course of the inquiry. Those questions, having been raised, require answers. Those answers will pertain to that part of the inquiry that relates to the credibility of witnesses.

**The Hon. JOHN RYAN:** Did you appoint—

**CHAIR:** Order! I think I will rule on that.

**The Hon. AMANDA FAZIO:** That is a change.

**CHAIR:** The reason we have these witnesses back again is to try to tie up some loose ends in the inquiry, hopefully to bring it to some finality.

**The Hon. AMANDA FAZIO:** To sling a bit more mud.

**CHAIR:** Mr Ryan may proceed.

**The Hon. JAN BURNSWOODS:** Madam Chair, it is a further point of order I suppose. What you just said is not correct. We had a deliberative meeting in which we discussed bringing back certain witnesses from DIPNR, and there was some discussion about why we were doing that. Nothing that was said in the deliberative meeting fitted at all with what you just said. I know you do tend on rare occasions you chair this Committee to make things up as you go along, but I violently object to your description of why Ms Westacott is here.

**CHAIR:** You can violently object. Mr Ryan.

**The Hon. JOHN RYAN:** Do you know Ms Sharon Kennedy?

**Ms WESTACOTT:** I am sorry, but I have to ask a question. This is an inquiry about Orange Grove. I have come here and I have been willing to assist this Committee in its deliberations. I can advise the Committee that Ms Kennedy has absolutely nothing to do with the decisions about Orange Grove. Now, whilst you might want to establish connections with people, this is absolutely not relevant. I am sorry, but unless you can demonstrate to me why that relationship is relevant to an inquiry about the Orange Grove shopping centre, I am simply not able to understand how it is relevant.

**The Hon. JOHN RYAN:** Ms Westacott, are you aware that there is an internal audit report that describes your appointment of Ms Kennedy as an IT consultant as having:

... inadequacies in record management in respect of contractors as well as a lack of documents or records, written delegation, negotiations on rates and category of service which could attract criticism, particularly if the contract became the subject of public scrutiny.

I simply think it is relevant to ask you whether or not you have appointed a person who was at least an associate of yours in what appears to be a pretty—

**The Hon. DAVID OLDFIELD:** Lucrative.

**The Hon. JOHN RYAN:** —lucrative contract under circumstances which were apart from the Public Sector Management Act?

**The Hon. AMANDA FAZIO:** Point of order, Madam Chair: I would ask you to give consideration to the terms of reference for this inquiry. While the Hon. John Ryan may well have some information that he thinks is somehow relevant in trying to attack either the director-general or the department in general, the issues that he is raising are probably more appropriately raised in the estimates hearings, and not in a specific inquiry into the Orange Grove factory outlet centre. I ask you to rule that way.

**Ms SYLVIA HALE:** To the point of order: It seems to me that what we are discussing here is the appropriateness of the decision that was made and the quality of the advice that was given. In that context, I

believe it is appropriate to ask the witness questions about the way in which appointments are made to the department, and whether the appropriate procedures have been followed or not.

**The Hon. PETER PRIMROSE:** That's ridiculous!

**The Hon. JOHN RYAN:** It is about whether Jennifer Westacott sticks to the rules when it comes to her friends.

**The Hon. AMANDA FAZIO:** Further to the point of order: I fail to see any connection between the appointment of an IT consultant and the decision-making processes in relation to the Orange Grove shopping centre.

**Ms SYLVIA HALE:** It's all done on the basis of mates' influence. It is totally germane.

**The Hon. PETER PRIMROSE:** What a ridiculous argument.

**The Hon. AMANDA FAZIO:** I ask you, Madam Chair, to rule on the point of order. And, if you rule on the point of order correctly, you will be advising that Mr Ryan's question is out of order.

**CHAIR:** I am not going to rule that way.

**The Hon. PETER PRIMROSE:** It is a partisan Chair.

**CHAIR:** It is in order in that part of this inquiry is about the planning processes, and obviously the planning process is at the top.

**The Hon. JAN BURNSWOODS:** Madam Chair, I dissent from your ruling.

**The Hon. JOHN RYAN:** Did you stick to the rules?

**The Hon. JAN BURNSWOODS:** Madam Chair, I have moved dissent from your ruling.

**CHAIR:** Have you got it in writing?

**The Hon. JAN BURNSWOODS:** I soon will have.

**The Hon. PETER PRIMROSE:** No. The clerks give us the relevant—

**The Hon. JAN BURNSWOODS:** Piece of paper.

**CHAIR:** I am sorry, witnesses. We will have to ask you to leave the room while we have a deliberative meeting.

**(Short adjournment)**

**The Hon. PETER PRIMROSE:** Can I say, on behalf of some members of Parliament here, we apologise to you as a citizen of this State.

**Ms WESTACOTT:** Thank you.

**CHAIR:** Order! The motion of dissent against my ruling was lost.

**The Hon. JAN BURNSWOODS:** You will be really surprised to hear that!

**CHAIR:** Mr Ryan has some questions, and then we will move on to Ms Hale. Mr Ryan.

**The Hon. JOHN RYAN:** Would you care to comment on the circumstances under which you appointed Ms Kennedy?

**Ms WESTACOTT:** Let me now go to the whole matter. Yes, I am aware of the audit report. I commissioned the audit report.

**The Hon. DAVID OLDFIELD:** Yes, we know that too.

**Ms WESTACOTT:** BSR Computing was engaged under the former director-general Bob Smith. They are engaged by my department. And, as the Minister said in Parliament last week, we had Deloitte independently review that contract, and they advise there are no probity issues.

**The Hon. JOHN RYAN:** You said that BSR were engaged by someone else. Are you not the author of a memorandum dated 12 August 2003 which reads:

In the process of creating a new Department of Infrastructure, Planning and Natural Resources it is of critical importance that we have access to expert objective advice as we work towards developing a strong, effective, consistent and co-ordinated approach to the delivery of IM&T across the organisation.

And it goes on to say:

I have therefore decided to retain the services of IT specialists BSR Solutions on an occasional basis to assess the processes and documentation of projects and activities we are undertaking to deliver an integrated IM&T function.

And, finally:

Our key BSR Solutions contact will be Sharon Kennedy. Amanda Spalding, as the co-ordinator of the DIPNA IT Steering Committee, will have general accountability for ensuring that input from BSR Solutions is beneficially utilised.

You have actually been the author of that, so how can it be said that someone else appointed this person when you have in fact appointed this person?

**Ms WESTACOTT:** The memo was to advise staff of the process that we were going to use to develop the IM&T plan. Ms Kennedy's company, BSR, was originally engaged by Dr Smith.

**The Hon. JOHN RYAN:** But you advised that you have retained them.

**Ms WESTACOTT:** I have retained them because they are on government contract, they had been doing work for DLWC, and they had been doing some excellent work. They are a particularly professional company. And let me say that I commissioned the audit report and set up the audit committee, which had not operated for two years; appointed the first independent audit chair that the department had ever had; and produced the first integrated IM&T plan. These people have actually turned my organisation from being an IT embarrassment into an organisation that finally was able to submit a credible IM&T plan, and finally get funds from Treasury to do some of the important work we have been trying to do as part of native vegetation. And I make no apology for hiring good people. But I make it very clear I have had Deloitte look at that contract. They find no probity issues. They were originally engaged by Bob Smith, and I commissioned the audit report because I am the director-general who required all contracts to go to the audit committee—an audit committee which had not existed until I became the director-general; an independent audit chair that had not existed until I became the director-general; a finance committee that did not exist until I became the director-general; a board of management that did not exist until I became the director-general; and minutes that did not exist until I became the director-general.

**The Hon. JOHN RYAN:** But you accept that the audit report made a particularly scathing criticism of the appointment of Ms Kennedy, someone who was an associate of yours. I accept she may well have achieved all of the things that you have suggested. But, nevertheless, it is left open that you have appointed an associate to a position without a competitive tender, and made this appointment yourself, and that your appointment was scathingly criticised by the audit report as not adhering to requirements about written delegation, negotiations of rates and category of service, to the point that it would attract criticism, particularly if the contract became the subject of public scrutiny—which, of course, it now is.

**Ms WESTACOTT:** Let us just go through those. First of all, I did not engage them. They were engaged by Angela Bollard of my department, approved by Andrew Cappie-Wood who was the deputy director-general. My memo is advising people how we are going to carry out the IM&T plan, number one. Number two, I commissioned the audit report, to make sure that all contracts were in keeping with public policy. I would

hardly commission an audit report if I were trying to cover things up. I would hardly ask my internal audit branch to look at contracts if I were trying to cover something up. Thirdly, they are part of the government contract. You do not need to go to tender if you use people who are on the government contract. And, fourthly, that is a draft audit report, and I have received advice from my manager of the internal audit that he has reviewed that report and says there are some management matters, some documentation matters that need to be addressed, but there are no probity matters.

**The Hon. JOHN RYAN:** You have said that they were part of the government contracts. Are you aware of the fact that you reappointed them at a time when they were not part of the government contract, earlier this year?

**Ms WESTACOTT:** My understanding—

**The Hon. AMANDA FAZIO:** Point of order, Madam Chair—

**The Hon. JAN BURNSWOODS:** Has the clock gone off, or what has happened with the clock?

**CHAIR:** This is Mr Ryan's final question, and then we will move to Ms Hale.

**The Hon. JAN BURNSWOODS:** What a coincidence!

**The Hon. AMANDA FAZIO:** I have got a point of order, Madam Chair. My point of order is on the question of relevance. I still do not see the connection between the timing of the appointment of an IT company and our terms of reference for Orange Grove.

**CHAIR:** I have previously ruled on that.

**The Hon. JAN BURNSWOODS:** So that was the final question?

**The Hon. JOHN RYAN:** I think Ms Westacott was about to answer my question.

**Ms WESTACOTT:** Could you remind me what the question was, please?

**The Hon. JOHN RYAN:** I think the question was: You have said you did not need to competitively tender for them because they were one of the government contracts. But my recollection is that they were reappointed earlier this year when they were not listed on the government contract because they ceased to be.

**Ms WESTACOTT:** My advice is that that extension of their contract was approved by the Department of Commerce, who regulates the contracts on behalf of the Government.

**CHAIR:** Ms Hale.

**Ms SYLVIA HALE:** Yes, Ms Westacott, the basis of your experience, is it totally unknown for development applications to be taken—contested in the Land and Environment Court and those approvals to be overturned?

**Ms WESTACOTT:** Matters go to the Land and Environment Court all the time.

**Ms SYLVIA HALE:** So the fact that Mr Gazal's development application was subsequently—the approval was ruled to be invalid, that would not be an abnormal occurrence? That would happen all the time?

**Ms WESTACOTT:** It doesn't happen all the time. I'm just saying it happens frequently. It's not very common for it to happen in two courts, the Land and Environment Court and the Court of Appeal.

**Ms SYLVIA HALE:** But that would depend whether the people consider it was worth appealing of whether they had the resources to appeal, wouldn't it?

**Ms WESTACOTT:** Possibly, or—

**Ms SYLVIA HALE:** Those sorts of considerations would prevail as much as the correctness of the decision that was made in the court.

**The Hon. PETER PRIMROSE:** How can you say that? I mean, if two courts make a decision—

**Ms SYLVIA HALE:** Well, I'm suggesting there is a—

**The Hon. PETER PRIMROSE:** —the Court of Appeal makes a decision and you're saying it's something to do with how wealthy the applicants are.

**Ms SYLVIA HALE:** Okay.

**The Hon. PETER PRIMROSE:** How ridiculous is that?

**Ms SYLVIA HALE:** So, it is not uncommon for development approvals that have been granted by councils to be subsequently challenged and overturned in the court. It's not uncommon, would you agree, for spot rezonings to take place in order, retrospectively, to approve uses in a site that might otherwise be invalid?

**Ms WESTACOTT:** I think you'll find it is uncommon for spot rezonings to take place to retrospectively rezone something that is there.

**Ms SYLVIA HALE:** But, would you agree that if the development—and presumably it is preserved, approved by a council—development application is approved by a council, that is subsequently—and the council, for whatever reason, thinks it's a good idea that it should proceed that that development approval, if it's subsequently challenged and overturned in the court, it's not unreasonable for the council then to seek to rezone the site if they thought the original development application had merit?

**Ms WESTACOTT:** If they thought it had merit, it's a matter for council to make decisions about when they seek to rezone something.

**Ms SYLVIA HALE:** Right.

**Ms WESTACOTT:** But it's a matter for me to determine whether that merit exists.

**Ms SYLVIA HALE:** Or a matter for the Minister to determine.

**Ms WESTACOTT:** In my advice to the Minister it's a matter to determine whether that merit exists.

**Ms SYLVIA HALE:** But you would agree, therefore, that the actions of Liverpool council in seeking retrospective, or seeking subsequent to the court's approval to rezone the site that is not an unusual or, in any way, suspect or corrupt course of action?

**Ms WESTACOTT:** I think the original development application is an unusual consent, given the local environmental plan and the planning regulations that apply to the site, and that is why it has been the subject of two court decisions, which've determined that it was an invalid consent. I think it is unusual that the LEP, as agreed by council in December on the decision to make the LEP, makes two very passing references to the Orange Grove site and is principally about the Crossroads site. I think it's unusual for Liverpool council to support this rezoning when they did not support a rezoning at Warwick Farm.

**Ms SYLVIA HALE:** But would you not agree that a qualitative factor in this case was the Orange Grove centre was up and operating and employing people, whereas the Crossroads site has not even begun construction?

**Ms WESTACOTT:** That may well be what council had determined. I'm simply saying that I find it unusual that a site at Warwick Farm, a very similar site, which was up and running, operating, was not given a rezoning.

**Ms SYLVIA HALE:** But you did accept Ms Kibble's evidence that she might not have recommended rezoning if it had been a totally new use and one that wasn't in operation, but given that it was operating, and seemingly operating successfully, that there was merit in preparing a draft rezoning?

**Ms WESTACOTT:** I'm aware of Ms Kibble's evidence. She formed a view along the lines that you have outlined. I formed a different view. I had to take into consideration the State's planning system, the State's planning policies, the centres policy that we'd recently announced, the \$2 million we'd recently allocated to councils across metropolitan Sydney, the Central Coast, Newcastle and Wollongong and I made a different determination and advised the Minister differently. In my view the social and economic issues and the fact that it was there was not a relevant matter for me in determining whether the zoning was appropriate. Simply because something is there—

**Ms SYLVIA HALE:** Ms—

**Ms WESTACOTT:** —does not make it legitimate from a planning point of view. Otherwise, if someone put a shopping centre up in the middle of a rainforest and then someone deemed it illegal, council comes along and says, "I want to rezone that to clear that problem up", this would happen all over the State. That is the concern that I have.

**Ms SYLVIA HALE:** Ms Westacott, you say that your concern is that it was a non-permitted use, and I am here quoting from your evidence of 13 August. You said, "The land is zoned industrial. Bulky goods are permitted in this zoning." In context of that being permitted, can you explain—I have difficulty with this concept of bulky goods, given that, say, Ikea can sell any number of small retail items, that Bunnings Hardware can sell any number of small retail items such as light globes, that Capt'n Snooze can sell manchester and pillowcases, that garden centres can sell punnets of plants. I just find that this policy upon which you place so great a significance to the extent that it's costing 450 people their jobs, I find this a basic irrationality or lack of focus in the policy.

**The Hon. JOHN RYAN:** So do I. CDs is another one.

**Ms SYLVIA HALE:** CDs.

**Ms WESTACOTT:** Well, the policy—let's be clear then. The policy that I was concerned about was the policy about where it's appropriate to locate retail activity. The policy that I was concerned about was the policy that says these sorts of things should be located. When you're going to change the zoning a net community benefit has to be established. Part of that net community benefit is around the public transport issues. Those are the matters that I was concerned about. The definition of bulky goods is something that I think requires some review, but it does not mean that things like shoes and clothes and apparel are appropriate in bulky goods areas.

**Ms SYLVIA HALE:** It's appropriate for Harvey Norman to be able to sell CDs in bulky goods areas. It's appropriate—what you're saying is that the policy about bulky goods may need review, but because that review needs to be undertaken you still need to act in a way that is very harsh and very draconian in terms of its social and economic impact upon the people of Liverpool?

**Ms WESTACOTT:** What I took into consideration was the State's planning policy. The State's planning policy says a net community benefit must be established. In my view net community benefit was not established, and I've said many times at this hearing that in my view the Hill PDA report, which talks about a negative \$18 million impact over two years, is not a net community benefit. In my view a site that is two kilometres from the nearest railway station does not meet good public transport outcomes and those are the State planning matters that I took into consideration in giving my advice to the Minister.

**Ms SYLVIA HALE:** Are you aware that the RTA appeared to have no problems with the site in terms of its traffic impacts?

**Ms WESTACOTT:** The RTA are required to take into account traffic impacts, not public transport. Now, the site is very clear—the policy is very clear that it has to encourage the use of public transport, pedestrian access and let me just take you to the section 69 report because that—

**Ms SYLVIA HALE:** Would you—

**Ms WESTACOTT:** No, I want to answer the question because the section 69 report says quite clearly in respect of transport, "Hill PDA, Westfield and the department all recognise that the Orange Grove site does not have good accessibility by public transport—

**The Hon. JOHN RYAN:** Well, it doesn't now.

**Ms WESTACOTT:** —The site is less than two kilometres from the nearest railway station, but the walk from the station to the site could not be considered pedestrian friendly. Bus services Monday to Friday are reasonable but only two-hourly on Saturdays and non-existent by Sunday. The proposal will, therefore, not encourage people to travel by public transport." Now, the RTA are interested in congestion, in traffic management and I think it's fair to say the RTA are not the experts in public transport. Now, the matter that we are interested in is: does this reduce the reliance on the private motor vehicle? And I go to your own policy. The planning process—

**Ms SYLVIA HALE:** Sorry, I'm not sure that this is relevant.

**Ms WESTACOTT:** The planning process—

**The Hon. AMANDA FAZIO:** Oh, you hypocrite.

**Ms SYLVIA HALE:** I'm sorry.

**The Hon. AMANDA FAZIO:** Sit there and listen.

**Ms SYLVIA HALE:** No, I know what her relationship with the Minister is.

**Ms WESTACOTT:** The planning process favours the private motor vehicle and does not strengthen or support other modes of transport, such as public transport, cyclists and pedestrians. Let me read the section 69 report again: The site is less than two kilometres from the nearest railway station, but the walk from the station could not be considered to be pedestrian friendly. Now, it does not meet the public transport requirements that are stated under the integrated land use and transport policy, and the RTA, I do not believe, are commenting on public transport, they're commenting on traffic management. Now, what I was concerned about was the public transport issues.

**Ms SYLVIA HALE:** Ms Westacott, are you aware that that your Government appears to have a somewhat schizophrenic attitude towards public transport when—

**The Hon. JAN BURNSWOODS:** What about the Greens?

**Ms SYLVIA HALE:** —the Minister, Michael Costa—

**The Hon. JAN BURNSWOODS:** You don't care about public transport. You don't care about the RTA.

**Ms SYLVIA HALE:** —is on the public—

**The Hon. JAN BURNSWOODS:** Have you talked to Lee Rhiannon and Ian Cohen lately?

**The Hon. JOHN RYAN:** Call her to order.

**The Hon. JAN BURNSWOODS:** What a hypocrite you are.

**Ms SYLVIA HALE:** Are you aware—

**The Hon. JAN BURNSWOODS:** You keep trying to pretend the Greens have a policy you believe in, when all you care about is the RTA, and now you're attacking the director-general because she reminds you about the importance of public transport.

**Ms SYLVIA HALE:** Ms Westacott—



**The Hon. JAN BURNSWOODS:** You are unbelievable!

**CHAIR:** Order. Sylvia Hale has the call for one question.

**Ms SYLVIA HALE:** Thank you.

**The Hon. JAN BURNSWOODS:** I thought her time had expired.

**Ms SYLVIA HALE:** Are you aware of the Government's somewhat schizophrenic attitude—

**The Hon. JAN BURNSWOODS:** And the Greens schizophrenic attitude.

**Ms SYLVIA HALE:** —to public transport when the Minister, Michael Costa, is on the record as saying that people who complain about the absence of public transport should take, use cars?

**The Hon. AMANDA FAZIO:** Point of order, Madam Chair.

**The Hon. JAN BURNSWOODS:** Why are you concerned about the RTA?

**Ms SYLVIA HALE:** Because—

**CHAIR:** Order!

**The Hon. JAN BURNSWOODS:** Point of order, Madam Chair.

**Ms SYLVIA HALE:** —I am merely pointing out the RTA—

**The Hon. AMANDA FAZIO:** I have got a point of order. My point of order is that the Hon. Sylvia Hale—

**Ms SYLVIA HALE:** —didn't have any problems.

**The Hon. AMANDA FAZIO:** —is misleading the Committee in her last question—

**The Hon. JOHN RYAN:** Give it a break.

**The Hon. AMANDA FAZIO:** —because the Minister for Transport Services has actually written to the *Inner Western Suburbs Courier* seeking a retraction of the comments accredited to him in the issue of 17 August 2004 in which he, or one of his spokespeople, was alleged to have said that people who weren't happy with public transport should buy a car.

**Ms SYLVIA HALE:** Well, perhaps we should get people to appear before the Committee who were at the meeting at which he said, made those comments.

**The Hon. JAN BURNSWOODS:** I think Ms Fazio took a point of order, Madam Chair.

**The Hon. AMANDA FAZIO:** Yes.

**The Hon. JOHN RYAN:** Forget it. It's an argument.

**Ms SYLVIA HALE:** I've finished my questions, anyway.

**The Hon. AMANDA FAZIO:** No, but you still need to rule on it.

**The Hon. JOHN RYAN:** No, you don't.

**The Hon. AMANDA FAZIO:** Oh, I'm sorry, Mr Ryan. What was that? Was it your chair's ruling that no, you don't?

**CHAIR:** I can't remember what the point of order was now.

**The Hon. JOHN RYAN:** It was an interjection.

**The Hon. JAN BURNSWOODS:** Well, that doesn't surprise us, Madam Chair. You're incompetent in memory as well as every other respect.

**CHAIR:** I think that's Left-wing Labor Party speak for, "you're being a good Chair. Keep up the good work."

**The Hon. JOHN RYAN:** Absolutely.

**The Hon. JAN BURNSWOODS:** Madam Chair, if you think you're a good Chair, I could bring six million witnesses that you're not.

**CHAIR:** Mr Oldfield has the call.

**The Hon. JOHN RYAN:** Six million? I've told her 60 million times to stop exaggerating.

**The Hon. JAN BURNSWOODS:** That's roughly the population of New South Wales.

**CHAIR:** Order!

**The Hon. DAVID OLDFIELD:** As long as Mr Driscoll has the time.

**CHAIR:** Yes. Can I just point out that Mr Driscoll does have a departure time?

**Ms WESTACOTT:** So do I.

**CHAIR:** We would like to allow him to meet his commitments. So we will focus on Mr Driscoll.

**The Hon. JAN BURNSWOODS:** Who will?

**CHAIR:** Mr Oldfield has some questions, I think, for him.

**The Hon. DAVID OLDFIELD:** Mr Driscoll, if I could bring you back to the fax of 24 June, where in that fax, which was a fax sent by you to Mr, it looks like a, Kahagalle. Do you remember that fax at all, 24 June, in relation to draft Liverpool LEP?

**Mr DRISCOLL:** Was that fax in relation to the general status of the LEP?

**The Hon. DAVID OLDFIELD:** Yes. It says—I'll read it to you. It's only like one sentence. You were referring to his facsimile of yesterday and you were saying a report under section 69 of the EP and A Act had been completed and then you say, "a number of issues remain to be resolved." Remember that one?

**Mr DRISCOLL:** Yes, I do.

**The Hon. DAVID OLDFIELD:** With the report being repleted, sorry, completed, what exactly was it that remained to be resolved?

**Mr DRISCOLL:** As I was aware at the time, the Minister had not made a determination on the draft LEP at that point.

**The Hon. DAVID OLDFIELD:** Okay, so there were no issues as such, it was just a question of whether the Minister, which way the Minister was going to decide. So it was determination that was left hanging rather than issues?

**Mr DRISCOLL:** I was asked, I think by the lawyer, as to what was the general status of the section 69 report and the advice that I gave is as you've read, which is that the report was completed but there were other issues to be resolved, which was the Minister's determination.

**The Hon. DAVID OLDFIELD:** So it was the one issue, which was just a question of the Minister making a decision?

**Mr DRISCOLL:** That was my knowledge at the time, yes.

**The Hon. DAVID OLDFIELD:** So, there were actually no issues regarding the plan, planning or anything such as that? The only issue, if we can call it that, was a question of what determination the Minister would take from the material given to her?

**Mr DRISCOLL:** Or whether the Minister may request further information.

**The Hon. DAVID OLDFIELD:** I refer you to the email the twentieth of the fourth, which is from you to David Birds and also to Laurel Cheetham—this is the one where you are saying about legal advices. I will just read you the pertinent point, where you say, "instrument plus S69 report and maybe even Liverpool council's own legal advisors asked legal branch for an opinion as to the legality of instrument likelihood of success of the legal challenge." You go on to say, "Apparently Premier's Department has asked for this to occur arising from a meeting held last week between Bob Carr and Frank Lowy, owner of Westfield." Who actually was it in the Premier's Department who asked for the legal advices?

**Mr DRISCOLL:** I don't know.

**The Hon. DAVID OLDFIELD:** You don't know. Well, how are you aware of it then?

**Mr DRISCOLL:** Mr Prattley communicated it to me.

**The Hon. DAVID OLDFIELD:** So this is another one of these "Prattley told you it was going on", so to speak, behind the scenes?

**Mr DRISCOLL:** Mr Prattley asked me to make sure that legal branch reviewed the instrument—sorry, the section 69 report.

**The Hon. DAVID OLDFIELD:** In this email—this is on the twentieth, which is a Tuesday, in April—you talk about a meeting that was held last week with Bob Carr and Frank Lowy. Tell us again how it is that you were aware that meeting took place. What was it that caused you to have such a belief it happened that you actually nominated the people at the meeting?

**Mr DRISCOLL:** I spoke with Mr Prattley I think probably on the Friday of the week before—the week prior to—that email. He indicated to me that there was a meeting occurring between Westfield—

**The Hon. DAVID OLDFIELD:** Sorry, can I just interrupt you there for a second? You are saying that the meeting occurred last week. Now you are telling me that on the previous Friday—which is last day of the last week—

**Mr DRISCOLL:** Yes.

**The Hon. DAVID OLDFIELD:** Mr Prattley told you the meeting was going to occur.

**Mr DRISCOLL:** I beg your pardon?

**The Hon. DAVID OLDFIELD:** Your email says that Mr Carr and Mr Lowy met "last week".

**Mr DRISCOLL:** That was my belief, yes.

**The Hon. DAVID OLDFIELD:** Now you have started to tell me that your belief of how this came about is that Mr Prattley on the previous Friday, which is last week, had told you that the meeting was going to occur.

**Mr DRISCOLL:** My recollection was that it had occurred—I will correct the record for you—but I was not certain of the timing as to when that meeting did occur.

**The Hon. DAVID OLDFIELD:** So your understanding then is that on the Friday, when Mr Prattley informed you of this—that the meeting had already occurred—

**Mr DRISCOLL:** It may have already occurred or it may have been going to occur.

**The Hon. DAVID OLDFIELD:** Well, there is a huge difference between the two. Your email makes it very, very clear that it had occurred "last week". A moment ago you said that it was "going to occur", which would have been next week. When I corrected you in relation to your own email, you then told us that you actually thought it had already occurred. Now I am telling you that there is a difference between the two—so going back the other way again.

**Mr DRISCOLL:** The conversation that I had with Mr Prattley was on the Friday, I think. It was in relation to compiling information for a meeting that was due to occur—I am not sure as to the timing. I then had a further conversation with Mr Prattley on that Tuesday morning and the impression that I gained from that conversation with him was that the meeting had occurred.

**The Hon. DAVID OLDFIELD:** Okay. I am sorry, but it is so roundabout I just want to get back to this. So Prattley met with you on Friday and your impression from the meeting with Prattley was that the meeting between Lowy and Carr had occurred—it had previously occurred that Friday.

**Mr DRISCOLL:** I had a conversation with Mr Prattley—it was a telephone conversation—on the Friday. My impression from the conversation was that there was a meeting due to occur.

**The Hon. DAVID OLDFIELD:** Now it is due to occur.

**Mr DRISCOLL:** I had a further conversation with Mr Prattley on Tuesday. My inference from the discussion that I had with Mr Prattley was that a meeting had occurred in the period between the Friday and the Tuesday—or it may have been the Thursday that I spoke with Mr Prattley; I can't be absolutely certain on that but it was towards the end of the previous week. I had a further conversation with him on the Tuesday and the impression that I took from that conversation was that there had been a meeting.

**The Hon. DAVID OLDFIELD:** So on the Thursday and the Friday you were of the impression that the meeting had occurred—

**Mr DRISCOLL:** No, I was of the impression—

**The Hon. DAVID OLDFIELD:** but then on the Tuesday you were of the impression that the meeting had occurred since the Thursday and Friday.

**Mr DRISCOLL:** I think on the Thursday and the Friday I was of the impression that a meeting was forthcoming—that it was going to occur—and I think that is what my email makes reference to.

**The Hon. DAVID OLDFIELD:** Your email says that the meeting has occurred, and your email is from the Tuesday.

**Mr DRISCOLL:** Yes, that's right.

**The Hon. DAVID OLDFIELD:** But your email also says it happened last week. Now you are telling us that you think it was going to happen—which would have been the following week. These are quite important questions—

**Mr DRISCOLL:** Yes, I appreciate—

**The Hon. DAVID OLDFIELD:** because they absolutely go to the heart of what really took place. You see, the person who is really in the hot seat here where this is concerned is actually you: You are the person who

has these emails, you are the person referencing Bob Carr and Frank Lowy, and you are the person who I am imagining ICAC particularly will focus on when they manage to get into the department's computers and pull out everything that is in them, which of course is not able to be erased from the hard drives—unless of course we get the IT consultants in and they try to do something in between times.

**The Hon. AMANDA FAZIO:** Don't be intimidated Mr Driscoll.

**The Hon. JAN BURNSWOODS:** Point of order: Madam Chair, is it appropriate for Mr Oldfield to be discussing what ICAC will or will not do in this? I know we have been over this line of questioning on about four occasions before but he is hoping everyone has forgotten that and that they will notice him today. But really discussing what ICAC will do is surely not within the bounds of this Committee's work or terms of reference.

**CHAIR:** If Mr Oldfield could actually convert that into a question to Mr Driscoll so that he can answer.

**The Hon. PETER PRIMROSE:** As opposed to an allegation.

**The Hon. DAVID OLDFIELD:** Has it occurred to you, Mr Driscoll, that ICAC will be very interested in you?

**Mr DRISCOLL:** Not particularly. I imagine ICAC will wish to speak with a number of people and have spoken to me already.

**The Hon. DAVID OLDFIELD:** Has it occurred to you—

**CHAIR:** Order!

**The Hon. JAN BURNSWOODS:** Point of order—

**CHAIR:** Order! It may not be in order to talk about those particular inquiries; it may put Mr Driscoll in a difficult position that we do not need to deal with here.

**The Hon. DAVID OLDFIELD:** Well, you asked me to put into a question and I did.

**CHAIR:** Yes, I did—

**The Hon. JAN BURNSWOODS:** It's the blind leading the blind actually.

**CHAIR:** I am talking about Mr Driscoll's response. If you could move forward it would be helpful.

**The Hon. DAVID OLDFIELD:** Has it occurred to you, Mr Driscoll, that given that the prime allegation here relating to this inquiry—that has come out of this inquiry—is the allegation that Frank Lowy rang Bob Carr and said, "Fix this up for me will you, Bob?"; that's the prime allegation, getting down to the absolute guts of it—

**The Hon. AMANDA FAZIO:** No, it's not. That's your opinion of the prime allegation. You should phrase your question accordingly.

**The Hon. DAVID OLDFIELD:** The situation is that your emails—

**The Hon. JAN BURNSWOODS:** That's all right, he's writing the report again.

**The Hon. DAVID OLDFIELD:** Your emails are the only ones that actually specifically reference that matter—

**The Hon. JAN BURNSWOODS:** He's desperate to have everyone notice him and think he's the star.

**The Hon. DAVID OLDFIELD:** and have upheld, at least in the public's perception by my estimation, that that allegation is sustainable. Given that, are you concerned at your prospects of interview with ICAC?

**The Hon. PETER PRIMROSE:** Point of order—

**The Hon. AMANDA FAZIO:** That's ridiculous.

**The Hon. PETER PRIMROSE:** That is an outrageous question.

**Ms WESTACOTT:** I am sorry, Mr Driscoll should not be asked to comment on what he is going to say or—

**The Hon. DAVID OLDFIELD:** We have not asked for anything from you, thank you, Ms Westacott.

**Ms WESTACOTT:** No, I am sorry I have to insist—

**The Hon. DAVID OLDFIELD:** I don't think you are and you have not—

**The Hon. PETER PRIMROSE:** I am raising a point of order, Madam Chair. I ask you to rule that that question is totally out of order.

**CHAIR:** Yes, I do rule it out of order.

**The Hon. DAVID OLDFIELD:** Okay.

**CHAIR:** Can you just keep away from what Mr Driscoll may or may not have to tell—

**The Hon. AMANDA FAZIO:** Point of order: Madam Chair, the time for Mr Oldfield's questioning has expired and I do have a number of questions I would like to ask the witnesses.

**The Hon. DAVID OLDFIELD:** Okay. I am happy. We'll properly have to get Mr Driscoll back at some stage, I suppose. I understand he has to leave now but I am certainly happy to question him later.

**The Hon. AMANDA FAZIO:** Well, if Mr Driscoll comes back, Mr Gazal comes back—fine by me.

**The Hon. DAVID OLDFIELD:** That's not a problem.

**The Hon. JOHN RYAN:** When has Mr Driscoll got to go?

**The Hon. DAVID OLDFIELD:** He has to go soon, I think.

**Mr DRISCOLL:** Shortly. I have 10 to 15 minutes, ideally.

**The Hon. JOHN RYAN:** Can I ask Mr Driscoll a couple of questions and forgo—

**The Hon. AMANDA FAZIO:** No, it's my turn for questioning.

**The Hon. JOHN RYAN:** Oh, belt up.

**The Hon. AMANDA FAZIO:** No, I'm tired of this—and don't tell me to belt up. I know you think you are chairing this inquiry, John Ryan, but you are not.

**The Hon. JOHN RYAN:** I don't.

**The Hon. AMANDA FAZIO:** It's the time for Government member's questions and I've got some questions I would like to ask the witnesses.

**The Hon. JOHN RYAN:** I acknowledge that it's the time for Government member's questions—

**The Hon. PETER PRIMROSE:** But yours are more important.

**The Hon. JOHN RYAN:** But out of courtesy to Mr Driscoll—

**The Hon. AMANDA FAZIO:** How wonderful! How good of you!

**The Hon. JOHN RYAN:** Could I have some time to ask him a couple of—

**The Hon. AMANDA FAZIO:** No, you can't.

**The Hon. JOHN RYAN:** I think I am asking the Chair.

**The Hon. AMANDA FAZIO:** You had plenty of time to ask Mr Driscoll questions.

**The Hon. PETER PRIMROSE:** Well, if the Chair wishes to overrule her own decision in relation to the allocation of time—

**The Hon. AMANDA FAZIO:** Well, we will dissent—

**CHAIR:** Order! Have the Government members got some questions for Mr Driscoll?

**The Hon. JAN BURNSWOODS:** Yes.

**The Hon. AMANDA FAZIO:** No, I've got questions for the witnesses in general.

**The Hon. JAN BURNSWOODS:** I've got a question for Mr Driscoll, certainly.

**CHAIR:** Okay. Well, can you—

**The Hon. JAN BURNSWOODS:** No, I want Ms Fazio's questions to go first. If you wish I'll move that Mr Driscoll come back on another occasion.

**The Hon. AMANDA FAZIO:** Mr Ryan used his available time to ask Ms Westacott numerous questions and should have asked them of Mr Driscoll first.

**CHAIR:** Order! All I am trying to ascertain out of respect for the witness—Mr Driscoll has given us a timetable and I would like to let him leave so that he can meet his commitment. Rather than getting him back, if Mr Ryan has got one extra question or a couple of questions so that we can wrap up the evidence in relation to Mr Driscoll, if you would be so good as to allow that to occur and question Mr Driscoll—

**The Hon. AMANDA FAZIO:** No, I won't be so good, Madam Chair.

**CHAIR:** No. Okay.

**The Hon. AMANDA FAZIO:** Because Mr Ryan used his available time to ask questions of Ms Westacott when he knew that Mr Driscoll had time constraints. This is a situation of his own making; I am not prepared to dig him out of yet another hole.

**The Hon. JOHN RYAN:** I'm not in a hole.

**The Hon. AMANDA FAZIO:** Ms Westacott, the question I would like to address to you is: When discussing this matter with a lot of people who have experience in local government, they stated to me that they found it most unusual that when a department application was lodged for the Orange Grove centre with Liverpool council for a use for the site that was clearly not in accordance with the current zoning that the application even proceeded to be dealt with as it is. Is it true that in normal circumstances that sort of development application would be referred back to the proponent to either be reworked or that they would be told initially that it was not an appropriate development application to lodge?

**Ms WESTACOTT:** One would hope that normally when a development application is assessed people would check the relevant planning instrument and determine whether it complied with the planning instrument. The planning instrument clearly says that bulky goods are permitted in industrial sites but retail is not. So I am surprised that somebody did not check the relevant planning instrument and make a decision and advise the

applicant that it did not comply with the zoning. I am surprised that a matter such as a change of use was given in this way. I am surprised by the speed with which the development application was dealt with.

**The Hon. JOHN RYAN:** Ten months.

**Ms WESTACOTT:** And I am surprised that once the development was approved some five months elapsed before the decision to approve it was advertised.

**The Hon. AMANDA FAZIO:** Based on your experience, Ms Westacott, usually how quickly is a change in approved use, such as happened with the Orange Grove centre, advertised? How long is it before such a change is advertised?

**Ms WESTACOTT:** I don't know. I mean, councils have different policies on these things. But I would have thought that if councils had a policy—and they are not compelled necessarily to advertise that they have approved a development application; they have different policies depending on each local government authority—that says, "We advertise our approvals" leaving it for five months is somewhat tardy.

**The Hon. AMANDA FAZIO:** Can I also ask you: Based on your experience across the State, is it usual for such a low-level person in the hierarchy within the council to have the delegation to approve something like the Orange Grove centre in that manner?

**The Hon. JOHN RYAN:** Is this the Labor Party?

**Ms WESTACOTT:** Again, different councils have different policies. I don't especially think that is unusual: Councils often delegate decisions to officers and not make them by elected officials. It is really a matter for councils to determine those matters which go before council and those matters which are delegated. I don't genuinely believe there is anything unusual in delegating matters based on council's decision about what they should consider versus what officers should consider.

**The Hon. JAN BURNSWOODS:** Mr Driscoll, can you tell us when you have to go?

**Mr DRISCOLL:** I can stay until 5 o'clock but that would be pushing things.

**The Hon. JAN BURNSWOODS:** I have a couple of questions and if you have to go I will be happy for you to take them on notice. But since you can stay a little while longer, that is fine. In light of the questions that you were asked before in relation to your email—which of course we have been through on so many occasions before that some of us know the questions and answers off by heart—could you tell us whether you are aware now that the meeting that you talked about in your email between Mr Carr and Mr Lowy did not in fact occur?

**Mr DRISCOLL:** From testimony that I have heard or transcript of testimony that I have read, here and also prior to the inquiry being called, I did learn that the meeting didn't occur between the Premier and Mr Lowy but that there was a meeting between officers of the Premier's Department and representatives of Westfield.

**The Hon. JAN BURNSWOODS:** I think this question has in fact been asked of you when you have been here before and you have answered it before but, as I said, we seem to have to keep going over this ground again and again. Can you refresh my memory as to when you personally became aware that you had written your email in error and that your statement about Mr Carr and Mr Lowy was wrong?

**Mr DRISCOLL:** I couldn't give you a precise timing but it was probably a number of weeks after I sent it. It was perhaps late April or perhaps early May.

**The Hon. JAN BURNSWOODS:** So, four or five months ago now, before this?

**Mr DRISCOLL:** Say four months, yes.

**The Hon. JAN BURNSWOODS:** And before the opening of this inquiry when you made your first appearance and you said all this, and so on?

**Mr DRISCOLL:** Yes.



**The Hon. JAN BURNSWOODS:** Ms Westacott, if I could ask you a question. You may or may not have seen a communication from Jeff Angel on behalf of the Environment Liaison Office. I just wanted to seek your opinion. Mr Angel wrote to a number of us about the so-called Save Orange Grove Bill introduced by the Opposition, and expressed the disappointment of all those organisations involved. If you have not seen it, I can show you a copy.

**Ms WESTACOTT:** No, I have not seen it. (Shown)

**The Hon. JAN BURNSWOODS:** You will see he expresses grave concerns about the actions of the Opposition and disappointment in those members of the crossbench who supported it. I wonder if you would agree with his comment at the start of the second paragraph, where he says:

The use of such legislation is an abuse of the planning system and has already been much practised by Government.

**Ms WESTACOTT:** This is a matter for him. My concern is, consistent with the advice I gave to the Minister, in my view a rezoning application did not have planning merit that would warrant overturning or not overturning, but flying in the face of two court decisions it did not have that planning merit. I believe that if we allow a proliferation of spot rezonings and then legislation to validate them, as Justice Lloyd says, the planning system will come to nought. I believe we must continue to uphold the merits of the planning system. I think he is making a valid point. It is a matter for him to make those points. I have not discussed it with him, I have not seen that letter before. I was concerned about the LEP and was concerned about the precedent it was going to set.

As I said in my previous evidence before this Committee, we had recently rejected an application in Tamworth for a shopping centre outside the CBD. I was very concerned about the fact that we knew the Crossroads site was under consideration and if we started making those decisions and ignoring the Government's centres policy we would lose control of one of the most important parts of the metropolitan plan, which is to contain retail activity into CBDs and to maximise the public transport opportunities, minimise the reliance on cars—that goes to the issues he raises here about air pollution—and minimise the sprawl that is happening in Sydney. That is a cornerstone of the work we are doing on the metropolitan strategy, and it has been a cornerstone of the centres policy, to minimise sprawl, to revitalise rundown centres as far back, certainly in my memory, as *Cities for the 21st Century*. There is a very strong comment in *Cities for the 21st Century* about the need to concentrate retail activity in CBDs—for all the reasons Mr Angel talks about: air pollution, public transport, traffic management. They are all the things I was concerned about.

**The Hon. JAN BURNSWOODS:** I should make it clear that it is not just Mr Angel. As he makes clear in his letter, he is speaking on behalf of the Nature Conservation Council, Greenpeace, the National Parks Association, the Total Environment Centre, the Australian Conservation Foundation, the Wilderness Society, the Blue Mountains Conservation Society and the Colong Foundation for Wilderness. The other point I was going to particularly draw your attention to and seek your comment on would perhaps be of interest to Ms Sylvia Hale, and that was again in his second paragraph, where he says that this abuse of the planning system, that is the abuse in the so-called Save Orange Grove Bill introduced by the Opposition:

It leads to uncertainty, overturning of zoning rules that have been subject to due process and in this particular case, additional traffic generation contrary to the justified centres policy.

You would agree, would you, with that summing up?

**Ms WESTACOTT:** I think I have been consistent in my evidence. I was concerned about the impact of this development on public transport. I was concerned about its lack of compliance with the centres policy in respect of promoting public transport. I was concerned about its lack of compliance with the net community benefit test, and would concur with his comments that part of the challenge of the planning system is to strike the right balance between development and the orderly administration of land, the proper release of land, the proper use of infrastructure and the supply of public transport, to create decent communities for people to live in; and the containment of problems in our air quality, the concentration of activities around the CBD to create thriving CBDs, and to maximise the investment that is already undertaken in those CBDs, particularly around public transport.

**Ms SYLVIA HALE:** So you have no concerns about the Green Square development?

**The Hon. JAN BURNSWOODS:** If I could perhaps slightly broaden the area of questioning. As you know, when you came back from the brief adjournment we had for a deliberative meeting, we seem now to have a rule that we can ask you, for instance, questions that go to the broader issue of your administration, not specifically related to the terms of reference. That being the case, I would be very interested to hear your comments on the development of the native vegetation policy and the way in which you see that as an example of the efficiency of your department?

**Ms WESTACOTT:** The native vegetation policy has been a complex and now, I believe, a very successful negotiation we have had between the farmers and the environmentalists, really, I guess, exemplified by Ian Sinclair chairing a group of farmers, conservation organisations and members of government who came up with some legislation that we believe will provide farmers with certainty over what they can and cannot do on their land, as well as protecting the environment. That legislation has as its cornerstone the ending of broadscale clearing unless it is for a purpose that maintains or improves the environment. Around that legislation is a complete radical overhaul of the infrastructure that surrounds natural resource management in New South Wales—the creation of locally based catchment management authorities with local experts; community-driven decision-making; the transfer of \$436 million over four years to those catchment management authorities to assist them to restore and preserve the landscape of New South Wales; the creation of an independent Natural Resources Commission, which will set independent standards and targets for soil biodiversity, water and salinity; the requirement that all clearing applications in future will be the subject of an application under a property vegetation plan, which will see the bringing together of the Native Vegetation Act and the Threatened Species Conservation Act into one assessment that will be done on computer, on-farm, and repeatable defensible tests to allow those important values—soil, water, biodiversity and salinity—to be measured objectively; and a very robust process of assisting farmers to identify what kind of offsets they would need if they are going to clear certain parcels of land. It will assist them to identify how they can improve the productivity of their land, and the legislation makes clear those routine agricultural matters they can carry out without any consent from the Government.

**The Hon. JAN BURNSWOODS:** Still focusing on the efficiency of the department under your management, could you give us a similar sort of response in relation to the water-sharing policy?

**CHAIR:** Order! The government's time has—

**The Hon. JAN BURNSWOODS:** I did not hear a bell, Madam Chair.

**CHAIR:** You still have another six minutes, and I will come back to you, but I am going to give the call to Mr Ryan so that we make sure—

**The Hon. JAN BURNSWOODS:** I object to this. We have already had this discussion. You just agreed I have six minutes left. I have asked a question and certainly never before has any Committee chair interrupted to refuse the witness to answer a question already asked.

**CHAIR:** It has nothing to do with the inquiry.

**The Hon. JAN BURNSWOODS:** I prefaced my questions very carefully with relation not only to the ruling you made earlier but to the decision formally made and limited by this Committee in a deliberative meeting when the witnesses were forced to leave the room. In that deliberative meeting, as was explained to them when they came back, it was established that the line of questioning, for example, being pursued by Mr Ryan—

**CHAIR:** I am not concerned about that issue—

**The Hon. JAN BURNSWOODS:** —in relation to DIPNR was totally in order.

**CHAIR:** I am concerned that Mr Driscoll has to leave—

**The Hon. JAN BURNSWOODS:** I have asked a question about the very important issue of water sharing—

**CHAIR:** Which has nothing to do with the inquiry.

**The Hon. JAN BURNSWOODS:** —and you should allow the director-general to answer the question that has been asked.

**CHAIR:** The Committee has authorised me to allocate questions, and I am allocating some time so that Mr Driscoll can be asked some questions before we excuse him.

**The Hon. JAN BURNSWOODS:** I move dissent from your ruling, Madam Chair.

**The Hon. JOHN RYAN:** Mr Driscoll, are you—

**The Hon. JAN BURNSWOODS:** I move dissent from your ruling, Madam Chair.

**The Hon. JOHN RYAN:** Bad luck.

**The Hon. AMANDA FAZIO:** Don't you bad luck her.

**The Hon. JOHN RYAN:** She does not have anything in writing, Madam Chair.

**The Hon. JAN BURNSWOODS:** For the third time I move dissent from your ruling.

**The Hon. JOHN RYAN:** You rude individual. Mr Driscoll—

**The Hon. JAN BURNSWOODS:** Madam Chair, will you stop this person pretending that you do not exist, and for the fourth time I move dissent from your ruling.

**CHAIR:** Okay. Firstly, I apologise to Mr Driscoll. I was trying to wrap your evidence—

**The Hon. PETER PRIMROSE:** No, you were not. You are trying to give him another go.

**The Hon. JOHN RYAN:** I was going to get another go anyway, sport. We were just organising it the way it was available so Mr Driscoll could go.

**The Hon. JAN BURNSWOODS:** I have moved dissent from your ruling.

**CHAIR:** I have to ask the witnesses to withdraw, and we will have a deliberative meeting.

**(Short adjournment)**

**CHAIR:** We will resume the public hearing. Government members still have six minutes for questions.

**The Hon. JAN BURNSWOODS:** Madam Chair, given the various decisions made, which to some extent conflict, I am not sure whether the decision that the Committee has just made enables Ms Westacott to answer the question I have already asked.

**CHAIR:** The Committee has basically ruled it out of order.

**The Hon. JAN BURNSWOODS:** Ms Westacott, returning to the interesting points made by Mr Jeff Angel, he mentioned at the end of his letter that he believes that if a rezoning were to be considered, the appropriate action would be to use the Environmental Planning and Assessment Act. He makes the point that that Act applies due process. As director-general could you comment on that?

**Ms WESTACOTT:** I am not sure what he is referring to there, to be honest. It would seem, though, that if the rezoning is considered to be appropriate, the best way of dealing with it, as I have read what he is saying here, is for a new rezoning application to be submitted. That is what I can interpret. I really do not know—

**The Hon. JAN BURNSWOODS:** It is very hypothetical?

**Ms WESTACOTT:** Yes. I simply do not know. I think he is saying that the Environmental Planning and Assessment Act already makes provision for these things. It allows the Minister to determine a section 69 report to make a decision based on planning merit, and that is the correct place for a matter such as this to be dealt with, within the terms of the Environmental Planning and Assessment Act and the due process that applies to that. A matter is considered on its merits, it is considered by the Minister, it is considered in the public process, people can appeal against it, there are third-party appeals, et cetera. That is what I understand he is saying in terms of the broad spirit of the Environmental Planning and Assessment Act, which applies due process. But other than that, I really do not know the intent of his last sentence.

**The Hon. JAN BURNSWOODS:** Are you able to enlighten the Committee on the development of the centres policy and the way in which it will help avoid the sorts of decision-making processes that Liverpool council or its staff apparently went through, so that we improve our planning processes in the future?

**Ms WESTACOTT:** As I said, the centres policy has been a longstanding policy of the current and previous governments to concentrate retail activity into CBDs. As part of our metropolitan plan that we are in the process of developing, we have determined to revitalise, if you will, the centres policy to give it a kick along, on the basis that, as you know, in Sydney we will be accommodating an additional 1,000 people a week over the next 30 years. That will require about 500 new houses a week to be built, which means we will have to concentrate development around existing centres, to maximise and take advantage of public transport and the infrastructure that exists in those locations. For that reason, the Government, when it launched the intent to develop the metropolitan plan, announced that it was allocating \$2 million to local government to assist them to do the planning work around revitalising centres across the CBD, Newcastle, Wollongong and the Central Coast.

That will make it very clear to local government that it is critical to create thriving retail and commercial centres, located in close proximity to public transport, clustered together so that you have a vibrant CBD, and located near surrounding residential accommodation. In Liverpool, for example, you have a tremendous amount of government expenditure to upgrade the railway station, a magnificent addition to the hospital, and an announcement to have a new medical school in Liverpool, but you have a CBD that has a very mixed performance, particularly around the railway station. The centres policy will make it very clear to councils that they must reactivate and encourage high-quality retail development, and residential development around transport nodes, so that we minimise the use of private car travel across metropolitan Sydney.

**The Hon. AMANDA FAZIO:** Ms Westacott—

**DEPUTY-CHAIR:** The Hon. Amanda Fazio, I think your time has expired.

**The Hon. JOHN RYAN:** Are you able to assure the Committee that factory outlets have never been approved in Sydney, outside of centres mentioned in the centres policy?

**Ms WESTACOTT:** I will have to take that question on notice. I have not been party to all the decisions around factory outlets that have occurred in Sydney.

**The Hon. JOHN RYAN:** A couple come to mind that do not seem to me to comply with the centres policy. First, the one at Homebush—

**The Hon. AMANDA FAZIO:** Point of order: Ms Westacott has already indicated that she will take this question on notice. I do not believe it is proper for the Hon. John Ryan to cite instances when Ms Westacott has advised that she has not been involved in all the approvals.

**The Hon. JOHN RYAN:** To the point of order: I am asking about consistency, and I want to address a couple of other issues. Notwithstanding the fact that a question has been taken on notice, I believe I can still pursue this line of questioning.

**DEPUTY-CHAIR:** The question is in order.

**The Hon. JOHN RYAN:** Two factory outlets which I understand have Government sanctioning to some extent come to mind. One of them was a factory outlet at Homebush which was shown on the plan for the Olympic site, and which I think has subsequently been instructed. That could hardly be said to be anything like a

centre. The other one I am thinking of is a factory outlet that has been approved in O'Riordan Street, near Botany or Alexandria, which does not appear to be a centre. How is it that these factory outlets have been approved, but this one is such an abomination that it cannot be approved?

**Ms WESTACOTT:** As I said, I will take the question on notice. I might ask Mr Astill to answer on the Homebush matter; it is his advice that it is currently the subject of legal action.

**Mr ASTILL:** I understand that that centre is the subject of litigation, which has not yet been determined by the court, initially started by the Property Council of Australia. I think the case has been taken over by Westfield, and the court has not yet ruled on that.

**The Hon. JOHN RYAN:** The concern I have is that the Government's own plans for the Olympic site refer to a factory outlet. That appears to be the Government determining a factory outlet in its Olympic site plans, which are well outside the centres.

**Mr ASTILL:** My understanding is that it is a Strathfield council consent, not a Government consent.

**The Hon. JOHN RYAN:** Why does the Olympic plan show a factory outlet, if that is inconsistent with the Government's centres policy?

**Mr ASTILL:** We will have to take that question on notice. The Olympics plan is now probably six years old, so we would have to go back and find out why—

**The Hon. JOHN RYAN:** I think the SEPP 66s were a lot more than six years old.

**Ms WESTACOTT:** I do not think that is correct.

**The Hon. JOHN RYAN:** What about the one in O'Riordan Street that appears to—

**Ms WESTACOTT:** I will have to take it on notice. I simply do not know.

**The Hon. JOHN RYAN:** Ms Westacott, you referred to some statistics that suggested that jobs in Liverpool were declining. Are you aware that the Committee has subsequently received advice from Liverpool City Council which indicates that the statistics you used were inaccurate, to the extent that you had not included a statistical division in which the number of jobs had increased? When both of those statistical divisions are taken together—both statistical areas cover the CBD of Liverpool—for the period up to 1996 to 2000 there would have been a total decline of only about 20 jobs in the Liverpool area, rather than the 120 you suggested?

**Ms WESTACOTT:** I will take that on notice. I have not seen Liverpool council's information. The advice I had was from the census, a loss of 200 jobs. The critical point is that we are still going backwards; we are not growing. That is the point I was trying to make in my evidence. This did not represent a net community benefit; it was going to take retail and commercial activity out of the CBD. Liverpool is one of the only CBDs in western Sydney that is not seeing growth in retail and is not performing as well as its counterparts—one of the reasons that we allocated \$200,000 to Liverpool council to assist it to revitalise the CBD.

The point is that we are not going forward. I am happy to take that on notice. I have not seen Liverpool council's advice, and I am happy to give the Committee our analysis and go through the statistical divisions upon which that analysis is drawn. But I make the point that, against other western Sydney local government authorities, Liverpool is not growing its retail, it is declining, and your own figures and the figures I presented show a decline. When I provided my advice to the Minister, when I assessed the section 69 report, when I assessed the submissions, and when I assessed all the information that was available to me, my concern was that the fundamental test that that rezoning application had to meet was a net community benefit. Those figures, which validate the figures that I had presented—which show that against other western Sydney local government areas the Liverpool CBD is not growing its retail—goes to the point I was trying to make: there is not a net community benefit in this proposal.

**The Hon. JOHN RYAN:** I simply want to deal with the Bureau of Statistics material that you provided to the Committee.

**Ms WESTACOTT:** As I said, I am happy to take it on notice. I am happy to look at the information that Liverpool council have provided.

**The Hon. JOHN RYAN:** I put it to you that the statistics you gave the committee were three or four years old in any event. They cover a period of time in which there was a level of economic decline in the retail sector in any event, so it is probably more relevant to take into consideration what might have happened in the last 12 months or two years in Liverpool in which there appears to be evidence that if there has not been growth in the retail sector in Liverpool CBD there is about to be massive growth in the retail sector in Liverpool's CBD because there are two proposed expansions of retail activity in the Liverpool central business district which are going ahead, notwithstanding anything that is happening with the factory outlet. The point I am making to you is that three-year-old statistics, which are equivocal, are probably not a sound basis on which to make a judgment about whether Liverpool is going forward or backwards.

**Ms WESTACOTT:** Nor is Hill PDA's report that uses fundamentally—

**The Hon. JOHN RYAN:** Ms Westacott, can we stick with the material that we are talking about, which is the Bureau of Statistics? I wish to deal with that issue. You put that to the Committee as a relevant issue. I put to you that you have only given us half the information, not all of it—

**Ms WESTACOTT:** And I have said that I will take that on notice and I will come back to you. I am simply saying that on the information that I had available to me I could not be satisfied that there was a net community benefit.

**The Hon. JOHN RYAN:** Can I say to you, Ms Westacott, what appears to have happened—if I may make an observation—is that some of the research the department has done about this matter has been much enhanced since this Committee came into existence than it was when you prepared your two memoranda, in that, for example, you have sought the advice of Mr Haddad, you have sought information from the Bureau of Statistics and other things, all of which might have been good things to have sought and to have as part of the advice prior to the Minister making a decision.

**Ms WESTACOTT:** I made it very clear in my evidence when I first appeared before this Committee that that information was not available to me at the time that I gave my advice to the Minister. I thought it was relevant to the terms of reference of this Committee.

**The Hon. JOHN RYAN:** Were you aware that around 25 June—in fact, I am sure you were aware—there was a subpoena to be returned to the court which would have enabled Mr Gazal and Gazcorp to get access to the section 69 report, and that that report, if it had been released without two other pieces of documentation that you had created, would have certainly conveyed to the court an impression that it was a lay-down misere that the Minister was likely to approve the LEP? Then did you subsequently ensure that there was material added to the file which also would have been given to Gazcorp which ensured that it was obvious that it was not a lay-down misere, and the two pieces of material I am referring to are your memorandum to Mr Prattley, which consists of all of one line, asking him for some more information, and your famous five dot point memorandum, which was actually read by the judge and commented on in his judgment? Were those two documents added to the file in some haste in order to create that impression?

**Ms WESTACOTT:** They were not added to create that impression, they were added to give clarity to the decisionmaking process, to make it clear that no decision had been reached.

**The Hon. JOHN RYAN:** So it was intended as much as a communication to the court as it was to document what was going on within the department?

**Ms WESTACOTT:** No, and I do not think it is fair to assume that just because people had received that section 69 report that people could interpret from receiving it that the Minister was going to approve the plan.

**The Hon. JOHN RYAN:** I realise that might have been the case but it would have looked very compelling on its own did you not add two additional pieces of material to the documentation to make sure that that issue was clear.

**Ms WESTACOTT:** That was not the reason I put those things on the file. I put a note on the file to Mr Prattley that I wanted to speak to him about it and I was concerned, and I put a note on the file to the Minister to raise my concerns with her about the section 69 report and about the case that had been put forward by Liverpool council.

**The Hon. JOHN RYAN:** Did you not see the file and the section 69 report on an earlier occasion and refer it to Mr Prattley without any notation?

**Ms WESTACOTT:** What earlier occasion is that?

**The Hon. JOHN RYAN:** Earlier in the month the record appears to be that you had the file—

**Ms WESTACOTT:** The file is marked to me but it did not come to me, it went to the legal branch for review.

**The Hon. JOHN RYAN:** So the first time you saw it you immediately asked Mr Prattley for some additional advice?

**Ms WESTACOTT:** No. The first time I saw it, as I said in my previous evidence to this Committee, I spoke to Mr Astill and asked him to look at the file and give me some advice.

**The Hon. JOHN RYAN:** Finally, I suppose I have got to put to you what I suggested to Parliament. I do not know whether you read part of my second reading speech that dealt with the Save Orange Grove Bill—

**The Hon. AMANDA FAZIO:** You didn't miss much if you didn't read it.

**The Hon. JOHN RYAN:** I have to put to you that the file, as it stands, looks to be that a decision was communicated to you from the Minister that she really did not want to approve this in late June and that you put things on to the file which enabled her to make the decision that she actually wanted to make, and that basically the documentation added to the file from 25 June onwards is certainly slanted towards a decision not to approve the LEP, whereas prior to that it appears that the file was working towards approval. Now is it not a fact that you were aware that the Minister did not want to approve this and that you attached material to the file to support and give her the opportunity to do so?

**Ms WESTACOTT:** Well, I have made it clear in my previous evidence, and I will make it clear again, that is not correct.

**The Hon. JOHN RYAN:** You gave the Committee some additional information in relation to the number of section 69 certificates which contain recommendations for the making of a LEP and the number of times in which it has not been approved. The Committee asked you for the experience of the department and your response to that was, "We do not keep that information", and, basically, you gave us no statistical information. Is there any statistical information you can give us at all that would assist the Committee working out the number of times in which at least recently section 69 reports have gone through that process and been refused by the Minister?

**Ms WESTACOTT:** I will take that on notice. I do not recall that question. I know you put that question to Mr Meagher and I know he has given you a written response about it, but I do not recall that question being given to the department. I will take it on notice.

**Ms SYLVIA HALE:** Ms Westacott, just to summarise what you have been saying this afternoon on several points, you say there is nothing unusual in matters being delegated to council officers, that is quite common practice; spot rezonings are quite common; there is nothing unusual in development applications being challenged in the Land and Environment Court; and it is totally appropriate for a Council, should it be so determined, to undertake a subsequent spot rezoning if it thought it was desirable.

**Ms WESTACOTT:** Let me just go through those one by one.

**Ms SYLVIA HALE:** The first one is the delegations to council officers.

**Ms WESTACOTT:** What I said was it varies between councils.

**Ms SYLVIA HALE:** But it is not unusual?

**Ms WESTACOTT:** It is not really a matter for me to comment on, whether councils have got that right.

**Ms SYLVIA HALE:** But you would agree it is not unusual?

**Ms WESTACOTT:** For people to delegate those sorts of matters?

**Ms SYLVIA HALE:** To delegate authority?

**Ms WESTACOTT:** I am happy to take that on notice and look at the spread of that. I would have thought something like a shopping centre would normally be a merit assessment by the council, and I note in the transcript there is some confusion about the council's involvement in this, but I am not privy to that detail. As a commonsense approach I would find it strange, and given the things that I know that go before councils, the Central Sydney Planning Committee often deals with single residential dwellings, it is the Central Sydney Planning Committee, and it often deals with very, very small development. So something like a shopping centre, something as significant as that, I am surprised that that is a delegated matter, but it is really a matter for councils to determine how they set their delegation policies. What I am saying is I do not necessarily see anything wrong in that delegation, I just say that to me, knowing what I know about local government, and indeed one of the problems of the planning system is that not enough is considered by delegated authority, it is a strange—

**Ms SYLVIA HALE:** My questions do not concern the rights or wrongs of it, I am just trying to get a statement of fact. I believe what can be deduced from what you have said today is there is nothing unusual in delegations of some matters to council officers, spot rezonings are not unusual—

**Ms WESTACOTT:** Can I just take them each one? Spot rezonings are not uncommon.

**Ms SYLVIA HALE:** That's all. I want you just to agree to that.

**Ms WESTACOTT:** But I also want to make sure that the record is very clear.

**Ms SYLVIA HALE:** You have said also that they are not desirable, but I am not asking about their desirability or otherwise.

**Ms WESTACOTT:** I do not think they are desirable.

**The Hon. PETER PRIMROSE:** Let the witness answer the question.

**Ms SYLVIA HALE:** But she is not answering my question.

**Ms WESTACOTT:** I am just simply wanting to make sure that the record is correct. I said they are not uncommon, that is a matter of fact, but I am saying that they are not desirable.

**Ms SYLVIA HALE:** That is all I am asking you. My further point was about development applications; it is not uncommon for them to be challenged in the court and for the court to overturn those approvals.

**Ms WESTACOTT:** And I said it is uncommon that the Court of Appeal overturns these matters.

**Ms SYLVIA HALE:** I am talking about the Land and Environment Court. It is not uncommon for development approvals to be subsequently overturned.

**Ms WESTACOTT:** People challenge development approvals frequently.

**Ms SYLVIA HALE:** And it is not uncommon for councils to undertake rezonings in light of Land and Environment Court decisions?



**Ms WESTACOTT:** And that is where I said I do believe that is uncommon. I believe it is uncommon for councils to use the spot rezoning provisions of the Environmental Planning and Assessment Act to retrospectively legitimate something that has been overturned in two courts. That is uncommon.

**Ms SYLVIA HALE:** Ms Kibble in her evidence of 13 August said that she wrote a letter to Craig Knowles seeking advice on the planning controls that should be exercised in relation to whether or not to proceed with a rezoning that would have permitted the factory outlet centre at the Cross Roads to proceed.

**Ms WESTACOTT:** I am not familiar with that letter.

**Ms SYLVIA HALE:** She tabled the letter. She said, "On the same day, 24 March"—that was the day on which she had had a meeting with Westfield, "I wrote a letter to Craig Knowles which I want to table because I do not think it has been. I wish to refer to this letter".

**Ms WESTACOTT:** I do have that letter.

**Ms SYLVIA HALE:** "My purpose in writing this letter was because I took the view that the Liverpool central business district was of crucial importance in the future development of Liverpool and that in the light of the expanded population we"—that is Liverpool council—"had to embark on some further work in ensuring we have the right planning controls in place". So for that reason she was concerned; she split the original draft LEP into two matters: one concerning the Cross Roads site, which the council deferred, and the other concerning the Orange Grove Road, which the council proceeded with.

**Ms WESTACOTT:** I have to correct that. Her letter of 24 March is seeking a grant from the Government to assist them in the planning work. She makes no reference at all to the Cross Roads site.

**Ms SYLVIA HALE:** You are true, but in her testimony here she has given the reasons for writing the letter.

**Ms WESTACOTT:** This letter is very clear. This is a letter about seeking funding from the Government to assist Liverpool council to revitalise their CBD. It makes no reference to the Cross Roads site or to Orange Grove.

**Ms SYLVIA HALE:** She says, "I was concerned about the policy implications of the rezoning". Then she inquired of Mr Tolhurst, I believe, and said, "Does the department know of our concerns?" Mr Tolhurst says, "Yes, we wrote to DIPNR asking for clarification". "What did it say?" Mr Tolhurst said, "To this date we have not received a response". These are conversations that are taking place in March. Has the department since got back to Liverpool council on this critical issue of policy in relation to bulky goods outlets and retail outlets?

**Ms WESTACOTT:** I just need to be very clear. Mrs Kibble's letter of 24 March has absolutely nothing to do with the Cross Roads site and Orange Grove. It is a request for a grant to revitalise the CBD.

**The Hon. JOHN RYAN:** It is a different letter.

**Ms WESTACOTT:** That is not what Ms Hale has just read to me.

**Ms SYLVIA HALE:** Sorry, I do not have the letter in front of me.

**The Hon. JOHN RYAN:** There are a number of pieces of correspondence from DIPNR.

**The Hon. AMANDA FAZIO:** So you are just making this drivel up?

**The Hon. JOHN RYAN:** Mr Tolhurst said that council had contacted DIPNR.

**Ms WESTACOTT:** They may have contacted, but there is no record on the file of that. I have asked departmental officers: Was there a written request from Liverpool council? The only record I have of Mrs Kibble separating the Cross Roads site from the Orange Grove site is the decision of council, where her planning officers recommend that the two sites go up together in the LEP. She makes the decision to separate the site and to submit the Orange Grove site only. There is no record that I can find on the file of a letter from

council to the department seeking agreement to separate the site. My understanding from departmental officers is that verbal exchanges have taken place about that and a decision was taken that they would await the outcome of the metropolitan plan before they would make a decision about the Cross Roads site and make a decision about whether they would submit an LEP amendment about the Cross Roads site.

**Ms SYLVIA HALE:** I understand that you were concerned at the rapidity with which the original development application was approved. Do you think a period of 10 months was an inadequate time in which to consider that development application?

**Ms WESTACOTT:** It is my understanding from testimony that has been given that the original consent for a change of use happened in about two weeks. Now that is unusual.

**The Hon. JOHN RYAN:** No it was not, and you know that is not the case. The consent was granted after the exhibition. The council had been considering the matter for 10 months. You are simply repeating government spin when you say that.

**Ms WESTACOTT:** No.

**The Hon. JOHN RYAN:** It was not within two weeks.

**Ms WESTACOTT:** No, that is correct.

**Ms SYLVIA HALE:** Are you in a position to tell us the amount of time—

**Ms WESTACOTT:** I will take that on notice.

**The Hon. JOHN RYAN:** Are you suggesting that the time the development application was received from the proponent to the time that Liverpool council actually consented to it was not a period of 10 months?

**Ms WESTACOTT:** As I said, I will take that on notice and I will give you a chronology of what our understanding of the development consent process is.

**The Hon. JOHN RYAN:** It certainly was not two weeks.

**Ms WESTACOTT:** In our submission to this Committee, as I recall, we gave a fairly detailed chronology. I am happy to do that again.

**The Hon. JOHN RYAN:** It certainly was not two weeks, was it?

**The Hon. AMANDA FAZIO:** Between advertising and approval was two weeks, and you know that.

**The Hon. JOHN RYAN:** I would not deny that, but that is not the whole process.

**CHAIR:** Order!

**The Hon. JOHN RYAN:** That is not the whole process. Of all people, the Director-General of the Department of Planning would know that is not an accurate description of the whole process.

**The Hon. AMANDA FAZIO:** Do not start lecturing people about what they should or should not know.

**The Hon. JOHN RYAN:** I am not lecturing anyone. I do get concerned when the director-general simply joins in on the Government's spin.

**Ms WESTACOTT:** That is not absolutely not correct, I am sorry. That is not correct. That is some of the advice I have received. I am not joining in on any spin.

**The Hon. JOHN RYAN:** It has certainly never been two weeks.

**Ms WESTACOTT:** I am happy to provide you with a chronology of how the development application was assessed. My main concern about the development application—and I have been very consistent in my evidence to this Committee—was not about the speed of it; it was that it was so obviously not consistent with the planning instrument. I found it very concerning that it was so obviously not consistent with the planning instrument.

**The Hon. JOHN RYAN:** I do not know whether it was obviously not consistent.

**Ms WESTACOTT:** I am sorry; the local environmental plan says that the land is zoned for bulky goods. It says very explicitly: Retail is not permitted in bulky goods zones, in the industrial zones. We have gone through that in very great detail in our submission to this Committee to make it extremely clear. That was my concern about the development application.

**Ms SYLVIA HALE:** So you do not consider the selling of CDs by Harvey Norman, to take one very minor inconsequential example, to be an example of retail?

**The Hon. PETER PRIMROSE:** So you are suggesting the Court of Appeal is actually using Government spin?

**Ms SYLVIA HALE:** No, I am not. I am asking Ms Westacott's opinion. She is concerned about the policy implications.

**The Hon. AMANDA FAZIO:** If you are so worried about DAs, Ms Hale, you did not worry about getting one to use your warehouse premises for Green supporters, did you? Everyone knows that.

**CHAIR:** Order!

**Ms SYLVIA HALE:** There was no obligation on me to obtain one.

**Ms WESTACOTT:** What is the question please?

**Ms SYLVIA HALE:** Whether you consider the sale of CDs by Harvey Norman or the sale of manchester not to be retail.

**Ms WESTACOTT:** I think I have answered that. If you go to the Court of Appeal, and I invite you to look at the transcript—

**Ms SYLVIA HALE:** No, I am asking you. You are responsible for the preparation of major departmental policy. How do you distinguish between the sale of manchester, CDs, light bulbs and cups and saucers by bulky good outlets not to be an example of retailing?

**Ms WESTACOTT:** That is exactly the point. That is the reason the court overturned it. That is the reason that I did not support the application going to the Minister because precisely it was retail. It was not seconds. It was not surplus.

**Ms SYLVIA HALE:** But you were quoting uses that take place in bulky goods outlets every day of the week.

**Ms WESTACOTT:** I think I have answered that question. I do not think there is any doubt that we need to clarify that bulky goods do not relate to the size; they relate to the type of product being sold.

**Ms SYLVIA HALE:** And you say that clarification does not exist at the moment?

**Ms WESTACOTT:** It does not exist at the moment.

**The Hon. JOHN RYAN:** What about handbags and undies in the central business district? It is the only place you can get them.

**Ms WESTACOTT:** It is one of the matters that the planning reform package is trying to address.

**Ms SYLVIA HALE:** Given the ambiguity that surrounds the nature of bulky goods and the fact that what many people would consider to be small goods retailing takes account, do you think in this atmosphere of ambiguity it was inappropriate to act to recommend such draconian action that would result in the loss of so many jobs?

**Ms WESTACOTT:** No, I do not. I do not believe that we have done anything other than uphold the current planning rules.

**Ms SYLVIA HALE:** As ridiculous as they may be?

**Ms WESTACOTT:** No. Most, importantly, in any redefinition or any clarification of bulky goods activities it will not include clothes and it will not include—

**Ms SYLVIA HALE:** What is the difference between clothes, mugs, light bulbs and punnets of flowers?

**The Hon. JOHN RYAN:** Clothes are an illegal substance. You have to be careful about selling clothes.

**The Hon. AMANDA FAZIO:** What is the difference between a warehouse and a political party's headquarters? That obviously escaped you as well, did it not, Ms Hale?

**Ms WESTACOTT:** The whole point of the zoning— Do you want me to answer the question? The whole point of the zoning is that you sell products that are ancillary to bulky goods. So if you are selling TVs and you are selling stereos and you are selling beds—

**Ms SYLVIA HALE:** You sell videotapes.

**Ms WESTACOTT:** You might sell videotapes and cassettes.

**Ms SYLVIA HALE:** Do you do not consider that to be a very artificial perception?

**The Hon. PETER PRIMROSE:** Point of order: Will you let the witness answer the question?

**Ms WESTACOTT:** The whole point of the intent of this policy is to concentrate a retail activity into CBDs.

**Ms SYLVIA HALE:** If one were to sell an industrial sewing machine you would suggest that, therefore, as an ancillary, the selling of whatever might be made by industrial sewing machines might be perfectly proper in a bulky goods—

**Ms WESTACOTT:** Let us be clear about the intent of this. Let us go back to basics here. If you take something like the Supacentre at Moore Park, people sell ancillary services to the bulky goods activities that are carried on there, for example, DVDs, cassettes, sheets, et cetera. But they do not sell clothes. Let us be very clear about some of the reasons for that. We want people to reduce their reliance on the private motor vehicle in Sydney, as do you in your own policy. We make a very clear and explicit statement in SEPP 66 that bulky goods warehouses, if they are just relocating to get cheaper rents, that will represent a negative impact on existing retail centres which goes to the heart of our centres policy.

**Ms SYLVIA HALE:** But you would agree that a lot of people are drawn to Moore Park because of the plethora of small electrical appliances that can be purchased there.

**Ms WESTACOTT:** It is not about the size; it is about the nature of the retail.

**Ms SYLVIA HALE:** But what is the difference about the nature of retail? I have gone to Moore Park and I have bought a set of sheets there. I bought nothing else. I did not buy a bed, a mattress or a wardrobe; I just bought a set of sheets. Why is that not retailing?

**Ms WESTACOTT:** Normally those activities are located where there are large car parks and people expect people will use their private motor vehicles. They often have cheaper rents. The purpose of the integrated

land use and transport policy is to concentrate retail activity into CBDs, minimise the reliance on the private motor vehicle and not simply allow a proliferation of shops selling clothes and apparel simply to locate in areas of lower rents.

**The Hon. JOHN RYAN:** How many people do you think go to shopping centres outside—

**The Hon. AMANDA FAZIO:** Point of order: My understanding was that at 5.30 we were going to hear evidence from Mr D'Agostino. While I am happy to have Ms Sylvia Hale keep demonstrating her inability to cope with a simple intellectual concept like bulky goods warehouses and to demonstrate to the public on the public record how stupid she is, I would really rather hear from Mr D'Agostino.

**The Hon. JAN BURNSWOODS:** And we now do not need to hear from Mr Ryan.

**CHAIR:** Order! I indicated to Ms Westacott that we would wrap it up now and that is what I propose to do. We may have to ask further questions.

**Ms WESTACOTT:** I wish to add one final thing. Mr Driscoll advises that he will be happy to take further questions on notice.

**The Hon. JOHN RYAN:** We will have him here. Questions on notice will be answered by the Minister and not by Mr Driscoll.

**Ms WESTACOTT:** I am simply, with respect—

**The Hon. JOHN RYAN:** You played that game by answering that silly question. He has to come back.

**Ms WESTACOTT:** With respect, he was very concerned about not being able to stay. He had a personal commitment. He simply—

**The Hon. JOHN RYAN:** And you played that game for 10 minutes by answering that ridiculous question that you knew had nothing to do with—

**Ms WESTACOTT:** Excuse me—

**The Hon. JOHN RYAN:** Do not start to cry crocodile tears about him now.

**Ms WESTACOTT:** I am simply passing on—

**The Hon. AMANDA FAZIO:** You creep! How dare you say that!

**The Hon. JOHN RYAN:** You have played that game. Do not even try.

**The Hon. JAN BURNSWOODS:** For 20 minutes you asked questions that did not even refer to Mr Driscoll.

**CHAIR:** Order!

**Ms WESTACOTT:** I am simply passing on something that a former officer of my department asked me to pass on to the Committee so that people did not believe he had to leave for unco-operative reasons.

**The Hon. JOHN RYAN:** We never thought that in the first place.

**CHAIR:** Thank you, Ms Westacott and Mr Astill, for your time today.

**(The witnesses withdrew)**

**JOSEPH D'AGOSTINO**, Solicitor, on former oath, further examined:

**CHAIR:** Mr D'Agostino, the oath or affirmation which you have already taken remains in place, so we do not need to go through that again. In relation to your counsel, I think you have had some discussion with the clerks. Are you happy to take that advice? What we would not want to have happen is that your counsel becomes a witness in that you have constant dialogue with your counsel.

**Mr D'AGOSTINO:** Can I confer?

**The Hon. JAN BURNSWOODS:** There is a standing order.

**Mr D'AGOSTINO:** I think we will just see where it goes.

**CHAIR:** You are happy to proceed?

**Mr D'AGOSTINO:** Yes.

**The Hon. JAN BURNSWOODS:** Should we advise him? That might be a good idea.

**CHAIR:** I will read it out so that you can understand it. Standing order 225:

A person or body is not entitled or permitted to be represented by counsel or a solicitor at a hearing of the Committee unless the Committee decides otherwise.

If you understand that, we will proceed. But if you need to have constant dialogue with counsel, obviously we will have to consider that further.

**Mr D'AGOSTINO:** Yes, I understand that.

**CHAIR:** Members have some more questions, Mr D'Agostino.

**The Hon. PETER PRIMROSE:** Mr D'Agostino, can I ask you: When the leases were lodged was there not a requirement for stamp duty to be paid?

**Mr D'AGOSTINO:** Stamp duty has been paid.

**The Hon. PETER PRIMROSE:** Did tenants forward those payments?

**Mr D'AGOSTINO:** Yes, they did.

**The Hon. PETER PRIMROSE:** To whom?

**Mr D'AGOSTINO:** To my office.

**The Hon. PETER PRIMROSE:** To your office.

**The Hon. JAN BURNSWOODS:** You will have to speak up a bit, or pull the microphone a bit closer.

**CHAIR:** Mr D'Agostino, I want to make it clear that we are in public hearing at this stage.

**The Hon. PETER PRIMROSE:** Can I ask how many tenants paid stamp duty?

**Mr D'AGOSTINO:** I have not got those records in front of me, but it was a requirement that each and every tenant pay stamp duty.

**The Hon. PETER PRIMROSE:** Will you take that on notice to advise me how many did, and on what dates?

**Mr D'AGOSTINO:** I am just making a reference to the terms of reference, and I cannot see the relevance in the stamping of the leases and the warrant as to an inquiry into the approval of the designer outlets.

**The Hon. DAVID OLDFIELD:** Yes, I'm with him.

**Mr D'AGOSTINO:** Approval, I see, relates to at council level, which has got absolutely nothing to do with this.

**The Hon. PETER PRIMROSE:** Well, I am asking you: Will you take that on notice? I am not asking you for your opinion in relation to the terms of reference.

**The Hon. JOHN RYAN:** I suppose what the witness is doing is taking a point of order.

**The Hon. JAN BURNSWOODS:** Is this a point of order, is it?

**The Hon. AMANDA FAZIO:** We are not asking you for an explanation.

**The Hon. PETER PRIMROSE:** I am asking the witness will he take it on notice. You can refuse to take it on notice. But I am asking you will you take it on notice.

**Mr D'AGOSTINO:** I might just confer about that. Whilst I wish to make it clear that I do not consider it relevant to the mandate, I will provide you with information as to how many of the leases are stamped.

**The Hon. PETER PRIMROSE:** Thank you. Were the payments banked by Gazcorp?

**Mr D'AGOSTINO:** Again I wish to place on notice that I see no relevance to this mandate.

**The Hon. PETER PRIMROSE:** You have not then heard the expression "web of influence". So I will ask you again: Were they banked by Gazcorp?

**Mr D'AGOSTINO:** I can answer this. They had nothing to do with Gazcorp. They did not go to Gazcorp.

**The Hon. PETER PRIMROSE:** They were banked by whom?

**Mr D'AGOSTINO:** They were not banked by anybody. The cheques were sent to my office, made out to the Office of State Revenue.

**The Hon. PETER PRIMROSE:** So, have all those moneys been paid to the Office of State Revenue?

**Mr D'AGOSTINO:** I would have to check my file, and I have undertaken to respond in that regard as to stamp duty being paid.

**The Hon. PETER PRIMROSE:** How long ago did you receive that stamp duty?

**Mr D'AGOSTINO:** There were 62 leases, and they came in at 62 different times.

**The Hon. JAN BURNSWOODS:** The range.

**The Hon. PETER PRIMROSE:** The range. When was the most recent one?

**Mr D'AGOSTINO:** Just a moment. I have just conferred with counsel, and I am of the view that I am going to have to defer answering these sorts of questions. I just do not see their relevance.

**The Hon. AMANDA FAZIO:** Defer or decline?

**The Hon. PETER PRIMROSE:** I am not asking you to interpret the terms of reference of the Committee. I am asking you a question. You have taken an oath to provide correct answers. You are fully within your rights to decline to answer them, but I am asking you to be truthful.

**Mr D'AGOSTINO:** I do not intend to be anything other than truthful.

**The Hon. PETER PRIMROSE:** Have all those moneys been paid to the Office of State Revenue?

**Mr D'AGOSTINO:** I will not be able to answer that because I have got to check. I believe they have, because if I have received a cheque for stamp duty I would pay the stamp duty.

**The Hon. PETER PRIMROSE:** Would you take it on notice to advise us?

**Mr D'AGOSTINO:** Yes, I will.

**The Hon. PETER PRIMROSE:** In terms of the limitations of section 11 of the disclosure statements of the Retail Leases Act, are you aware of the misleading and deceptive conduct provisions and false representation provision of the Trade Practices Act and the Fair Trading Act?

**Mr D'AGOSTINO:** I restate my position that I cannot see the relevance of this line of questioning. I have formed the view, along with counsel, that my entire role in this matter is outside of the terms of reference.

**The Hon. PETER PRIMROSE:** That is not a decision for you or your counsel.

**Mr D'AGOSTINO:** I am stating my case.

**The Hon. PETER PRIMROSE:** Okay. Well, I am asking you: Are you aware of section 11 disclosure statements of the Retail Leases Act?

**Mr D'AGOSTINO:** Yes, I have it in front of me.

**The Hon. PETER PRIMROSE:** Are you aware of the misleading and deceptive conduct provisions and false representation provisions of the Trade Practices Act and the Fair Trading Act?

**Mr D'AGOSTINO:** Yes. I am reading that provision right now. It is in front of me. I have it open.

**The Hon. PETER PRIMROSE:** Would it not be misleading and deceptive for the landlord not to disclose to a small business tenant the existence of proceedings to close a centre?

**Mr D'AGOSTINO:** I would just like to make a statement. I am not sure if the Committee is aware, but there are currently two matters before the Retail Tenancies Tribunal. There is another matter that has legal proceedings imminent, and I have been placed on notice of another ten matters in which tenants will be potential plaintiffs against my client. This is the reason why I am taking this stance, and the fact that my advice to my client is partially formulated. It is still under consideration and there are a multitude of issues that myself and counsel are trying to get through so that I can give my client an advice. My client has refused to waive confidentiality. The matters that we are speaking of now, including the question that you have posed to me, go to the direct heart of those matters that are presently before a tribunal right now, as we speak, and go to the heart of the ten or so threatened pieces of litigation, and don't ask me how many more can potentially come. I cannot put myself or my client's interests at risk by disclosing what our legal position is going to be. Answering these types of questions will cause a substantial interference with judicial process, and I have obligations to my client.

**The Hon. PETER PRIMROSE:** Are you aware of the statement that is read out by the Chair in relation to the rulings of President Johnson in relation to the status of legal proceedings before this inquiry?

**Mr D'AGOSTINO:** At this very moment, no, I am not aware. I might have to be reminded of it.

**The Hon. PETER PRIMROSE:** Okay. Maybe the Chair, if I can impose, could simply read that out, because I think we need to get this very clear at the moment in relation to legal professional privilege.

**Mr D'AGOSTINO:** Just briefly, I also want to make the point that I have voluntarily come along here, and I am not trying to be obstructionist, but—



**The Hon. PETER PRIMROSE:** Mr D'Agostino, I accept that. But you must understand that this is not a local P&C. It is a Committee established by the New South Wales Parliament under the Parliamentary Evidence Act, and it has certain rights as well as responsibilities, and the Chair has alluded to those in her opening statement, as she does correctly every time we meet.

**CHAIR:** I have not got it in front of me, Mr D'Agostino. I will have to see if we can get a copy of it.

**The Hon. AMANDA FAZIO:** I have got it in here somewhere. Would you like me to read it, or will I pass it to you to read?

**The Hon. JAN BURNSWOODS:** Is this the opening statement?

**The Hon. AMANDA FAZIO:** Yes.

**The Hon. JAN BURNSWOODS:** No, it is not the opening statement. It is the bit about professional privilege.

**The Hon. AMANDA FAZIO:** Sub judice convention? Is that what we are looking for?

**The Hon. PETER PRIMROSE:** Yes.

**The Hon. AMANDA FAZIO:** It says:

The sub judice convention has been the subject of a number of rulings in the House. Put simply, the convention requires the Chair to judge whether proceedings of the Committee are likely to prejudice a matter before the courts or the integrity of the judicial process. As a parliamentary convention the onus falls on the Chair to adjudge whether any matter is sub judice. As former Legislative Council President Johnson ruled, "the Chair may decide to intervene on its own volition or may be called upon to decide on a point of order brought to its attention. If the matter is before a court, in order to make a decision whether the public interest outweighs the possible prejudice to the case, the Chair must be apprised of the specific matters before the court and the Chair must hear enough" to decide whether the matter may proceed.

Therefore, if a witness or a member objects to a question on the grounds of sub judice, I propose to hear argument as to why answering the question may lead to a substantial interference with the judicial process, and make a ruling on the basis of the arguments presented. As with other inquiries, the Committee will consider any requests by witnesses or Committee members that evidence be heard in camera.

Then it goes on with the usual routine.

**The Hon. PETER PRIMROSE:** There is a ruling by President Johnson, who specifically stated that he did not believe that the judiciary would be swayed by the deliberations of a parliamentary committee.

**The Hon. JOHN RYAN:** I do not think the witness is concerned about a judicial concern. I think he is worried about revealing his legal position to potential opponents who might use it to prejudice his case.

**Mr D'AGOSTINO:** That is exactly right.

**CHAIR:** Order! Order!

**Mr D'AGOSTINO:** And I—

**CHAIR:** Because this is a very serious matter I am going to take the Clerk's advice that we should further discuss this matter in camera.

**The Hon. PETER PRIMROSE:** Prior to that, can I ask a question that does—would the witness be prepared to answer these questions in camera? I mean, for instance, I've asked a very general question in relation to the interpretation of the Trade Practices Act and the Fair Trading Act. Are you prepared to answer these questions if we go into camera?

**The Hon. JOHN RYAN:** I think it's only fair that he find out what the questions are.

**Mr D'AGOSTINO:** You've asked a question as to what my opinion is.

**The Hon. PETER PRIMROSE:** Yes.

**Mr D'AGOSTINO:** I can't see how my opinion is relevant, and my opinion would be uneducated and it would be—well, not uneducated, but without proper advice.

**The Hon. PETER PRIMROSE:** But are you prepared to answer the questions if we go in camera?

**The Hon. JOHN RYAN:** Can I—Madam Chair, if I may take a point of order?

**The Hon. JAN BURNSWOODS:** Well, can we get—

**CHAIR:** Yep.

**The Hon. JAN BURNSWOODS:** I am allowed to take a point of order.

**CHAIR:** Mr Ryan on a point of order.

**The Hon. JOHN RYAN:** I think the—

**The Hon. JAN BURNSWOODS:** Can you speak up? Lean forward, so we can hear.

**The Hon. JOHN RYAN:** I think the Committee has already said—

**The Hon. AMANDA FAZIO:** Move closer to your microphone.

**The Hon. JOHN RYAN:** —that there would be argument heard in camera. And what Mr Primrose is trying to do is get the witness to make a decision prior to being able to hear and consider the argument and the rulings of the Chair. And I think it's only fair that he be allowed to hear those, albeit in camera, before he answers the very question that goes to the very nub of the issue. I mean, it may well be that he is willing to answer the questions, but it might be that after he hears argument he may change his mind. So, I think it's only fair that we actually go in camera and discuss this. I think it will become apparent and it may well be that when the Committee goes back into open session, as I imagine we would after going in camera, then the member's capable of re-asking that question if he wants to get it on the record. But I think it's a bit unfair that the witness is asked to answer a question like that before he hears the ruling of the Chair and is able to put his argument.

**CHAIR:** Okay.

**The Hon. AMANDA FAZIO:** Further to the point of order.

**CHAIR:** Amanda Fazio further to the point of order.

**The Hon. AMANDA FAZIO:** My understanding of the situation is that Mr D'Agostino appears to be concerned about the relevance of some of the questions that he is being asked in relation to the terms of reference, and I know that even though you've been in the building for a while you've only just come into the hearing now and you may be surprised to hear that we had points of order ruled on earlier in relation to the Director-General of the Department of Planning being asked if she ever babysat for the Minister and that question was a question by way of a point of order, which the Chair ruled was, in fact, in order. So, in regards of what is relevant here today the Chair has taken a very broad scope in terms of what questions are allowable.

**Mr D'AGOSTINO:** But that relates to—

**The Hon. AMANDA FAZIO:** No, no, I was just going to say so that—

**Mr D'AGOSTINO:** Sorry.

**The Hon. AMANDA FAZIO:** —your concerns about very strictly adhering to the terms of reference probably are inappropriate, given the way the hearing has been conducted today.

**CHAIR:** Okay. I'm going to move in committee, in camera.

**The Hon. JAN BURNSWOODS:** Does this mean you are ruling on Mr Ryan's point of order, does it?

**CHAIR:** Yes, I am.

**The Hon. JAN BURNSWOODS:** Can you tell us what your ruling is, then?

**CHAIR:** My ruling is that we are going in camera rather than having Mr D'Agostino answer the questions that might be—

**The Hon. JAN BURNSWOODS:** I just wanted to have a ruling, that's all.

**The Hon. PETER PRIMROSE:** I just thought the whole point of this was to hear debate as to whether or not we went in camera, but okay. I'm very happy.

**CHAIR:** I am making a ruling that we're going in camera.

**The Hon. PETER PRIMROSE:** We haven't heard the debate yet.

**CHAIR:** Okay. Can I have a motion that we move in camera?

**Ms SYLVIA HALE:** I'll move that way.

**CHAIR:** All those in favour say aye. All those against say no. I think the ayes have it. The ayes have it. Okay. Clear the hearing room.

**The Hon. PETER PRIMROSE:** Including the counsels.

**The Hon. AMANDA FAZIO:** Yes, you have to leave, too.

**Mr D'AGOSTINO:** He can't stay?

**The Hon. AMANDA FAZIO:** Yeah, he has to go, too.

**Mr D'AGOSTINO:** He can't stay?

**The Hon. AMANDA FAZIO:** He can't stay, no. When we go back out of being in camera then he can come back in. Normally they would explain this to you, but it's a bit—gone to pot a bit today.

**(Evidence continued in camera.)**

**(Public hearing resumed)**

**The Hon. JAN BURNSWOODS:** I started to ask this. I am referring to the evidence you gave us last time about your trip to Gladesville, I think it was, and the discussion and the signing of the statutory declarations on 10 July, and whether you were surprised that Mr Gazal told you about the allegation in relation to Mr Tripodi, being a couple of days before, I am not sure, when he says in his statutory declaration of that date that he had learned about it on 22 May?

**Mr D'AGOSTINO:** I was not involved in what was happening with respect to the approval process. I had no involvement in respect to that. The litigation that was commenced against Gazcorp I had absolutely no involvement. I did not attend any meetings. I was not briefed in it. I was not advised in it. I did not receive copies of pleadings. I did not even attend any of the court cases. My mandate to Gazcorp was very specific. It was to prepare leases, and that was it. I run a relatively small commercial practice and I do not and did not get involved in any of what was happening in that regard.

Yes, I say that I did hear these rumblings although it was never put to me in some serious manner, or whatever, I cannot remember, I did not pay that particular notice to it because I was concerned in running my practice. What was happening on that side was a matter for them and their lawyers. They had quite competent lawyers instructed. I would not have a clue when he formed these allegations, these opinions.

**The Hon. JAN BURNSWOODS:** But even if we accept the narrowness of your role, what Mr Gazal has alleged about his conversation with Mr Tripodi, et cetera, is a pretty important piece of information that surely would have been relevant to the role you were carrying out?

**Mr D'AGOSTINO:** I cannot see how it was. I had charge of—

**The Hon. JAN BURNSWOODS:** I would have thought the preparation of leases, and so on, and disclosure statements, and all the rest of it, given that what we are talking about was the making of a final decision on the LEP, that you would be surprised that Mr Gazal had kept that piece of information from you from 22 May until around 10 July?

**Mr D'AGOSTINO:** You have told me for the first time that I have ever heard of when the date was that Mr Gazal had made these allegations. I had no idea when he formed the view of these allegations. I cannot tell you whether it was one day, four or five days before the 10<sup>th</sup>.

**The Hon. JAN BURNSWOODS:** If I may, right through this inquiry, in transcript after transcript, which I thought you might have looked at—

**Mr D'AGOSTINO:** No, I have not.

**The Hon. JAN BURNSWOODS:** —and in statutory declarations signed by various people on 10 July, it is spelled out that the alleged meeting in Gloria Jean's cafe occurred on Saturday 22 May, so my statement about 22 May being the key date, it appears in three of the statutory declarations signed that day, as well is being read into the transcript in a variety of ways right through this inquiry.

**Mr D'AGOSTINO:** I think I confirmed the last time I was here that I am, to date, yet to see those statutory declarations you have in front of you. I have not seen them.

**The Hon. JAN BURNSWOODS:** Including the one signed by yourself?

**Mr D'AGOSTINO:** Of course I have seen the one signed by myself.

**The Hon. JAN BURNSWOODS:** What reason was given to you for going to Gladesville on 10 July? Why we you invited?

**Mr D'AGOSTINO:** I was told to go to Gladesville to talk about and discuss these allegations that you speak of. Until I got there I did not know I was going to be asked to sign a statutory declaration. I really thought I was there, maybe, to assist them in the—I do not know. I was asked to go there. I was not given a clear reason why.

**The Hon. JAN BURNSWOODS:** But the allegations—

**Mr D'AGOSTINO:** Yes, I knew about the allegations, and again I did not take documentary evidence of when I was told about the allegations. I will be honest with you, I imagine it was a few days before, around that period of time.

**The Hon. AMANDA FAZIO:** Who was it who asked or told you to go to Gladesville on that day?

**Mr D'AGOSTINO:** Nabil Gazal rang me.

**The Hon. JOHN RYAN:** Senior?

**Mr D'AGOSTINO:** Senior, sorry.

**The Hon. JAN BURNSWOODS:** What happened in the meeting you had there with Mr Gazal, Mr Bargshoon and Mr Mosca?

**Mr D'AGOSTINO:** I was the last one to arrive. I was at an auction with other people. I arrived and there were a number—

**The Hon. JAN BURNSWOODS:** What sort of time did you arrive?

**Mr D'AGOSTINO:** It would have been after lunch, maybe. Around lunchtime. There were a number of people in the board room. I am not sure if I stated in the statutory declaration who was there, but there were three or four people I did not know, I had never met before. I am not sure if I say that in my statutory declaration. Anyway, there were a few people I did not know there, and Nabil—

**The Hon. JAN BURNSWOODS:** How many people were there, roughly?

**Mr D'AGOSTINO:** There was Nabil Gazal, his son Nicholas, Mrs Gazal, Sam Bargshoon, two other gentlemen I cannot remember their names. I was introduced to them. Another friend of Mr Gazal's but I cannot remember his name, and Frank Mosca.

**The Hon. JAN BURNSWOODS:** And Nabil Gazal junior?

**Mr D'AGOSTINO:** No. Sorry, and Nabil Gazal's son-in-law.

**The Hon. JAN BURNSWOODS:** Whose name is?

**Mr D'AGOSTINO:** I cannot remember it.

**The Hon. JAN BURNSWOODS:** What about the man, I am not sure I remember his name, but I think he was described by Mr Gazal senior as the financial controller who had dealings in negotiating the leases, and so on. I assume he had dealings with you?

**Mr D'AGOSTINO:** The financial controller is a gentleman by the name of George Ayoub but he was not there.

**The Hon. JAN BURNSWOODS:** What happened in the meeting? How long were you there, from lunchtime until when?

**Mr D'AGOSTINO:** Because it was relatively unexpected and I had other things to do, I was the last one to arrive and I was the first one to leave. I sat down for a moment. They talked about various issues between themselves. I really did not have much input into it because I was not involved in all these sorts of things they are alleging, but Nabil asked me to document the conversation I had with Joe Tripodi, which I did. It was, like I said, a very limited conversation and I was, I suppose, happy to put on the record my limited conversation with him. I went into a room, I think Nicholas Gazal typed on his computer with me dictating what I wanted. He

printed it up. I came back and within five or 10 minutes, whatever it was, a justice of the peace arrived. I have no idea who he was but he stamped with his number and what have you. I signed it, I took a copy and I left.

**The Hon. JAN BURNSWOODS:** So you were asked, presumably by Mr Gazal senior, to sign the statutory declaration?

**Mr D'AGOSTINO:** That is right.

**The Hon. JAN BURNSWOODS:** And you are saying it was your decision as to the contents of the statutory declaration, that you dictated to Nicolas Gazal, who typed it?

**Mr D'AGOSTINO:** That is right.

**The Hon. JAN BURNSWOODS:** Given that Mr Tripodi is also your client, did you ask him to waive legal professional privilege to enable you to make the statement?

**Mr D'AGOSTINO:** The conversation I had with him was not part of a retainer.

**The Hon. JAN BURNSWOODS:** Were you willing to make this statutory declaration? Did you protest or say you would rather not do it or ask why are you asking me to do this?

**Mr D'AGOSTINO:** I really did not give it too much thought, to be perfectly honest with you. Although, I must admit I was happy to put my limited involvement in this on the record.

**The Hon. JAN BURNSWOODS:** Is it usual for a client to ask a solicitor to make a statutory declaration? Is that common?

**Mr D'AGOSTINO:** I do not think this is a usual situation.

**The Hon. JAN BURNSWOODS:** Particularly in this case, given to that Mr Tripodi is also your client?

**Mr D'AGOSTINO:** The conversation I had with him was not part of a solicitor-client retainer.

**The Hon. JAN BURNSWOODS:** Did you feel under pressure from Mr Gazal and others to make this statement?

**Mr D'AGOSTINO:** I did not feel under pressure. But, to be honest, I probably preferred not to be involved in all this, considering my limited role and my limited involvement in everything. I would have had charge of preparing leases—that was it; no more. It is the only matter on which I have ever been instructed by Gazcorp. And here I am, in front of a parliamentary commission, from one matter.

**The Hon. JAN BURNSWOODS:** Would it be fair for me to conclude that you were not really all that willing or happy to be involved in writing and signing a statutory declaration?

**Mr D'AGOSTINO:** I think my opinion on that—I cannot see the relevance.

**The Hon. JAN BURNSWOODS:** It gets us back to where we were before. With due respect, that is not your decision.

**The Hon. JOHN RYAN:** He was not coerced.

**Mr D'AGOSTINO:** I will say I was not coerced.

**The Hon. JAN BURNSWOODS:** It is so helpful to us when the Hon. John Ryan offers the words. But I am asking the questions, and I think we can both do without assistance from the Hon. John Ryan. Words like "coerced" were certainly not suggested or implied by me.

What is your comment on whether it would be fair for me to draw such a conclusion?

**Mr D'AGOSTINO:** I have absolutely no comment on what Gazal senior's thoughts were as to what I had to say in my statutory declaration, in the sense that it is irrelevant because I sat there and made a statement about a very limited conversation I had with Joe Tripodi. It was the truth—

**The Hon. JAN BURNSWOODS:** Were you told what use the statutory declaration was going to be put to?

**Mr D'AGOSTINO:** I think I was told, for the purposes of referring it to— I think back then it might have been either— It was a range of things. I did not think they really knew which way they were going at that time, to be perfectly honest with you. I assumed it was to be going to a committee such as this, or ICAC, or whatever it was going to be. But no-one sat there and said, "This is going to" wherever.

**The Hon. JAN BURNSWOODS:** Would you have billed for your attendance on that day? Was it considered part of your work for Gazcorp?

**Mr D'AGOSTINO:** I cannot see absolutely any relevance as to my billing a client for that work.

**The Hon. JAN BURNSWOODS:** I am trying to establish whether you went to Gladesville and accepted the invitation to make a statutory declaration, dictated it, and signed it, in your professional capacity or not. If you did it in your professional capacity, I assume it was billed and signed in the normal way.

**Mr D'AGOSTINO:** The contents of my statutory declaration, and the truth therein and what I have stated, bears absolutely no relevance to whether or not I was paid—or whether it was done in a friendly capacity, a friendly capacity, or whatever.

**The Hon. JAN BURNSWOODS:** I was not referring to the contents of the statutory declaration. You were at an auction, you went to Gladesville, you arrived at around lunchtime. Roughly how long were you there? What time did you leave?

**Mr D'AGOSTINO:** I might have been there for a couple of hours.

**The Hon. JAN BURNSWOODS:** Until 3 o'clock, or 4 o'clock?

**Mr D'AGOSTINO:** Probably before that I would have left.

**The Hon. JAN BURNSWOODS:** I would have expected that if you were doing that as part of your commercial relationship with Gazcorp, you would have been billing for it. You would have regarded yourself as doing these things as part of your work for Gazcorp.

**Mr D'AGOSTINO:** I refuse to answer this question, on the basis of absolute relevance here, whether or not I was paid to go on that date. I would like a ruling on it, because I refuse to answer the question.

**The Hon. JAN BURNSWOODS:** As I said, it is not your right to make the decision.

**Mr D'AGOSTINO:** I have looked at the terms of reference into the approval of the designer outlets centre, and I am being asked whether I charged for a particular attendance on my client.

**The Hon. JAN BURNSWOODS:** I am not trying to suggest that charging is the crucial issue.

**The Hon. JOHN RYAN:** Point of order: The witness is essentially taking a point of order as to whether this question is relevant.

**The Hon. AMANDA FAZIO:** No, he cannot take a point of order.

**The Hon. JOHN RYAN:** He is taking that point of order, and that is fair enough.

**The Hon. AMANDA FAZIO:** The witness cannot take a point of order.

**The Hon. JOHN RYAN:** He absolutely can. Ministers are constantly asked questions and take points of order themselves. The witness is taking a point of order, as he is entitled to do. I want to address the point of order, on the basis that I believe the question is relevant. We are examining the role of Mr Tripodi and Mr Gazal and others, which is germane to the terms of reference.

The witness's statutory declaration stands as a piece of evidence about the behaviour of the member for Fairfield. I think the Committee is entitled to come to a conclusion as to the basis on which the witness gave that information, as to whether he was paid for it. I think people accord different weight to something that is paid for, as opposed to something that is voluntarily and freely given. I think it is appropriate to ask a question of that nature, Madam Chair, and I think the witness should answer it.

**Mr D'AGOSTINO:** I am prepared to answer it. I have not billed to attend on that date. But I still protest the relevance of the question.

**The Hon. PETER PRIMROSE:** You were not on a retainer in relation to preparing the statutory declaration?

**Mr D'AGOSTINO:** No.

**The Hon. PETER PRIMROSE:** The situation was similar to that as per your original conversation with Mr Tripodi?

**Mr D'AGOSTINO:** I was not on a retainer with him.

**The Hon. JAN BURNSWOODS:** You said that you have not seen the other statutory declarations?

**Mr D'AGOSTINO:** That is correct, I have not seen them.

**The Hon. JAN BURNSWOODS:** The other statutory declarations are very similar in terms of what they say in relation to the alleged discussion in Gloria Jean's cafe, and so on. Your statutory declaration is very different, and it focuses very much on Mr Tripodi commenting to you, in effect, "I have tried a few times to make inquiries but I keep having the door shut on me."

**Mr D'AGOSTINO:** I did say, "words to the effect of". I want to make that clarification, because I did not pay that much attention to the conversation—

**The Hon. JAN BURNSWOODS:** I am not asking you about the words. What I am getting at is that your statutory declaration is almost diametrically opposed to the statutory declarations of the other three. The question is whether you felt that Mr Gazal or his associates were trying to make your statutory declaration similar, whether they were suggesting forms of words.

**Mr D'AGOSTINO:** They were not suggesting any type of format of words. I phrased that statutory declaration in a room that only I and Nicholas Gazal, I think, were in. The statutory declaration goes to the truth. Tripodi did not disclose anything to me. He did not mention any names; he did not mention anything. As I have said on many occasions now, it was a five-second conversation as he walked out the door.

**The Hon. JAN BURNSWOODS:** I am not questioning that. It is just that, looking at the four of them, all dated the same date, yours is very different from the others.

**Mr D'AGOSTINO:** And probably if I had any thoughts, like "Why am I giving this statutory declaration", because I really do not know anything.

**The Hon. JAN BURNSWOODS:** Would you accept another brief from Mr Gazal?

**Mr D'AGOSTINO:** What relevance does that have? I will answer that. Yes, of course I would. He is a very good commercial client to any law firm.

**The Hon. AMANDA FAZIO:** You said that you dictated your statutory declaration to Nick Gazal, and then a Justice of the Peace turned up and you swore it in front of the JP. Had you met that JP before?



**Mr D'AGOSTINO:** Never.

**The Hon. AMANDA FAZIO:** Was he familiar with any of the other people who were at the meeting on that day?

**Mr D'AGOSTINO:** I think he knew Mr Gazal and Sam Bargshoon. I do not know. I had certainly never met him.

**The Hon. AMANDA FAZIO:** The Justice of the Peace who signed the statutory declaration is A. W. Bargshoon, who is a relative of Sam Bargshoon. Is it appropriate for a relative to swear the statutory declaration of a family member?

**The Hon. JOHN RYAN:** I think there are a few assumptions in that question.

**Mr D'AGOSTINO:** I am not even going to make an assumption on that. It is relevant. There is an act called the Justice of the Peace Act. To answer that question, I will have to refer to that Act; I am not conversant with it.

**Ms SYLVIA HALE:** Last Monday you undertook to check your records and provide the Committee with information about the SMS message you sent to Mr Tripodi. Have you had the opportunity to do so?

**Mr D'AGOSTINO:** I did have a look. What I believe is the relevant message was on the 10th.

**Ms SYLVIA HALE:** You would have no problems with providing a copy of that record of the conversation to the Committee?

**Mr D'AGOSTINO:** I do not know how I would get a copy of the conversation—

**Ms SYLVIA HALE:** Not the conversation, but the date, the times, and the phone number.

**Mr D'AGOSTINO:** I will do that, as long as I can blank out my other personal records. That is not a problem.

**Ms SYLVIA HALE:** Did you text that message while you were at Gladesville, or after you left the meeting at Gladesville?

**Mr D'AGOSTINO:** This is what I am not sure about. It was at nearly 1 o'clock, I think. I am not sure if I was fair or on my way there. I cannot remember. I know that a few of them were trying to get hold of Joe at that time, and I know we could not ring him because he was overseas. I thought, "If he rings, he rings."

**Ms SYLVIA HALE:** So you may have done it either before you got to the meeting or during the meeting?

**Mr D'AGOSTINO:** The problem is that I am not sure what time I got to Gladesville. I did not record it.

**Ms SYLVIA HALE:** When did he ring you back?

**Mr D'AGOSTINO:** Soon after I left Gladesville. I might have been in the car, or I had just left there.

**Ms SYLVIA HALE:** Did you at that stage, during that conversation, tell Mr Tripodi that people were contemplating complaining to the ICAC?

**Mr D'AGOSTINO:** My initial reason for ringing him was to enquire what these allegations were all about, to inform myself generally. As I said, I did not play an active role in what was happening in that regard. I had heard these rumblings of what was going on, and I assume Joe did too. The conversation centred on what was going on. He denied to me in that telephone call that those things were said. The man was on his honeymoon. I felt bad about even contacting him, as any decent person would, and we agreed not to speak about it again.

**Ms SYLVIA HALE:** You did not advise him, "Look, they were thinking about going to the ICAC but now they have changed their mind and they are going to the Ombudsman"?

**Mr D'AGOSTINO:** No. He suggested to me, "If you have a grievance with some type of public decision, the correct channel is to go to the Ombudsman." I passed on that bit of advice to Frank Mosca.

I am not that conversant in how these sorts of things work and he said—I think he suggested to me, he goes, "Well, if they have got a problem with a decision they should go to the Ombudsman". Whether he assumed it is going to go to ICAC or not I do not know. I assumed he would have thought that. But I told him what is going on, there are all these stat decs and these allegations. He did not want to talk about it in the sense that he denied it all and I agreed, I did not want to talk about it again because I did not want to be put into any position. And on top of that I did not want to interrupt the guy on his honeymoon.

**Ms SYLVIA HALE:** It is just that according to Michael Meagher, who gave evidence to the Committee, he said, "On Saturday July 10 2004", the same day we are talking about, "Mr Joe Tripodi rang me in the late afternoon Sydney time while he was on his honeymoon in Spain. He said to me words to the effect that he had been told that four associates of Gazcorp Pty Limited planned to sign statutory declarations to the effect that Mr Tripodi—whatever there was in the allegations; Mr Tripodi said that Gazcorp was threatening to go to the ICAC, "He asked me to pass this on". Do you believe that Mr Tripodi would have rung Mr Meagher after talking to you? Would you say that was possible?

**The Hon. AMANDA FAZIO:** He could have rung someone anywhere in the world. What a stupid question.

**Mr D'AGOSTINO:** I have no knowledge. He has not said to me—I do not even know who Michael Meagher is. Whether he rang him or not I have not got a clue. But he would most likely have gotten that information from me saying, "What's going on?"

**Ms SYLVIA HALE:** Because then he goes on to say, " Approximately half an hour later Mr Tripodi rang me back. He said that he had since had another conversation with the Gazcorp associates", and presumably you are one of these Gazcorp associates, "and they had said they were talking of taking the matter to the Ombudsman rather than the ICAC". So from this it appears there were two conversations from one of the four associates who were at the meeting.

**Mr D'AGOSTINO:** I can tell you categorically that he is the one that suggested these sorts of things should be referred to the Ombudsman, and I did pass that on.

**Ms SYLVIA HALE:** You see, he made two conversations. He made two phone calls.

**The Hon. JOHN RYAN:** Is there any chance you made two?

**Mr D'AGOSTINO:** I cannot remember if I did. I doubt it though. But I cannot remember if I did or not. I am not prepared to categorically say that I did not. These things—I did not take particular notice; I did not sit there and log them in diaries and what have you but—

**Ms SYLVIA HALE:** But you have got phone records?

**Mr D'AGOSTINO:** Yes, I can have a look on my phone records if I made a phone call to him that day.

**Ms SYLVIA HALE:** If you could provide those records, thank you.

**Mr D'AGOSTINO:** I will do that.

**CHAIR:** No further questions. Thank you very much, Mr D'Agostino. I declare the public hearing closed.

**(The witnesses withdrew)  
(The Committee adjourned at 7.04 p.m.)**